



July 2015

# UNACCOMPANIED ALIEN CHILDREN

## Actions Needed to Ensure Children Receive Required Care in DHS Custody

# GAO Highlights

Highlights of [GAO-15-521](#), a report to congressional committees

## Why GAO Did This Study

From fiscal years 2009 through 2014, DHS apprehended more than 200,000 UAC, and the number of UAC apprehended in fiscal year 2014 (about 74,000) was more than four times larger than that for fiscal year 2011 (about 17,000). On the journey to the United States, many UAC have traveled thousands of miles under dangerous conditions.

The Violence Against Women Reauthorization Act of 2013 included a provision for GAO to, among other things, review how DHS cares for UAC. This report examines, among other things, the extent to which DHS has developed policies and procedures to (1) screen all UAC as required and (2) care for all UAC as required. GAO reviewed TVPRA and other legal requirements, DHS policies for screening and caring for UAC, fiscal year 2009 through 2014 apprehension data on UAC, and 2014 Border Patrol UAC care data. GAO also randomly sampled and analyzed case files of Mexican UAC whom Border Patrol apprehended in fiscal year 2014. GAO interviewed DHS and HHS officials in Washington, D.C., and at Border Patrol and OFO facilities in Arizona, California, and Texas selected on the basis of UAC apprehension data.

## What GAO Recommends

GAO recommends that DHS, among other things, provide guidance on how agents and officers are to apply UAC screening criteria, ensure that screening decisions are documented, develop processes to record reliable data on UAC care, and document the interagency process to transfer UAC from DHS to HHS. DHS concurred with the recommendations.

View [GAO-15-521](#). For more information, contact Rebecca Gambler at (202) 512-8777 or [gambler@gao.gov](mailto:gambler@gao.gov).

July 2015

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### Actions Needed to Ensure Children Receive Required Care in DHS Custody

## What GAO Found

Within the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) has issued policies and procedures to evaluate, or screen, unaccompanied alien children (UAC)—those under 18 years old with no lawful immigration status and no parent or legal guardian in the United States available to provide care and physical custody—as required by the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA). However, CBP's Border Patrol agents and Office of Field Operations (OFO) officers who screen UAC have not consistently applied the required screening criteria or documented the rationales for decisions resulting from screening. Specifically, under TVPRA, DHS is to transfer UAC to the Department of Health and Human Services (HHS), but may allow UAC from Canada and Mexico to return to their home countries, that is, to be repatriated, if DHS determines that UAC (1) are not victims of a severe form of trafficking in persons, (2) are not at risk of trafficking upon return, (3) do not have a fear of returning due to a credible fear of persecution, and (4) are able to make an independent decision about returning. GAO found that agents made inconsistent screening decisions, had varying levels of awareness about how they were to assess certain screening criteria, and did not consistently document the rationales for their decisions. For example, CBP policy states that UAC under age 14 are presumed generally unable to make an independent decision, but GAO's analysis of CBP data and a random sample of case files from fiscal year 2014 found that CBP repatriated about 93 percent of Mexican UAC under age 14 from fiscal years 2009 through 2014 without documenting the basis for decisions. Providing guidance on how CBP agents and officers are to assess against UAC screening criteria could better position CBP to meet legal screening requirements, and ensuring that agents document the rationales for decisions would better position CBP to review the appropriateness of these decisions.

DHS has policies in place to implement UAC care requirements, such as providing meals, and GAO's observations and interviews at 15 CBP facilities indicate that CBP generally provided care consistent with these policies at the time of GAO's visits. However, DHS does not collect complete and reliable data on care provided to UAC or the length of time UAC are in DHS custody. GAO analyzed available data on care provided to nearly 56,000 UAC apprehended by Border Patrol in fiscal year 2014 and found that agents documented 14 of 20 possible care actions for fewer than half of the UAC (the remaining 6 actions were documented for more than 50 percent of the UAC). Also, OFO has a database to record UAC care, but officers at most ports of entry do not do so. Developing and implementing processes to help ensure agents and officers record UAC care actions would provide greater assurance that DHS is meeting its care and custody requirements. Further, the interagency process to refer and transfer UAC from DHS to HHS is inefficient and vulnerable to errors because it relies on e-mails and manual data entry, and documented standard procedures, including defined roles and responsibilities, do not exist. DHS and HHS have experienced errors, such as assigning a child to two shelters at once, and holding an empty bed for 14 days at a shelter while HHS officials had placed the child elsewhere. Jointly developing a documented interagency process with defined roles and responsibilities could better position DHS and HHS to have a more efficient and effective process to refer, transfer, and place UAC in shelters.

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**Abbreviations:**

CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
DOJ	Department of Justice
ERO	Enforcement and Removal Operations
FEMA	Federal Emergency Management Agency
Flores Agreement	<i>Flores v. Reno</i> Settlement Agreement
FY	fiscal year
HHS	Department of Health and Human Services
ICE	U.S. Immigration and Customs Enforcement
INS	Immigration and Naturalization Service
NPC	Nogales Placement Center
OFO	Office of Field Operations
OIG	Office of Inspector General
ORR	Office of Refugee Resettlement
POE	port of entry
State	Department of State
TVPRA	Trafficking Victims Protection Reauthorization Act of 2008
UAC	unaccompanied alien children (or child)
UNHCR	United Nations High Commission for Refugees

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July 14, 2015

The Honorable Charles E. Grassley  
Chairman  
The Honorable Patrick J. Leahy  
Ranking Member  
Committee on the Judiciary  
United States Senate

The Honorable Bob Goodlatte  
Chairman  
The Honorable John Conyers, Jr.  
Ranking Member  
Committee on the Judiciary  
House of Representatives

During fiscal years 2009 through 2014, the Department of Homeland Security (DHS) apprehended more than 200,000 unaccompanied alien children (UAC)—individuals younger than 18 years old with no lawful immigration status and no parent or legal guardian in the United States available to provide care and physical custody.<sup>1</sup> In fiscal year 2014, in particular, DHS apprehended more than four times the number of UAC (about 73,700) than in fiscal year 2011 (about 17,100). On the journey to the United States, many UAC have traveled hundreds or thousands of miles under dangerous conditions, such as atop trains or on foot through deserts. In addition, during the journey, UAC are vulnerable to sexual

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<sup>1</sup>Unaccompanied alien child refers to a child who (1) has no lawful immigration status in the United States, (2) has not attained 18 years of age, and (3) has no parent or legal guardian in the United States or no parent or legal guardian in the United States available to provide care and physical custody. 6 U.S.C. § 279(g)(2). As such, children traveling with related adults other than a parent or legal guardian—such as a grandparent or sibling—are still deemed UAC.

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exploitation, human trafficking, and other crimes.<sup>2</sup> For example, the nongovernmental organization Appleseed reported in 2011 that along the travel route, the possibility of UAC abuse—being robbed, assaulted, or sexually violated—is real and ever-present.<sup>3</sup> At the height of the increase in UAC apprehensions during spring and summer 2014, the White House directed the Secretary of Homeland Security to establish a unified, interagency response, led by DHS’s Federal Emergency Management Agency (FEMA), to provide humanitarian services to UAC, including housing, care, medical treatment, and transportation.

The Homeland Security Act of 2002 delegated the apprehension, detention, transfer, and repatriation of UAC to DHS.<sup>4</sup> Within DHS, U.S. Customs and Border Protection’s (CBP) U.S. Border Patrol and Office of Field Operations (OFO), as well as U.S. Immigration and Customs Enforcement (ICE), apprehend, process, temporarily detain, and care for UAC who attempt to illegally enter the United States.<sup>5</sup> ICE’s Office of Enforcement and Removal Operations (ERO) is generally responsible for transferring UAC, as appropriate, to the Department of Health and Human Services (HHS), or repatriating UAC to their countries of nationality or last

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<sup>2</sup>In February 2015, we reported on U.S. mission-level efforts to identify the causes of the rapid increase in UAC migration from El Salvador, Honduras, and Guatemala to the United States and address the causes identified. We found that the Department of State and other officials stationed in these Central American countries most commonly identified crime and violence and economic concerns as the primary causes for the recent rapid increase in UAC migration to the United States. GAO, *Central America: Information on Migration of Unaccompanied Children from El Salvador, Guatemala, and Honduras*, GAO-15-362 (Washington, D.C.: Feb. 27, 2015). We will issue a separate report later this year that examines agencies’ UAC-related assistance and performance evaluation in these three countries.

<sup>3</sup>Appleseed, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors* (Washington, D.C.: 2011). Appleseed is a nonprofit network of 16 public interest justice centers in the United States and Mexico.

<sup>4</sup>Homeland Security Act of 2002, Pub. L. No. 107-296, tit. IV, subtit. D, § 441, 116 Stat. 2135, 2192. Repatriation is defined as returning UAC to their country of nationality or last habitual residence. Throughout this report, we use the term “country of origin” to include both outcomes.

<sup>5</sup>Border Patrol apprehends UAC at U.S. borders between ports of entry, and OFO encounters UAC at ports of entry. ICE apprehends UAC within the United States at locations other than borders or ports of entry. According to CBP officials, OFO encounters UAC instead of apprehending them because UAC have not technically entered the United States at ports of entry until OFO officers have processed them. For the purposes of this report, we use a form of the term “apprehend” for all DHS entities responsible for UAC—Border Patrol, OFO, and ICE.



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habitual residence. HHS's Office of Refugee Resettlement (ORR) works with DHS to place UAC in shelters, takes custody from DHS of UAC who are not repatriated, and identifies qualified sponsors in the United States who will take custody of the children once they leave the shelters and are awaiting immigration proceedings.<sup>6</sup> ORR has cooperative agreements with shelters throughout the United States to temporarily house UAC until shelter staff identify sponsors.

A variety of legal requirements apply to how DHS, in conjunction with the Department of State (State) and HHS, must treat UAC. In particular, the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires that these departments establish policies and programs to ensure that UAC in the United States are protected from traffickers and others seeking to victimize or engage such children in harmful activity.<sup>7</sup> Further, under TVPRA, DHS is required, in conjunction with State, HHS, and the Department of Justice (DOJ) to develop policies and procedures to ensure that UAC are safely repatriated to their countries of origin.<sup>8</sup> DHS personnel evaluate—or screen—UAC for possible victimization and to determine whether they are eligible under TVPRA to be repatriated to their countries of origin, or must be transferred to ORR.<sup>9</sup> In addition, the 1997 *Flores v. Reno* Settlement Agreement (Flores Agreement) requires that DHS meet specified standards of care for UAC while in DHS custody,

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<sup>6</sup>Qualified sponsors are adults who are suitable to provide for the child's physical and mental well-being and have not engaged in any activity that would indicate a potential risk to the child. All sponsors must pass a background check.

<sup>7</sup>William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Pub. L. No. 110-457, § 235(c)(1), 122 Stat. 5044, 5077 (codified at 8 U.S.C. § 1232(c)(1)).

<sup>8</sup>Id. § 235(a)(1). According to HHS and DOJ officials, these departments have not played a role in developing policies and procedures for repatriating UAC to their countries of nationality; therefore, we focused on DHS's and State's roles in developing such policies and procedures. DHS has sole authority to repatriate UAC from Mexico or Canada who meet certain screening criteria, which are discussed in further detail later in this report.

<sup>9</sup>Id. § 235(a)(2); The Homeland Security Act of 2002, Pub. L. No. 107-296, § 462, 116 Stat. at 2202-03, makes ORR responsible for care and placement of UAC, among other things.

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including providing drinking water and food, as appropriate, as well as access to toilets and sinks.<sup>10</sup>

The Violence Against Women Reauthorization Act of 2013 included a provision for us to examine how DHS screens and cares for UAC.<sup>11</sup> Our objectives were to determine the (1) extent to which DHS developed and implemented policies and procedures to ensure that all UAC are screened as required; (2) extent to which DHS and State developed and implemented policies and procedures to ensure that UAC are cared for as required while in DHS custody and during repatriation; and (3) costs associated with apprehending, transporting, and caring for UAC in DHS and HHS custody during fiscal years 2009 through 2014.

To address the first objective, we reviewed CBP's policies, procedures, and training materials for screening UAC, including the March 2009 memorandum on implementation of TVPRA requirements and CBP's Form 93—the primary tool Border Patrol agents and OFO officers use to screen UAC and document the resulting assessments.<sup>12</sup> In addition, we analyzed CBP's human trafficking and UAC virtual learning course and assessed CBP training efforts against TVPRA requirements and training

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<sup>10</sup>The court-approved settlement agreement in the case of *Flores v. Reno* was the result of a class action lawsuit filed against the former Immigration and Naturalization Service (INS) challenging the agency's arrest, processing, detention, and release of juveniles in its custody. The agreement sets out nationwide policy for the detention, release, and treatment of minors in the custody of the then-INS, the border security and immigration-related functions of which are now performed by CBP, ICE, and U.S. Citizenship and Immigration Services. Stipulated Settlement Agreement, *Flores v. Reno*, No. 85-4544 (C.D. Cal. Jan 17, 1997); Pub. L. No. 107-296, tit. IV, 116 Stat. at 2177-2212. The Flores Agreement is currently the subject of ongoing litigation. *Flores v. Reno*, No. 85-4544 (C.D. Cal. Feb. 2, 2015).

<sup>11</sup>Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 1264, 127 Stat. 54, 159-160.

<sup>12</sup>Border Patrol and OFO issued separate memorandums that contained the same guidance. For the purpose of this report, when we discuss the 2009 memorandum, it is implied that we are including both the Border Patrol and OFO memorandums.

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best practices.<sup>13</sup> We also analyzed fiscal year 2009 through 2014 Border Patrol and fiscal year 2012 through 2014 OFO UAC apprehension data—the most recent years for which complete UAC data were available—to determine the outcome of the screening process for UAC from Canada and Mexico, as well as UAC from other countries.<sup>14</sup> In addition, we obtained and analyzed Border Patrol data on UAC who claimed fear of returning to their country of origin for fiscal year 2014, the most recent year for which data were available. We assessed the reliability of the data by, for example, reviewing the data for missing data or obvious errors and interviewing CBP officials responsible for ensuring data quality. We found Border Patrol's and OFO's apprehension data to be sufficiently reliable for the purposes of determining whether CBP transferred UAC to an HHS shelter or repatriated them to their countries of origin.

Because neither Border Patrol nor OFO had complete information on screening decisions stored in an aggregate manner in its database, we randomly sampled and analyzed case files of Mexican UAC whom Border Patrol apprehended in fiscal year 2014.<sup>15</sup> Further, we visited 11 Border Patrol facilities and four land ports of entry (POE) in three regions—Arizona, southern California, and south Texas—from July 2014 through October 2014 to, among other things, observe DHS screening operations and interview Border Patrol agents, OFO officers, and Mexican consular officials regarding implementation of UAC screening policies and

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<sup>13</sup>GAO, *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*, [GAO-04-546G](#) (Washington, D.C.: March 2004). The guide identified a best practice to ensure that training is connected to improving individual and agency performance in achieving specific results that we used to evaluate activities related to border security. We obtained the information in this guide through consultations with government officials and experts in the private sector, academia, and nonprofit organizations; examinations of laws and regulations related to training and development in the federal government; and reviewing the sizable body of literature on training and development issues, including previous GAO products on a range of human capital topics.

<sup>14</sup>UAC from Canada and Mexico include those who are nationals or habitual residents of those countries. See TVPRA § 235(a)(2)(A)-(B), (5)(D) (8 U.S.C. § 1232(a)(2)(A)-(B), (5)(D)).

<sup>15</sup>We drew a stratified random sample of 180 Mexican UAC from a population of 15,531 Mexican UAC who were recorded in Border Patrol's database as having been apprehended in fiscal year 2014. All percentage estimates from the case file review have a margin of error of plus or minus 10 percentage points unless otherwise noted at the 95 percent confidence level.

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procedures.<sup>16</sup> During our visit to south Texas, we observed Border Patrol agents screen 8 UAC. The results from our visits to these three regions cannot be generalized; however, the visits provided us with first-hand observations on how agents and officers screen UAC at these locations and insights into the implementation of CBP's policies and procedures. In addition, we interviewed CBP officials to discuss CBP's UAC screening policies, procedures, and training. We compared CBP's UAC screening practices discussed during these visits and interviews and the screening information obtained from our analyses of CBP information with TVPRA screening requirements, CBP policies, and standards in *Standards for Internal Control in the Federal Government*.<sup>17</sup> In addition, we reviewed reports on the screening of Mexican UAC completed in 2011 by the nongovernmental organization Appleseed, and in 2014 by the United Nations High Commission for Refugees (UNHCR).<sup>18</sup> We reviewed the reports' methodologies and discussed the reports with both organizations, as well as with CBP. We determined that the conclusions in these reports were valid and reasonable for use in our report.

To address the second objective, we reviewed CBP and ICE policies, procedures, and training documents regarding how their personnel are required to care for UAC, such as CBP's March 2009 memorandum and human trafficking virtual learning course, ICE's September 2014 directive related to operations at its holding facilities, and ICE training for its field office juvenile coordinators, who are responsible for coordinating the placement of UAC with ORR. We compared these against TVPRA and Flores Agreement requirements related to care.

During our visits to 15 CBP facilities in Arizona, California, and Texas from July 2014 through October 2014, we observed care provided to UAC

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<sup>16</sup>We discussed UAC screening procedures at 13 of the 15 facilities we visited. Further, we selected Arizona and south Texas because they have historically had the most UAC apprehensions by Border Patrol, while southern California has had the most UAC encounters for OFO.

<sup>17</sup>GAO, *Internal Control: Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

<sup>18</sup>Appleseed, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors* (Washington, D.C.: 2011), and UNHCR, *Findings and Recommendations Relating to the 2012-2013 Missions to Monitor the Protection Screening of Mexican Unaccompanied Children Along the U.S.-Mexico Border* (Washington, D.C.: June 2014).

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and interviewed Border Patrol, OFO, and ICE officials regarding how they care for UAC in these locations. The results from our visits are specific to the care observed at facilities in these three regions at a specific point in time and cannot be generalized; however, the visits provided us with first-hand observations of the care provided to UAC and the conditions of facilities in which UAC are held during various operating conditions, including surge and normal operations. In addition, we analyzed Border Patrol data on the care of 55,905 UAC in Border Patrol custody from January 2014 through September 2014. Border Patrol officials told us they could not provide us with complete care data prior to fiscal year 2014 because they did not fully implement their data system until then. To assess the reliability of these data, we interviewed Border Patrol officials in headquarters, and in Arizona, Texas, and California, who are responsible for managing or entering the data, and examined the data for completeness and potential errors. We determined that these Border Patrol data were sufficiently reliable for the purposes of determining how consistently agents used Border Patrol's automated system to document UAC care across eight specific elements, and the frequency and types of potential errors, if any, in the data. We also examined available Border Patrol, OFO, and ICE data on dates and times of custody, and reviewed reports that ICE submits to the Department of Justice concerning UAC who were in custody longer than 72 hours. The reliability of these data is discussed later in this report. For information on whether UAC were eligible for or received federal benefits, see appendix I.

To determine the effectiveness of the process to transfer UAC from DHS to HHS, we examined e-mails between HHS and Border Patrol from July 6 to 8, 2014, and from November 17 to 19, 2014. We chose these dates so we could analyze communications during a month of higher UAC apprehensions (July) and a lower month of apprehensions (November). We also observed and discussed the interagency transfer process in Arizona, Texas, and California, and interviewed DHS policy, FEMA, Border Patrol, OFO, ICE, and HHS officials in headquarters about the interagency process. To understand the repatriation process, we analyzed all 30 DHS-negotiated local repatriation arrangements with Mexico, as well as a 2004 memorandum of understanding with Mexico, and evaluated these arrangements against TVPRA requirements for repatriation of UAC to contiguous countries of the United States. We also interviewed Border Patrol, OFO, and ICE officials, and Mexican consular officials in Arizona, Texas, and California, and State officials in Washington, D.C. We compared DHS repatriation-related agreements with TVPRA requirements for contiguous country agreements.

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To address the third objective, we obtained and analyzed financial data from CBP and ICE for fiscal year 2014. Because CBP and ICE did not collect data on UAC costs prior to 2014, we analyzed available financial data collected using UAC project codes from February through September 2014 to determine DHS's UAC costs during that time period.<sup>19</sup> We reviewed policies and procedures for tracking UAC costs and interviewed CBP and ICE officials. Additionally, we analyzed UAC transportation cost estimates developed by ICE to determine the estimated UAC transportation costs from fiscal years 2009 through 2013. These estimates were derived using fiscal year 2013 average costs and applied throughout fiscal years 2009 through 2013. We assessed the reliability of the cost data by, for example, reviewing costs for obvious errors and interviewing CBP and ICE officials responsible for ensuring cost data quality. We found CBP's and ICE's project code cost data to be sufficiently reliable for the purposes of determining a minimum UAC cost for apprehending, transporting, and caring for UAC while in DHS custody. We also found ICE's transport cost data to be sufficiently reliable for the purposes of determining an estimate of ICE's UAC transport costs for fiscal years 2009 through 2013.

To identify costs associated with UAC in HHS custody, we obtained and analyzed financial summary data for HHS ORR's UAC program. Specifically, we analyzed UAC program cost data to determine the total shelter, administrative, and UAC services costs. These data include summary information on end-of-year obligations by cost category compiled by ORR for fiscal years 2009 through 2014. To determine the average cost per bed for basic shelters, we analyzed ORR data for UAC shelter costs and average monthly funded bed capacity for basic shelters for fiscal years 2009 through 2014.<sup>20</sup> We determined that ORR's financial summary data for its UAC program were sufficiently reliable for the purposes of reporting total program costs based on end-of-year

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<sup>19</sup>CBP and ICE did not start using a project code to track UAC costs until May 2014; however, CBP's Border Patrol, and ICE retroactively reassigned some costs incurred from March through May 2014 and February through May 2014, respectively, which are included in our analysis. Additionally, not all UAC costs were captured; therefore, these amounts represent the minimum cost for this time period.

<sup>20</sup>According to ORR officials, actual cost per bed varies based on shelter type, location, actual number of beds, and actual number of days for which beds were contracted.

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obligations.<sup>21</sup> We also determined that ORR's basic shelter costs and average monthly funded bed capacity data were sufficiently reliable for the purposes of reporting average cost per bed for basic shelters. On the basis of information provided by HHS, we are unable to report on the average cost per bed for secure and therapeutic shelters because the annual cost and bed capacity data were not comparable across these shelter types. As a result, we focused on average cost per bed in basic shelters.

We conducted this performance audit from May 2014 to July 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. For more information on our scope and methodology, see appendix II.

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<sup>21</sup>We assessed the reliability of the data by (1) reviewing related documentation, such as prior GAO work; (2) comparing data against data in published sources, such as ORR's *Annual Report to Congress*; and (3) interviewing ORR officials knowledgeable about the data. We asked the officials about the reliability of their data—including questions about the purpose for which the data were collected, the source of the data, and how the data were compiled.

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## Background

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### DHS Processes to Screen, Care for, and Transfer UAC

**Interviewing and screening.** After Border Patrol, OFO, or ICE apprehends UAC, a CBP or ICE official interviews each child and collects personal information such as the child's name, country of nationality, and age. DHS officials evaluate each child to determine if he or she meets certain criteria signifying that additional steps may have to be taken to ensure the child is safe from harm—a process known as screening. According to CBP policy, Border Patrol agents and OFO officers are to use CBP Form 93 and Form I-213, Record of Deportable/Inadmissible Alien, among other forms, to document that they collected personal information about each UAC and that each child is screened as required. In addition, TVPRA requires that, except in exceptional circumstances, UAC are transferred to the care and custody of HHS within 72 hours of determining a child is a UAC. However, TVPRA also provides special rules for UAC from Canada and Mexico who are apprehended at a land border or POE. On a case-by-case basis for UAC from Canada and Mexico, DHS may allow the child to withdraw his or her application for admission and return to his or her country of nationality or last habitual residence—referred to as repatriation for purposes of this report—without further removal proceedings if the officers screen the UAC within 48 hours of being apprehended and determine that

1. the UAC is not a victim of a severe form of trafficking in persons,<sup>22</sup>
2. there is no credible evidence that the UAC is at risk of being trafficked if repatriated,
3. the UAC does not have a fear of returning to his or her country owing to a credible fear of persecution, and

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<sup>22</sup>Under 22 U.S.C. § 7102, the term “severe forms of trafficking in persons” means (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age, or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.



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4. the UAC is able to make an independent decision to withdraw the application for admission to the United States and voluntarily return to his or her country of nationality or last habitual residence.<sup>23</sup>

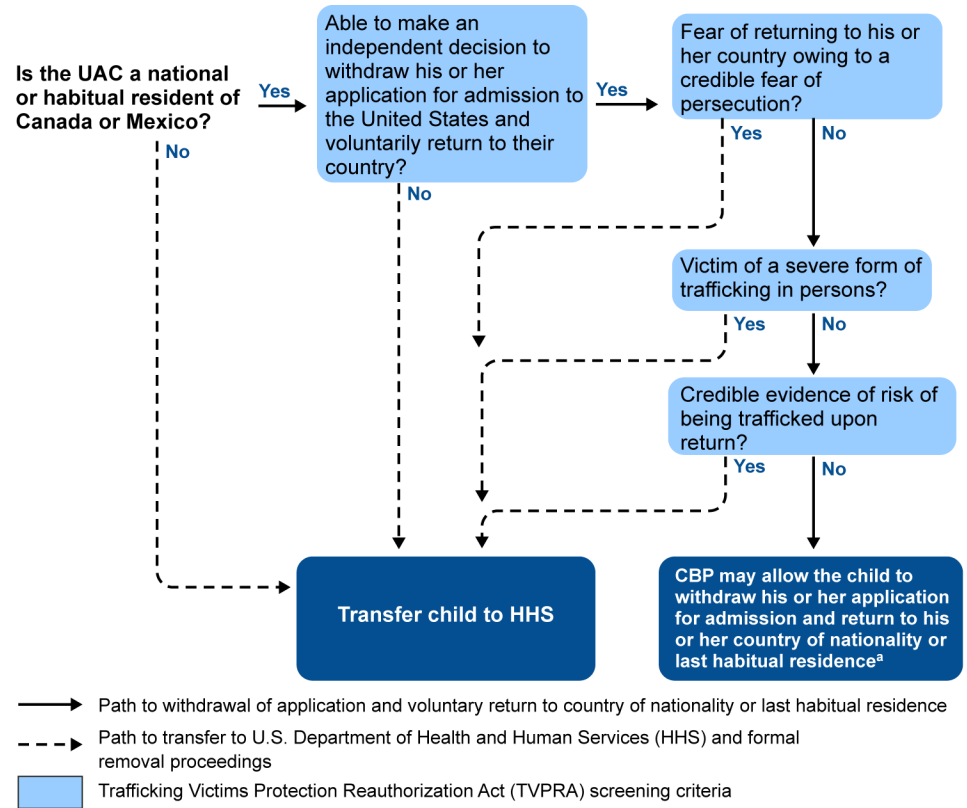
For Mexican and Canadian UAC who do not meet all four of these screening criteria, TVPRA requires DHS to follow the same process established for UAC from other countries and transfer them to HHS within 72 hours of determining they are UAC, absent exceptional circumstances.<sup>24</sup> Figure 1 shows CBP's screening process for UAC.

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<sup>23</sup>TVPRA, § 235(a)(2), 122 Stat. at 5075 (8 U.S.C. § 1232(a)(2)). Under TVPRA § 235(a)(2)(B), withdrawal of application is pursuant to INA § 235(a)(4) (8 U.S.C. § 1225(a)(4)); see also 8 C.F.R. § 235.4. CBP agents and officers conduct TVPRA screening of UAC they apprehend. According to ICE officials, for UAC apprehended by ICE at a land border, ICE transfers them to Border Patrol for TVPRA screening. For UAC apprehended by ICE at a nonland border, the provision of TVPRA that allows UAC to withdraw an application for admission and return to his or her country of origin does not apply; therefore, ICE does not conduct TVPRA screening for these children. See *id.* § 235(a)(2)(B), 122 Stat. at 5075 (8 U.S.C. § 1232(a)(2)(B)).

<sup>24</sup>*Id.* § 235(a)(2)(A), (a)(3)-(4), (b). If DHS cannot make a screening determination for a Mexican or Canadian UAC within 48 hours of the child's apprehension, DHS must immediately transfer the child to HHS in accordance with additional requirements. *Id.* § 235(a)(4)(b).

**Figure 1: U.S. Customs and Border Protection’s (CBP) Screening Process for Unaccompanied Alien Children (UAC)**



Source: GAO analysis of TVPRA and CBP documentation. | GAO-15-521

Note: For TVPRA, William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, § 235, 122 Stat. 5044, 5074-82 (codified at 8 U.S.C. § 1232).

<sup>a</sup>UAC who do not withdraw their application for admission would be sent to HHS and placed in removal proceedings.

**Care and custody.** While UAC are in DHS custody, DHS is required to meet certain minimum requirements for care and custody, as stipulated by TVPRA, the Flores Agreement, and DHS regulations. DHS must meet the following requirements for care and custody, at a minimum:

- maintain custody of UAC in the least restrictive setting appropriate to the children’s age and special needs, provided that such setting is

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consistent with the need to protect the juveniles' well-being and that of others, as well as with any other laws, regulations, or legal requirements;<sup>25</sup>

- provide safe and sanitary facilities for UAC, as well as adequate temperature control and ventilation;
- provide UAC with access to drinking water and food as appropriate, emergency medical care, and toilets and sinks;
- generally separate UAC from unrelated adults and adequately supervise UAC;<sup>26</sup>
- provide specialized training for care and custody of UAC to DHS personnel who have substantive contact with UAC; and
- transfer UAC to HHS within 72 hours of apprehension, except in exceptional circumstances.

**Transfer of UAC.** When ORR receives notice that DHS plans to transfer custody of UAC, ORR searches its database of shelters throughout the United States to locate one with space for a child before DHS transfers custody of UAC.<sup>27</sup> When ORR confirms that space at a shelter has been reserved for an unaccompanied alien child, the office is to coordinate with Border Patrol, OFO, and ERO to transport the child to the assigned shelter. ERO provides long-distance travel for UAC within the United States via commercial airlines, charter aircraft, or bus. In some areas, CBP transports UAC to shelters that are within the local commuting area.

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<sup>25</sup>6 C.F.R. § 115.114. The Flores Agreement contains a similar requirement, that each detained minor be placed in the least restrictive setting appropriate to the minor's age and special needs, provided that such setting is consistent with its interests to ensure the minor's timely appearance before the then-INS and the immigration courts and to protect the minor's well-being and that of others. Stipulated Settlement Agreement, ¶11, *Flores v. Reno*, No. 85-4544 (C.D. Cal. Jan 17, 1997).

<sup>26</sup>DHS regulations permit juveniles to temporarily remain with a nonparental family member where the family relationship has been vetted to the extent feasible and the agency determines that remaining with the nonparental adult family member is appropriate, under the totality of the circumstances. 6 C.F.R. § 115.114. The Flores Agreement provides that UAC will be separated from unrelated adults and where such segregation is not immediately possible, an unaccompanied minor will not be detained with an unrelated adult for more than 24 hours. Stipulated Settlement Agreement, ¶12, *Flores v. Reno*, No. 85-4544 (C.D. Cal. Jan 17, 1997).

<sup>27</sup>According to HHS officials, as of February 2015, HHS had cooperative agreements to provide about 7,300 beds for UAC.

For UAC repatriated to Mexico or Canada, CBP is generally responsible for transporting UAC to POEs, where UAC custody is transferred to Mexican or Canadian officials.

**DHS Apprehended Over 200,000 UAC during Fiscal Years 2009 through 2014**

DHS apprehended more than 5 million adult and juvenile aliens during fiscal years 2009 through 2014, of which approximately 201,700 (4 percent) were UAC. Table 1 shows the number of UAC apprehensions by DHS component during fiscal years 2009 through 2014.

**Table 1: Apprehensions of Unaccompanied Alien Children (UAC) by Department of Homeland Security (DHS) Components during Fiscal Years 2009 through 2014**

	2009	2010	2011	2012	2013	2014	Total
Border Patrol	19,672	18,627	16,051	24,447	38,797	68,639	<b>186,233</b>
Office of Field Operations (OFO)	a	a	a	2,567	3,061	4,819	<b>At least 10,447</b>
U.S. Immigration and Customs Enforcement	1,123	1,254	1,058	854	491	283	<b>5,063</b>
<b>DHS total</b>	<b>At least 20,795</b>	<b>At least 19,881</b>	<b>At least 17,109</b>	<b>27,868</b>	<b>42,349</b>	<b>73,741</b>	<b>At least 201,743</b>

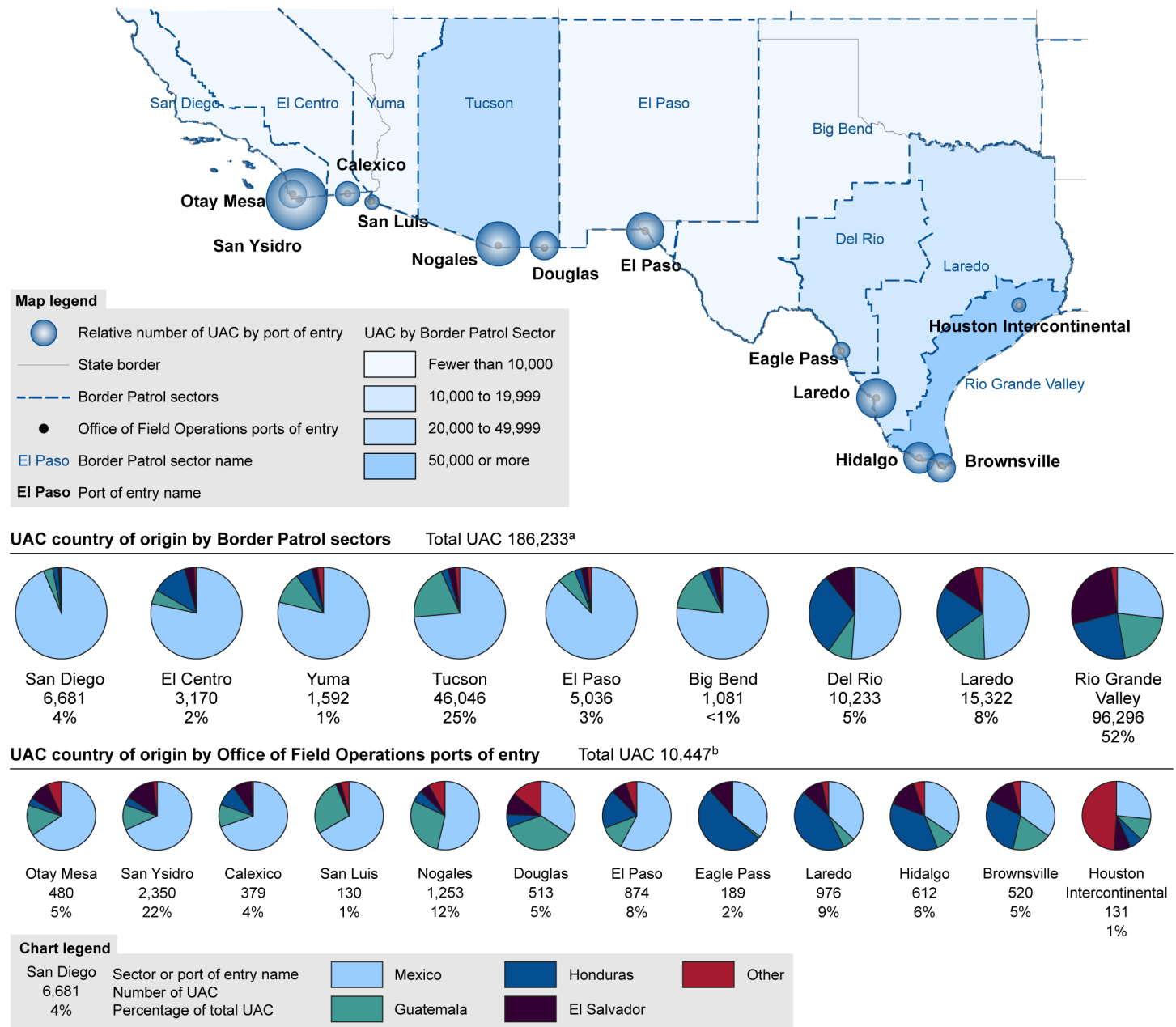
Source: GAO analysis of DHS data. | GAO-15-521

<sup>a</sup>U.S. Customs and Border Protection's (CBP) OFO was not able to provide the number of UAC apprehended during fiscal years 2009 through 2011 because OFO had data only for the number of children apprehended and could not break out how many were UAC and how many were accompanied children.

Over 90 percent of DHS's apprehensions of UAC during fiscal years 2009 through 2014 were made by Border Patrol agents along the southwest border of the United States with Mexico. Of the 186,233 UAC whom Border Patrol apprehended, over 75 percent were apprehended in two Border Patrol sectors—about 52 percent in Rio Grande Valley, Texas, and about 25 percent in Tucson, Arizona. OFO apprehended 10,447 UAC during fiscal years 2012 through 2014.<sup>28</sup> Figure 2 shows the primary locations of UAC apprehensions by CBP during fiscal years 2009 through 2014.

<sup>28</sup>OFO was not able to provide the number of UAC apprehended during fiscal years 2009 through 2011 because OFO had data only for the number of children apprehended and could not break out how many were UAC and how many were accompanied children.

**Figure 2: Primary Locations of U.S. Customs and Border Protection (CBP) Apprehensions of Unaccompanied Alien Children (UAC), Fiscal Years 2009 through 2014**



Source: GAO analysis of U.S. Customs and Border Protection data; MapInfo (map). | GAO-15-521

Note: The number of UAC apprehended by CBP's Office of Field Operations (OFO) as shown in the map at ports of entry does not include apprehensions for fiscal years 2009 through 2011. OFO was not able to provide the number of UAC apprehended during fiscal years 2009 through 2011 because

OFO had data only for the number of children apprehended and could not break out how many were UAC and how many were accompanied children.

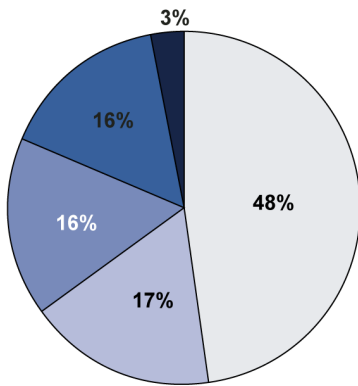
<sup>a</sup>Total UAC apprehensions by Border Patrol during fiscal years 2009 through 2014 were 186,233 nationwide, whereas, the number of UAC apprehended by Border Patrol in the nine Border Patrol sectors identified in the map totaled 185,457 during these fiscal years.

<sup>b</sup>Total UAC apprehensions by OFO during fiscal years 2012 through 2014 were 10,447 nationwide, whereas, the number of UAC apprehended by OFO at the 12 POEs identified in the map totaled 8,407 during these fiscal years.

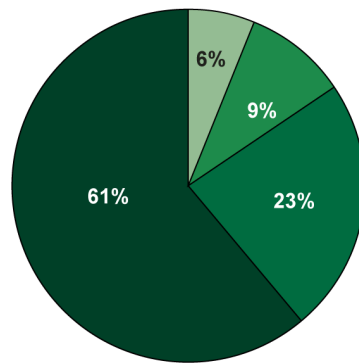
As shown in figure 3, most DHS apprehensions of UAC during fiscal years 2009 through 2014 were of children 16 or 17 years old, and more than three quarters of them were males. Further, about 97 percent of these UAC were from four countries—El Salvador, Guatemala, Honduras, and Mexico.

**Figure 3: Selected Demographic Information of Unaccompanied Alien Children (UAC) Apprehended by the Department of Homeland Security (DHS), Fiscal Years 2009 through 2014**

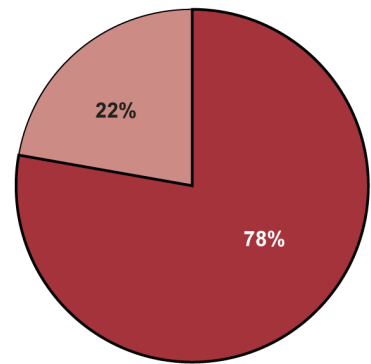
**Citizenship**



**Age**



**Gender**



- Mexico
- Guatemala
- Honduras
- El Salvador
- Other

- 0 to 10
- 11 to 13
- 14 to 15
- 16 to 17

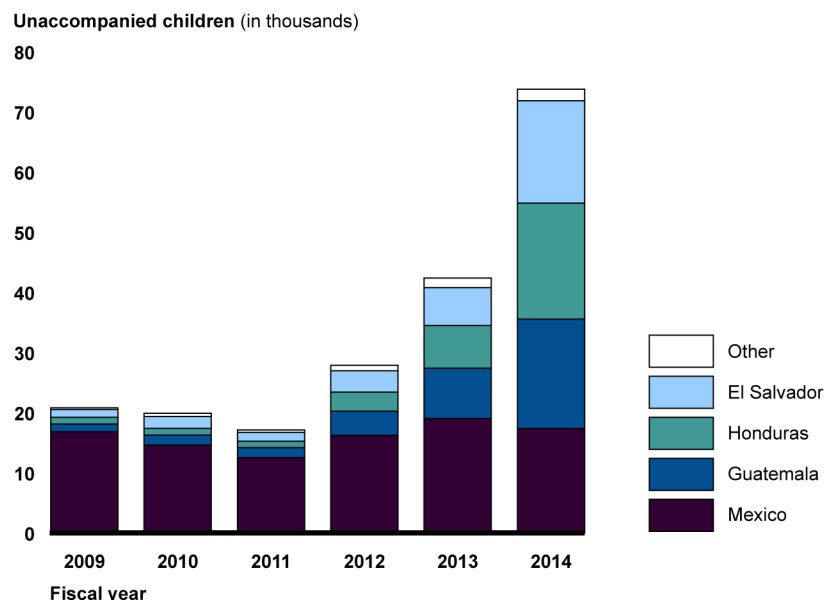
- Male
- Female

Source: GAO analysis of DHS data. | GAO-15-521

Note: Percentages exclude UAC apprehensions by U.S. Customs and Border Protection’s Office of Field Operations for fiscal years 2009 through 2011 because data were not available for those years. Numbers may not sum to 100 due to rounding.

As shown in figure 4, almost half of UAC apprehensions were Mexican UAC, and the flow of Mexican UAC generally remained constant during fiscal years 2009 through 2014. In addition, the number of all UAC apprehensions was higher in fiscal years 2013 and 2014 than in prior fiscal years, primarily because of large increases in apprehensions of UAC from El Salvador, Guatemala, and Honduras. (For additional data on UAC apprehensions, see app. III.)

**Figure 4: Apprehensions of Unaccompanied Alien Children (UAC) by Country of Citizenship, Fiscal Years 2009 through 2014**



Source: GAO analysis of DHS data. | GAO-15-521

Note: U.S. Customs and Border Protection's Office of Field Operations (OFO) was not able to provide the number of UAC apprehended during fiscal years 2009 through 2011 because OFO had data only for the number of children apprehended and could not break out how many were UAC and how many were accompanied children.

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## CBP Has Developed Policies and Procedures for Screening UAC, but Has Not Consistently Implemented TVPRA Requirements

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### CBP Has Developed Policies and Procedures, Including a Standardized Tool, to Help Ensure Screening of UAC as Required

In March 2009, CBP issued a memorandum containing policies and procedures that Border Patrol agents and OFO officers are required to follow when screening UAC regardless of nationality. Consistent with TVPRA requirements, the memorandum states that Border Patrol and OFO are to transfer all UAC from countries other than Canada or Mexico to HHS shelters. In addition, the memorandum establishes separate procedures to screen UAC from Canada and Mexico to determine whether they should be transferred to an HHS shelter or allowed to return to these two countries. Specifically, agents and officers are required to assess the four criteria set forth in TVPRA for each unaccompanied Canadian or Mexican child when determining whether to allow that child to voluntarily return to these countries (that is, to be repatriated).

Further, CBP's March 2009 memorandum requires that Border Patrol agents and OFO officers use CBP's Form 93 to document that they conducted the required screening for all UAC against criteria set forth in TVPRA. For example, the Form 93 directs interviewing agents and officers to ask questions to determine whether the children have a fear of returning to their country of nationality or last habitual residence and if the UAC may be victims of trafficking. Form 93 also provides agents and officers with indicators of potential human trafficking. In addition, agents and officers are to use the Form I-213 to document, among other things, key results of the screening process, such as any claims of fear expressed by the UAC. According to our observations and interviews with Border Patrol agents and OFO officers at 13 of the 15 CBP facilities and POEs we visited, agents and officers generally interview UAC and complete these forms at computer terminals in open areas of the



facilities.<sup>29</sup> Although CBP agents and officers are to complete a Form 93 for all UAC, the children’s responses are only statutorily required for the purpose of determining whether to permit Canadian and Mexican UAC to voluntarily return, as TVPRA requires DHS to transfer all non-Canadian and non-Mexican UAC to an HHS shelter. Table 2 describes the purpose of these forms and their roles in the screening process.<sup>30</sup>

**Table 2: Key U.S. Customs and Border Protection (CBP) Forms for Screening Unaccompanied Alien Children (UAC)**

Form name and purpose	Role of form in the screening process
<p><b>UAC Screening Addendum (Form 93)</b> Primary tool to make trafficking and credible fear determinations</p>	<p><u>Credible fear:</u> Directs interviewing agents and officers to ask four questions to determine whether UAC have a fear of returning to their countries of nationality or last habitual residence, such as why the UAC left their countries of nationality or last habitual residence and whether they have any fear or concern about being returned or being removed from the United States.</p> <p><u>Potential trafficking:</u> Provides interviewing agents and officers with indicators of potential trafficking and 12 trafficking questions to assist them in determining if the UAC may be victims of trafficking. For example, agents and officers are required to ask whether the UAC had freedom of movement during their travel to the United States, if they had been deprived of food and water, and whether they or their families had been threatened with harm if they attempted to escape.</p> <p><u>Screening assessment:</u> Requires the agent or officer interviewing the UAC, as well as supervisors, to determine whether the UAC meet any of the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) criteria and provide signatures attesting to this determination.</p>
<p><b>Record of Deportable/ Inadmissible Alien (Form I-213)</b> Tool to document an alien’s biographical information, details regarding the apprehension of the alien, and key information Border Patrol agents and Office of Field Operations (OFO) officers learned while interviewing the alien.</p>	<p><u>Independent decision:</u> Agents and officers are to document the basis for their determinations about a child’s ability to make an independent decision to return to his or her country of nationality or last habitual residence.</p> <p><u>Credible fear:</u> Agents and officers are to document any claims of fear expressed by the UAC.</p> <p><u>Trafficking:</u> Agents and officers are to document the circumstances involving any potential trafficking.</p>

Source: GAO analysis of CBP documentation. | GAO-15-521

<sup>29</sup>In addition, at the McAllen Border Patrol station, we observed a two-step screening process, which agents stated increases efficiencies. First, at an open area computer terminal, an agent initiates paperwork and inputs biographical information for all UAC, and if the unaccompanied alien child is Mexican, completes the Form 93 and all related paperwork. Second, if the child is not from Mexico, in an office adjacent to the open area, another agent completes the screening process and other paperwork to transfer the child to an HHS shelter.

<sup>30</sup>CBP also completes other forms when interviewing UAC, such as the Form I-770, Notification of Rights and Request for Disposition, and, if the UAC is to be transferred to an HHS shelter, a UAC placement form. The Form I-770 informs UAC of their rights to use a telephone to contact an adult, be represented by a lawyer, and appear before an immigration judge. The form also documents the UAC’s decision whether to exercise these rights.

On the basis of the information Border Patrol agents and OFO officers gather during the interviews and, in particular, on the basis of the children's responses to questions on the Form 93, agents and officers are to determine whether to allow UAC from Canada and Mexico to return to their countries of origin. Table 3 shows the number of Canadian and Mexican UAC who were apprehended by CBP from fiscal years 2012 through 2014 and repatriated or transferred to HHS.

**Table 3: Number of Canadian and Mexican Unaccompanied Alien Children (UAC) Apprehended by U.S. Customs and Border Protection (CBP) and Repatriated or Transferred to the Department of Health and Human Services (HHS), Fiscal Years 2012 through 2014**

	2012	2013	2014	Total
<b>Canadian UAC repatriated</b>	100	100	100	<b>300</b>
<b>Mexican UAC repatriated</b>	15,000	18,000	16,000	<b>49,000</b>
<b>Canadian UAC transferred to HHS</b>	Less than 100	Less than 100	Less than 100	<b>Less than 100</b>
<b>Mexican UAC transferred to HHS</b>	500	500	1,000	<b>2,000</b>

Source: GAO analysis of CBP data. | GAO-15-521

Note: Data are rounded to the nearest hundred. Apprehensions of Canadian UAC were greater than zero but less than 100 for each fiscal year.

### CBP Transferred Most Non-Canadian and Non-Mexican UAC to HHS as Required, but OFO Repatriated Some Who Were Apprehended at Airports

Our analysis of UAC apprehension data for fiscal years 2009 through 2014 shows that CBP transferred the majority of non-Canadian and non-Mexican UAC to HHS, as required by TVPRA and CBP's March 2009 memorandum. Specifically, CBP's data indicate that Border Patrol transferred 99 percent of such UAC whom agents apprehended from fiscal years 2009 through 2014, and OFO transferred about 93 percent of such UAC apprehended at land POEs from fiscal years 2012 through 2014.<sup>31</sup> Further, officials at 13 of the CBP facilities and land POEs we

<sup>31</sup>Complete OFO data on UAC apprehensions were not available for fiscal years 2009 through 2011. From fiscal years 2012 through 2014, 87 percent (9,109 of 10,447) of the UAC apprehensions by OFO occurred at land POEs. We reviewed selected case files for the non-Canadian and non-Mexican UAC apprehended at land and air POEs for whom CBP databases showed were repatriated. On the basis of our analysis, we found that the subjects were generally not UAC or were, in fact, eligible for repatriation. Specifically, while we found that Border Patrol's data system contained errors, we also found that the children were generally accompanied by parents and, therefore, the TVPRA provisions related to screening and transfer of UAC did not apply. In addition, we reviewed two cases from the OFO database that showed that officers had repatriated non-Canadian and non-Mexican UAC who had been apprehended and found that both UAC were habitual residents of Canada and, therefore, eligible for repatriation.

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visited stated that non-Mexican UAC are always transferred to HHS, indicating that the officials were aware of the policy. In addition, for all 5 non-Mexican UAC we observed being interviewed by Border Patrol agents during our visits, we noted that agents determined that these UAC were to be transferred to HHS, as required.<sup>32</sup>

Although CBP transferred the majority of non-Canadian and non-Mexican UAC apprehended at land borders and land POEs to HHS, OFO did not transfer all such UAC apprehended at air POEs as required by TVPRA. Specifically, our analysis of CBP data shows that OFO repatriated about 45 percent (459 of 1,037) of such UAC apprehended at air POEs from fiscal years 2012 through 2014. OFO headquarters officials stated that they were aware that all non-Canadian and non-Mexican UAC are to be transferred to HHS, including those apprehended at air POEs, and initially stated that the officers at air POEs had entered incorrect data into OFO's automated system, such as coding an accompanied child as an unaccompanied child. We analyzed a nongeneralizable random sample of Form I-213s for 19 cases in which OFO apprehended non-Canadian and non-Mexican UAC at air POEs and repatriated them. In general, we found that the documentation indicated that these were not data entry errors. Rather, the documentation indicated that these UAC who were repatriated, for example, had attended or were seeking to attend school without the correct visa, or seeking employment without the proper visa.<sup>33</sup>

On the basis of our analysis, OFO officials stated that officers who screen UAC at air POEs may not fully understand TVPRA requirements or recall the details of their training on TVPRA because OFO officers at these locations apprehend far fewer UAC than those at land POEs. In addition, OFO officials stated that some of the cases in the database where OFO returned non-Mexicans and non-Canadians (162 of 459) were refusals of admission based on the child's request to be admitted into the United States under the Visa Waiver Program. According to OFO officials and CBP guidance, UAC may be allowed to return to their home countries in this circumstance, but are first screened to assess the risk of trafficking or

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<sup>32</sup>Our observations took place in Rio Grande Valley sector Border Patrol stations during September 2014.

<sup>33</sup>In this sample, we also identified 1 case for which it was clear from documentation that the minor was accompanied by his parents, and 2 cases where it was not clear from the documentation whether the individual was an unaccompanied alien child.

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credible fear.<sup>34</sup> After reviewing the Form I-213s in our sample, OFO officials stated that the officers had given thoughtful consideration to the outcomes of the UAC and generally contacted the children's parents and worked through the appropriate consular office before repatriating them. However, OFO officials acknowledged that TVPRA requires OFO to transfer all non-Canadian and non-Mexican UAC to HHS shelters, regardless of the type of POE. These officials stated that developing face-to-face training for OFO officers at air POEs focused on TVPRA requirements would help improve those officers' knowledge of the requirements. As of April 2015, OFO officials and attorneys from CBP's Office of Chief Counsel stated that they had begun discussing developing such a training based on our data analysis. However, they did not provide documentation of specific actions they have taken or plan to take to address the issues we identified. Developing and implementing training for OFO officers at airports who have substantive contact with UAC could better position those officers to comply with TVPRA requirements.

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### CBP Has Not Consistently Implemented Its Screening Policies for Mexican UAC and Cannot Ensure It Is Meeting TVPRA Requirements

CBP has policies for screening Mexican UAC. However, CBP has not consistently implemented these policies related to assessing (1) UAC's ability to make independent decisions, (2) UAC's credible fear of persecution, (3) whether UAC were victims of a severe form of trafficking, and (4) any credible evidence of UAC's risk of being trafficked upon return to their countries.

**Ability to make an independent decision.** It is unclear if Border Patrol agents and OFO officers are assessing whether Mexican UAC can make an independent decision, as required by TVPRA, because (1) the Form 93 does not include indicators or questions on how to implement the requirement regarding independent decisions, and (2) Border Patrol agents did not consistently document, as required, the basis for their

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<sup>34</sup>The Visa Waiver Program allows citizens of participating countries to travel to the United States without obtaining a visa, for stays of 90 days or less for tourism or business. Under the Immigration and Nationality Act (INA) § 217 (8 U.S.C. § 1187), DHS may waive the visa requirement for visitors from certain countries who meet specific requirements; refusals of admission for travelers attempting to enter the United States under the Visa Waiver Program, according to OFO officials, do not constitute a removal for purposes of section 235 of the TVPRA (8 U.S.C. §1232(a)(5) (D)). In our sample, we identified four cases in which UAC were nationals of Visa Waiver Program countries; documentation shows that CBP processed 3 of these UAC as visa waiver refusals.

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determinations of independent decision-making ability among Mexican UAC.<sup>35</sup>

First, the Form 93 instructs the agent or officer interviewing UAC to determine whether they meet any of the TVPRA criteria and provide signatures attesting to this determination. However, the form does not provide indicators or suggested questions for agents and officers to use to assess, in accordance with CBP policy, whether UAC from Canada and Mexico are able to make an independent decision to withdraw their application for admission to the United States and return to their countries of origin.<sup>36</sup> CBP's 2009 memorandum states that agents and officers should generally consider UAC who are 14 years of age or older to be able to make an independent decision about returning to their countries of nationality or last habitual residence and UAC under the age of 14 to be generally unable to make an independent decision. The memorandum also lists a number of exceptions. For example, it states that these age presumptions may be overcome based on factors such as the child's intelligence, education level, and familiarity with the U.S. immigration process.

On the basis of our interviews with Border Patrol agents and OFO officers in Arizona, Texas, and California in July, September, and October 2014, respectively, we found that not all agents and officers were aware that CBP's 2009 memorandum states that UAC under the age of 14 are presumed generally unable to make an independent decision. Further, Border Patrol agents and OFO officers at 5 of the 15 facilities we visited stated that they repatriate UAC under the age of 14 if the Mexican consulate is able to locate a family member in Mexico, and other Border Patrol officials stated that they seek approval from the Mexican consulate before returning any Mexican UAC. However, it is not the responsibility of the Mexican government to assess whether Mexican UAC who enter the

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<sup>35</sup>In order to exercise its discretion to repatriate a UAC from a contiguous country, DHS must determine that the child is able to make an independent decision to withdraw his or her application for admission.

<sup>36</sup>Border Patrol agents do provide UAC with the Notice of Rights and Request for Disposition form (Form I-770), which informs UAC of their right to appear before an immigration judge and asks if they want to go back to their countries without a hearing. However, the Form I-770 does not specifically address the TVPRA requirement on independent decision, and Border Patrol headquarters officials stated that it is not intended to do so.

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United States merit international protection outside of Mexico. Rather, TVPRA provides DHS with the authority to make the determination as to whether a Mexican UAC can make an independent decision to withdraw his or her application for admission and return to Mexico when the UAC has met specified screening criteria, and provides no role for the Mexican government with respect to this decision. Further, our analysis of CBP apprehension data indicates that agents and officers may not have understood or followed CBP policy regarding the ability of UAC younger than 14 years old to make an independent decision. Specifically, we found that CBP repatriated about 95 percent of all Mexican UAC whom agents and officers apprehended during fiscal years 2009 through 2014, and 93 percent of Mexican UAC under the age of 14 during this time period. Further, eight of nine Border Patrol sectors along the southwest border repatriated at least 80 percent of Mexican UAC under age 14 from fiscal years 2009 through 2014.<sup>37</sup> In addition, from fiscal years 2012 through 2014, OFO repatriated about 50 percent of Mexican UAC and 65 percent of Canadian UAC under age 14.

According to CBP headquarters officials, the Form 93 is a sufficient tool to conduct screening and Border Patrol officials and, in particular, these officials stated that the signatures on the Form 93 confirm that agents and officers considered whether the UAC were able to make an independent decision about whether to return to Canada or Mexico. CBP officials also stated that agents and officers use their training and experience to make independent decision determinations and are capable of making these determinations without a set of specific questions on the Form 93. However, based on our interviews and our review of CBP apprehension data, it is unclear if agents and officers assessed Canadian and Mexican UAC's ability to make an independent decision before signing the Form 93 because there was no written documentation of this assessment other than the signatures.

In addition, other organizations have also identified limitations to CBP's implementation of the independent decision-screening requirement. For example, a June 2014 UNHCR report identified concerns that CBP as a whole was not assessing whether Mexican UAC are able to make an

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<sup>37</sup>The other sector repatriated 53 percent of Mexican UAC under the age of 14 from fiscal years 2009 through 2014. Nationwide from fiscal years 2009 through 2014, Border Patrol repatriated over 5,600 Mexican UAC under age 14. In addition, OFO repatriated over 600 Mexican UAC under age 14 nationwide from fiscal years 2012 through 2014.

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independent decision to withdraw their applications for admission to the United States and return to Mexico. Specifically, UNHCR found that there are no questions or instructions built into CBP's process for CBP officials to assess UAC's ability to make the decision to return to Mexico.<sup>38</sup> Further, UNHCR reported that, when presented with hypothetical examples of a child who is not able to make an independent decision about returning home and questioned about whether they would handle the processing of such a Mexican differently, a number of agents responded that the children would be returned to Mexico like the other Mexican UAC. In addition, the nongovernmental organization Appleseed reported in 2011 that its interviews with Border Patrol agents and OFO officers in the field indicated that no uniform guidelines or standards existed on how to ascertain whether a child is capable of making an independent decision to return to Mexico, and that this absence of direction led to inconsistent practices across different regions of the southwest border.<sup>39</sup> Further, Appleseed reported that the repatriated Mexican UAC it interviewed seemed to have little understanding of what might happen to them if they did not agree to return to Mexico. CBP officials responsible for outreach with these organizations stated that while they have had discussions with nongovernmental organizations about the Form 93 and UAC screening, there were no plans, as of April 2015, to revise the form to include additional indicators or questions related to the ability of UAC to make an independent decision.

*Standards for Internal Control in the Federal Government* provides that agencies should design and implement continuous built-in components of operations—in this case, indicators or questions agents and officers should ask related to independent decision making—to provide reasonable assurance of meeting agency missions, goals, and objectives.<sup>40</sup> Revising the Form 93 to include indicators or questions that agents and officers should ask to better assess a child's ability to make an independent decision would help ensure agents and officers obtain the necessary information to determine whether UAC can independently

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<sup>38</sup>UNHCR, *Findings and Recommendations Relating to the 2012-2013 Missions to Monitor the Protection Screening of Mexican Unaccompanied Children Along the U.S.-Mexico Border* (Washington, D.C.: June 2014).

<sup>39</sup>Appleseed, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors* (Washington, D.C.: 2011).

<sup>40</sup>[GAO/AIMD-00-21.3.1](#).

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make a decision to withdraw their application prior to repatriation, in compliance with TVPRA requirements and CBP policy.

Second, although CBP repatriated most Mexican UAC under the age of 14 from fiscal years 2009 through 2014, we found that Border Patrol agents did not consistently document the basis for their decisions, as required. CBP's 2009 memorandum specifically instructs agents and officers to document the basis for all determinations regarding independent decisions on the Form I-213. Our analysis of a random sample of 180 Border Patrol case files of UAC apprehended in fiscal year 2014 showed that agents did not document the rationales for their conclusions related to UAC's independent decision-making ability. Specifically, on the basis of our review of Forms I-213 from our sample of cases, which included children of all ages, we estimate that none of the 15,531 forms for Mexican UAC nationwide from fiscal year 2014 included documentation of the agents' basis for their determinations regarding the UAC's ability to make an independent decision.<sup>41</sup> In particular, in one case we reviewed, the Border Patrol agent documented that the unaccompanied alien child was "emotionally distraught" and "unable to speak clearly," but determined that the child should be allowed to return to Mexico. Because the agent did not document the reason for deciding that the child should be repatriated, it was unclear whether or how the agent took into account the child's physical and mental state, which, according to the 2009 memorandum, is one factor to consider when assessing UAC's ability to make an independent decision. In addition, two of the five Border Patrol agents we observed conducting interviews in the Rio Grande Valley sector told us that the Mexican UAC they interview and repatriate generally have not understood the options available to them that would allow them to remain in the United States while they await removal proceedings. As discussed above, a child's familiarity with the U.S. immigration process is to be a factor that agents and officers consider when determining the ability of the UAC to make an independent decision.

A Border Patrol headquarters official responsible for the UAC program stated that agents typically document the basis for the independent decision assessment only if the agent determines that the

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<sup>41</sup>We are 95 percent confident that the actual number of cases without forms was between 0 and 256.



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unaccompanied alien child is unable to make an independent decision because agents have typically not documented the decision in the past. Further, he stated that this course of action follows the spirit of the 2009 UAC policy memorandum. CBP officials also stated that agents and officers may not have adequately documented screening decisions because they were more focused on working to transfer custody of UAC to HHS as quickly as possible, particularly during the summer of 2014. However, the 2009 memorandum specifically states that Border Patrol agents and OFO officers are to document the basis for all determinations regarding independent decisions. Moreover, our review of Form I-213s from our sample of cases included apprehensions that occurred throughout fiscal year 2014, which accounts for time periods with high and low apprehension rates as well as sectors that did not experience a surge in UAC. Ensuring that Border Patrol agents document the basis for their determinations regarding independent decision making would better position CBP to ensure that such determinations are appropriate.

**Credible fear of persecution.** We found that Border Patrol agents and OFO officers are not making consistent decisions about whether Mexican UAC have a credible fear of persecution if they return to Mexico. According to TVPRA and CBP's 2009 policy memorandum, CBP is to transfer to HHS all Canadian and Mexican UAC who have a fear of returning to their countries because of a credible fear of persecution.<sup>42</sup> To implement this policy, agents and officers are to ask four credible fear determination questions on the Form 93, which solicit information from the UAC about why they left their home countries, if they have any fear of returning, or if they believe they would be harmed if returned. However, we found that agents' and officers' understanding varies as to what types of fear expressed by UAC and what types of responses to these fear questions should warrant transferring the UAC to HHS. In particular, our analysis of Border Patrol case files showed that agents made different screening decisions when presented with similar responses to the

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<sup>42</sup>Although TVPRA requires CBP to transfer to HHS all Canadian and Mexican UAC who have a fear of returning to their country because of a credible fear of persecution, our analysis focused only on Mexican UAC, who accounted for over 90 percent of CBP apprehensions from contiguous countries.

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credible fear questions.<sup>43</sup> For example, in one case we reviewed, the child claimed fear because her grandmother had abused her, and the agent transferred the child to HHS. However, in two other cases we reviewed, sisters told the interviewing agent that their aunt had mistreated them and the agent repatriated these UAC. In another case, a child claimed that he was fearful of gangs and transnational criminal organizations in his hometown and the interviewing agent decided to transfer him to HHS. However, one child claimed fear of gangs and another claimed fear of violence in Mexico, and the interviewing agents decided to repatriate both of these UAC.

In addition, the interviews we and other groups conducted with Border Patrol agents and OFO officers indicated an inconsistent understanding of how the credible fear of persecution determination should be made. Specifically, the Border Patrol headquarters official responsible for the UAC program told us that agents should transfer UAC from Mexico to HHS in all instances where the children claim credible fear of persecution or torture, but agents and officers we interviewed at 12 of the 15 CBP facilities we visited in Arizona, California, and Texas stated that Mexican UAC who claim any type of fear, not just fear of persecution, during the interview process are always transferred to an HHS shelter.<sup>44</sup> DHS's Office for Civil Rights and Civil Liberties conducted an investigation of selected Border Patrol and OFO facilities in south Texas during July 2014 and told us in October 2014 that, on the basis of preliminary findings,

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<sup>43</sup>We reviewed two sets of Border Patrol case files. First, we reviewed a random sample of 180 Border Patrol case files of Mexican UAC apprehended in fiscal year 2014. We found 1 case where the Border Patrol agent repatriated an unaccompanied alien child who had claimed fear when asked the Form 93 credible fear questions, but there was no additional information in the case file that described the type of fear claimed. As a result, we were unable to assess how the agent implemented the CBP credible fear requirement. Second, we reviewed 37 other cases of Mexican UAC whom Border Patrol apprehended that year and whom Border Patrol's data indicated might have claimed fear but were repatriated. We selected these additional cases by reviewing the Border Patrol database to identify Mexican UAC apprehended in fiscal year 2014 whom Border Patrol repatriated even though interviewing agents had noted the unaccompanied alien child had claimed fear by checking a box in the database during the screening process. Although the database contains a field to indicate that the unaccompanied alien child has claimed fear, completion of the field is optional, and we found the data associated with this field to be incomplete and unreliable. The examples we discuss are drawn from both sets of case files.

<sup>44</sup>We did not discuss UAC screening at two facilities we visited in Arizona. At the third remaining facility, CBP officials stated that they had never determined that a Mexican unaccompanied alien child had credible fear.

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some agents and officers these DHS officials interviewed stated that they needed to ask more questions than those on the Form 93 to know if fear claimed by UAC warranted protection (that is, being transferred to HHS). In addition, according to a June 2014 UNHCR report, more than half of the 96 CBP officials interviewed by the UNHCR officials in 2012 and 2013 stated that it was not their job to assess a child's fear of returning to his or her country; instead, UNHCR reported that CBP officials said that they process the case so that the child's claim can be heard by an appropriate adjudicator.<sup>45</sup> However, some CBP officials told UNHCR officials that their definition of fear is that it must be fear of persecution or harm inflicted directly by the government and that UAC who fear gangs or cartels do not have fear of government persecution and are therefore returned home.

Border Patrol agents and OFO officers at 10 of the 15 CBP facilities we visited stated that they transfer all UAC who claim fear to HHS because it is the role of the asylum officer or immigration judge to determine if the fear claimed warrants protection. However, although the immigration judge ultimately decides the merits of each child's case in the course of removal proceedings, TVPRA provides for DHS to determine on a case-by-case basis whether the child is free of fear of returning to his or her country of origin because of a credible fear of persecution prior to allowing the UAC to return, and CBP policy requires agents and officers to make this determination. In addition, *Standards for Internal Control in the Federal Government* provides that agencies should design and implement continuous built-in components of operations to provide reasonable assurance of meeting agency missions, goals, and objectives.<sup>46</sup> According to the Border Patrol official responsible for the UAC program, CBP's policy is to transfer to HHS only UAC who claim a credible fear of persecution, and there might be some confusion in the field regarding this policy. CBP's 2009 memorandum and related training materials do not include guidance on how agents and officers should assess UAC responses to questions related to having a credible fear of persecution. Clarifying how Border Patrol agents and OFO officers are to implement the TVPRA requirement to transfer to HHS all Mexican UAC who claim fear of returning to Mexico owing to a credible fear of

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<sup>45</sup>UNHCR, *Findings and Recommendations Relating to the 2012-2013 Missions to Monitor the Protection Screening of Mexican Unaccompanied Children Along the U.S.-Mexico Border* (Washington, D.C.: June 2014).

<sup>46</sup>[GAO/AIMD-00-21.3.1](#).

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persecution would better help them assess and protect Mexican UAC consistent with TVPRA requirements and CBP policy, as well as consistently across the agency.

**Victim of trafficking.** CBP's implementation of the TVPRA requirement related to assessing whether UAC are at risk of a severe form of trafficking in persons also has limitations. First, the Form 93 and the 2009 memorandum do not provide instructions on how agents and officers are to apply the questions and indicators on the Form 93 to assess a child's trafficking risk. Second, Border Patrol agents did not document the rationales for some of their decisions related to whether Mexican UAC were victims of a severe form of trafficking in persons.

Regarding CBP's trafficking guidance, we found inconsistencies in the information Border Patrol agents obtained from UAC for the same trafficking questions. The Form 93 provides examples of trafficking indicators and 12 questions to assist agents and officers in their assessments of whether UAC from Canada and Mexico have been trafficked. For example, one trafficking question on the Form 93 asks Border Patrol agents and OFO officers to determine if the UAC are engaged in labor. We analyzed a random sample of 180 Form 93s for Mexican UAC apprehended by Border Patrol in fiscal year 2014.<sup>47</sup> On the basis of our analysis, we estimate that Border Patrol agents found 3 percent of these UAC were engaged in labor—a trafficking indicator—because they were acting as smugglers. However, we estimate that in another 4 percent of the apprehensions during this time period, the Border Patrol agents identified the UAC as smugglers but recorded on the Form 93 that they were not engaged in labor. According to Border Patrol agents in south Texas, agents have previously identified smugglers who were trafficking victims, and documenting that UAC are smugglers can be an important step in assessing if CBP should allow the children to return to Mexico. According to our review of the case files, Border Patrol agents did not always document whether Mexican UAC were smugglers. As a result, we do not know whether agents' inconsistent classification of UAC smugglers as engaged in labor was a pervasive issue. However, given the potential consequences of child trafficking, it is important for agents to consistently apply the Form 93 trafficking questions for all UAC.

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<sup>47</sup>For the purposes of this audit, we focused on Mexican UAC since Canadian apprehensions are so low. Specifically, in fiscal year 2014, CBP apprehended more than 17,000 Mexican UAC but fewer than 150 Canadian UAC.

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In addition, we found instances where interviewers did not apply the trafficking indicator from the Form 93 correctly. For example, according to the form, one indicator of trafficking is when a child is isolated from others, and the agent or officer is prompted to ask if the child has been able to freely contact friends or family.<sup>48</sup> However, we estimate that, in 4 percent of the cases, Border Patrol agents incorrectly documented whether the UAC were able to contact someone while in custody at the Border Patrol station after they had been apprehended (instead of during their journey).<sup>49</sup> According to a Border Patrol headquarters official in charge of the UAC program, to determine if the child is a victim of trafficking, the interviewing agent would need information on whether the child was allowed to contact friends or family before, not after, apprehension.

Other groups have also reported that CBP has not provided Border Patrol agents and OFO officers with sufficient guidance on how to implement the Form 93 screening tool with regard to trafficking. For example, Appleseed reported that the form lacks depth or detail sufficient to draw out the information for an agent to evaluate whether a child has been trafficked.<sup>50</sup> In addition, UNHCR reported that the form does not provide the necessary guidance for the interviewing agents and officers in a clear, accurate, and user-friendly manner.<sup>51</sup> For example, UNHCR found that one agent, who was observed conducting screening, did not understand that some trafficking questions applied to the period of time before an unaccompanied alien child's apprehension. UNHCR reported that, with some guidance on the substance of what the agent is screening for, the agent could more effectively screen UAC for protection needs.

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<sup>48</sup>According to our review of the case files, Border Patrol agents did not always document the rationale for whether UAC were able to freely contact friends or family. As a result, we do not know the extent to which agents misunderstood the purpose of the question "Has the child been able to freely contact friends or family via phone, internet or mail?"

<sup>49</sup>We are 95 percent confident that the actual percentage of cases was between 1 and 8 percent.

<sup>50</sup>Appleseed, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors* (Washington, D.C.: 2011).

<sup>51</sup>UNHCR, *Findings and Recommendations Relating to the 2012-2013 Missions to Monitor the Protection Screening of Mexican Unaccompanied Children Along the U.S.-Mexico Border* (Washington, D.C.: June 2014).

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According to CBP officials, agents and officers are not authorized to make trafficking determinations, as agents refer UAC who may be victims of trafficking to either ICE or U.S. Citizenship and Immigration Services.<sup>52</sup> These officials also stated that the trafficking questions on the Form 93 are intended as good questions to prompt UAC responses, but that agents and officers ultimately use their training and experience to make trafficking decisions. Although agents and officers must use their discretion, prior to repatriating a UAC from Mexico or Canada, CBP policy and TVPRA require them to assess whether the UAC has been a victim of a severe form of trafficking in persons or is at risk of being trafficked upon return, and we found inconsistencies in how agents applied the trafficking questions designed to conduct that assessment. *Standards for Internal Control in the Federal Government* provides that effective communications should occur in a broad sense, with information flowing down, across, and up the organization to help ensure the agency meets its objectives.<sup>53</sup> Further, these standards state that management is responsible for developing detailed practices to fit the agency's operations and ensure that the practices are built into, and an integral part of, operations. Developing and implementing guidance on how Border Patrol agents and OFO officers are to implement the TVPRA requirement to transfer to HHS all Canadian and Mexican UAC who are victims of a severe form of trafficking in persons—such as the purpose of each trafficking question on the Form 93 and how to interpret UAC's responses to the questions—would better ensure agents and officers can make consistent and informed screening decisions.

Second, Border Patrol agents did not document the rationale for some of their decisions related to whether Mexican UAC were victims of a severe form of trafficking in persons, as required. According to the Form 93, if a trafficking indicator is present during the screening process, the interviewing Border Patrol agent or OFO officer is to ask age-appropriate

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<sup>52</sup>According to the 2009 policy memorandum, Border Patrol agents and OFO officers are to refer victims or potential victims of trafficking to ICE for additional investigation. U.S. Citizenship and Immigration Services' asylum officers conduct credible fear interviews in the expedited removal process and also adjudicate affirmative asylum claims. On the other hand, CBP agents and officers are required to assess, among other things, whether certain UAC from Canada or Mexico have been victims of a severe form of trafficking in persons, as part of TVPRA screenings to determine whether the UAC are eligible to voluntarily return to their countries of origin.

<sup>53</sup>[GAO/AIMD-00-21.3.1](#).

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questions that will help identify the key elements of a trafficking scenario. Moreover, agents and officers are to use the Form I-213 to document the circumstances involving any potential trafficking. On the basis of the sample of Form 93s that we reviewed, we project that 7,832 of the about 15,500 (50 percent) Mexican UAC whom Border Patrol apprehended in fiscal year 2014 had at least one trafficking indicator present. However, agents determined that these 7,832 UAC were not trafficking victims but did not document any follow-up questions the agents may have asked or UAC responses to those questions to alleviate any trafficking concerns.<sup>54</sup> For example, we estimate that in 45 percent of cases, the Border Patrol agent indicated that the child did not have possession of his or her identification documents but determined the child was not a trafficking victim. In the cases we reviewed, the agent did not document any responses to follow-up questions he or she may have asked, even though the Form 93 instructs the interviewing agent or officer to determine who has control of the documents. According to Border Patrol agents in one sector, not having an identification document should not be an indicator of someone being trafficked. However, the Form 93 states that the lack of possession or control of documents is a trafficking indicator and provides a suggested question specific to that situation. In other cases, Border Patrol agents determined UAC did not appear to be victims or potential victims of trafficking even though agents documented that there were trafficking indicators for these children, such as being isolated from others, engaging in labor, having restricted movements, being threatened with harm, being recruited for one purpose but forced to engage in some other job, or providing coached responses. As a result, it is unclear whether Border Patrol agents correctly applied CBP's policies.

CBP officials stated that they may not have adequately documented screening decisions during the surge of UAC in the summer of 2014 because they were more focused on working to transfer custody of UAC to HHS as quickly as possible. Also, Border Patrol officials stated that it is not necessary to document responses to follow-up questions because (1) agents have latitude to use their judgment based on training and experience to make trafficking assessments based on the totality of responses to the trafficking questions; (2) agents and supervisors discuss the circumstances of each case, as appropriate; and (3) supervisors review and approve agents' screening decisions. While an agent's

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<sup>54</sup>We are 95 percent confident that the actual total is between 6,332 and 9,331 UAC.

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judgment is an important aspect of the screening process, it is unclear if agents are following TVPRA and CBP policy requirements to only repatriate Mexican UAC if CBP determines they have not been victims of a severe form of trafficking in persons. Moreover, on the basis of our review of Form 93s from our sample of cases, we estimate that Border Patrol agents did not complete the trafficking section of the Form 93 for 7 percent (1,077) of Mexican UAC they repatriated in fiscal year 2014.<sup>55</sup> *Standards for Internal Control in the Federal Government* provides that internal controls and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination.<sup>56</sup> Given the rate of Mexican UAC with trafficking indicators whom Border Patrol repatriated, asking follow-up questions of UAC when trafficking indicators are present and documenting UAC responses would better position CBP to ensure that UAC who may be victims of a severe form of trafficking in persons are not repatriated. Further, recording the rationale for agents' decisions to repatriate UAC who demonstrate a trafficking indicator would allow CBP to better assess on an agency-wide basis whether agents' decisions were justified and consistent with TVPRA requirements and CBP policy.

**Credible evidence of risk of being trafficked upon return.** The Form 93 states that the trafficking questions will assist agents and officers in determining if the UAC may be victims of trafficking, but the form does not include indicators or questions for assessing whether there is credible evidence that the UAC are at risk of being trafficked upon return to their countries of origin—a screening requirement under TVPRA and CBP policy. CBP officials stated that the guidelines established in Form 93 outline indicators and suggested questions that could help show that UAC are victims of trafficking whether they are going to be repatriated or were subject to it prior to apprehension. However, none of the 12 trafficking questions prompts the interviewing agents and officers to ask the UAC about, for example, conditions in their homes or countries of origin that could help them assess whether the child would be a potential victim if repatriated. In addition, agents and officers at five facilities we visited stated that they focus on indicators of current trafficking victims—such as signs of abuse or fear of an adult in their group—rather than indicators of

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<sup>55</sup>We are 95 percent confident that the actual percentage is between 2 and 12 percent and that the actual total is between 295 and 1,860.

<sup>56</sup>[GAO/AIMD-00-21.3.1](#).



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potential trafficking should the child return to his or her country of origin. Further, during our observations of five UAC interviews, Border Patrol agents did not ask any questions pertaining to the risk of a child being trafficked upon return to his or her country of origin. CBP officials also stated that before CBP would allow a Mexican unaccompanied alien child to return, Mexican consulate officials interview each child and question him or her regarding possible abuse or trafficking. If any of these factors are present, consulate officials notify CBP. However, Mexican consulate officials in two of the three states we visited stated that they do not influence CBP's TVPRA screening decisions. Moreover, as previously stated, it is not the responsibility of the Mexican government to assess whether Mexican UAC who enter the United States merit international protection outside of Mexico.

Other organizations have reported on similar limitations in CBP's Form 93. For example, a June 2014 UNHCR report found that the form did not provide instruction on whether UAC are potential trafficking victims.<sup>57</sup> UNHCR reported that indicators for when a child may be at risk of being trafficked if returned to his or her country may be different from indicators of current trafficking victims, and that CBP agents and officers may need to ask different questions. UNHCR officials reported a lack of awareness among CBP officials about how to identify UAC who might be at risk of trafficking if returned to their countries of nationality. Similarly, Appleseed reported in 2011 that the Form 93 trafficking questions do not probe what Mexican UAC can expect to encounter if they are returned to Mexico.<sup>58</sup>

*Standards for Internal Control in the Federal Government* provides that agencies should design and implement continuous, built-in components of operations to provide reasonable assurance of meeting agency missions, goals, and objectives.<sup>59</sup> Revising the Form 93 to include indicators or questions that agents and officers should ask UAC to better assess whether there is credible evidence that a child is at risk of being trafficked upon return to his or her country of origin would help better

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<sup>57</sup>UNHCR, *Findings and Recommendations Relating to the 2012-2013 Missions to Monitor the Protection Screening of Mexican Unaccompanied Children Along the U.S.-Mexico Border* (Washington, D.C.: June 2014).

<sup>58</sup>Appleseed, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors* (Washington, D.C.: 2011).

<sup>59</sup>[GAO/AIMD-00-21.3.1](#).

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ensure agents and officers obtain the necessary information to address all TVPRA screening criteria and protect UAC.

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### CBP Does Not Have Assurance That Agents and Officers Have Completed Required UAC Training

CBP does not know the extent to which Border Patrol agents and OFO officers, who have substantive contact with UAC, have completed required UAC training. TVPRA requires DHS to provide specialized training to all personnel who have substantive contact with UAC.<sup>60</sup> According to CBP officials, in October 2012, CBP combined two virtual learning courses—one on TVPRA requirements and another on the care of UAC—and made the course mandatory. Since that time, Border Patrol agents and OFO officers have been required to complete this training annually. The course aims to familiarize agents and officers with the provisions of TVPRA, the screening of UAC, and other issues pertaining to the processing and care of UAC. However, our analysis indicates that CBP does not have reliable data on whether agents and officers completed the training. In particular, CBP officials stated that CBP's training system tracks the number of agents and officers who have completed the course but it does not reflect the total number of those who should have taken the course. Furthermore, we interviewed CBP training, Border Patrol, and OFO officials regarding how agents and officers document completion of UAC training, and reviewed additional information these officials provided about these data. These officials stated that CBP's training system does not contain accurate data on which agents and officers are required to take the mandated training or those who did not take it. Further, tracking completion of the UAC training course is a long-standing issue, as the DHS Office of Inspector General (OIG) reported in September 2010 that CBP has not developed a tracking system to verify that personnel responsible for processing and detaining UAC have completed the mandatory annual training.<sup>61</sup>

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<sup>60</sup>TVPRA § 235(e) (8 U.S.C. § 1232(e) (requiring the Secretaries of State, Homeland Security, and Health and Human Services, and the Attorney General to provide specialized training to all federal personnel, and state and local personnel upon request, who have substantive contact with UAC, including training on how to work with UAC and how to identify those who are victims of a severe form of trafficking in persons).

<sup>61</sup>DHS OIG recommended that all CBP personnel required to take the Flores Agreement training be mandated to complete the refresher course annually. The OIG subsequently closed the recommendation as implemented. DHS Office of Inspector General, *CBP's Handling of Unaccompanied Alien Children*, OIG-10-117 (Washington, D.C.: September 2010).

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CBP officials stated that it is the responsibility of local supervisors to ensure that all of their agents and officers who have substantive contact with UAC complete required training. According to CBP training officials, some agents and officers may be exempt from the training for a particular year, for example, if they are on a detail assignment overseas or on extended administrative leave. Also, Border Patrol and OFO headquarters officials stated that some supervisors are better than others at monitoring their agents' and officers' training requirements and may prioritize operational assignments over required training. For example, Border Patrol officials reported that the increase in apprehensions in fiscal years 2013 and 2014 could have led to below-optimal training completion percentages. Similarly, OFO officials stated that some officers were unable to complete the UAC training because operational needs took precedence. However, TVPRA requires all federal personnel who have substantive contact with UAC to receive specialized training, and completion of the annual UAC virtual learning course is a CBP requirement. Further, a March 2008 Border Patrol memorandum states that employees should be given adequate time to complete the course—about 1 hour in length—during their normal tour of duty. In addition, according to best practices in assessing training efforts, agencies should develop tracking and other control mechanisms to ensure that all employees receive appropriate training.<sup>62</sup> Determining which agents and officers are required to complete the annual UAC training, and ensuring that they have done so, as required, would help CBP to meet training requirements under TVPRA and CBP policies and guidance.

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<sup>62</sup>[GAO-04-546G](#).

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## CBP and ICE Have Developed Policies That Are Consistent with UAC Care Requirements, but Could Improve Data Collection, Interagency Coordination, and Repatriation Efforts

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### CBP and ICE Policies Generally Reflect Care Requirements for UAC, and CBP Follows These Policies in Practice

CBP and ICE have policies in place to implement the Flores Agreement and care for UAC, and CBP generally follows these policies. Under the Flores Agreement, DHS is generally required to, among other things, ensure the safety and well-being of the UAC; separate UAC from unrelated adults; adequately supervise UAC to protect them from others; and provide access to food, water, toilets, and sinks. CBP and its components, Border Patrol and OFO, have several policy documents that provide guidance for how agents and officers are to implement the Flores Agreement requirements to care for UAC.<sup>63</sup> These documents are generally consistent with and address Flores Agreement requirements to care for UAC, and in some cases include more rigorous care requirements. For example, the Flores Agreement requires adequate supervision of UAC, but Border Patrol policy requires direct and constant supervision of UAC. ICE also has several policies that provide guidance on UAC care; these policies address all required elements of care, and in some cases include more rigorous care requirements.

At the 15 CBP facilities (11 Border Patrol and 4 OFO) we visited in July, September, and October 2014, we interviewed officials responsible for caring for UAC and observed the extent to which agents and officers at

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<sup>63</sup>DHS has also promulgated regulations that address some of the care requirements included in the Flores Agreement. See 6 C.F.R. § 115.114 (addressing least restrictive setting standard for juvenile detention and separation from adult detainees).

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each facility were addressing the following eight required elements of care in Border Patrol and OFO policies:

- place UAC in the least restrictive setting appropriate for their age and special needs,
- separate UAC from unrelated adults and by gender,<sup>64</sup>
- directly supervise UAC,
- keep facilities adequately ventilated and at appropriate temperatures,
- provide access to working and sanitary toilets and sinks,
- provide drinking water,
- provide food regardless of time in custody,<sup>65</sup> and
- provide access to medical treatment.<sup>66</sup>

In addition, at the 11 Border Patrol facilities we visited, we evaluated the implementation of the following UAC care elements specific only to Border Patrol policy:

- provide clean blankets and mattresses,
- conduct physical checks of UAC hold rooms at regular intervals, and
- provide access to telephones.

Our observations and interviews at the 15 CBP facilities indicated that CBP was generally providing care consistent with policy requirements for

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<sup>64</sup>The requirement to separate UAC from unrelated adults is in the Flores Agreement. According to the Flores Agreement, if such separation is not immediately possible, an unaccompanied alien child is not to be detained with an unrelated adult for more than 24 hours. CBP, through its policy, requires that such children be separated from unrelated adults, as well as by gender. We evaluated the implementation of the more stringent CBP policy requirement.

<sup>65</sup>Border Patrol has a more stringent food policy than is required under the Flores Agreement and requires the provision of hot meals for two out of every three meals.

<sup>66</sup>We did not include ICE facilities in this analysis because UAC are rarely held in ICE facilities for more than a short period of time as they await transportation to an ORR shelter, according to ICE officials.

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seven of the eight elements of care at the time of our visits.<sup>67</sup> Further, according to our observations and interviews at the 11 Border Patrol facilities, agents were generally providing care consistent with the three Border Patrol-specific requirements at the time of our visit. Figure 5 shows a typical Border Patrol holding room in a station in south Texas. The photograph on the left shows a toilet and sink in the rear of the holding cell behind a half wall, and the photograph on the right shows a 5-gallon water jug that provided UAC with access to drinking water.

**Figure 5: U.S. Border Patrol Holding Rooms, Fort Brown Station, September 2014**



Source: GAO. | GAO-15-521

In July 2014, we visited CBP facilities in Arizona, at which time Border Patrol, OFO, ORR, and FEMA officials, among others, were caring for more than 900 UAC at the Nogales Placement Center (NPC). According to CBP officials, DHS had transferred most of these children to Arizona from south Texas—where Border Patrol agents and OFO officers had apprehended them—because CBP holding facilities in south Texas were overflowing with UAC and HHS shelters did not have the capacity at the time to accept all of the UAC whom agents and officers were apprehending each week. Figure 6 shows part of the NPC, including a

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<sup>67</sup>In cases where CBP policy had more rigorous care requirements than the Flores Agreement, we evaluated care provided at CBP facilities against the more rigorous standards in CBP policy. As described in our scope and methodology section in appendix II, in order to assess the requirement to place UAC in the least restrictive setting, we evaluated our observations and interviews to determine whether there was (1) no less restrictive setting available, and if there was a less restrictive setting, why the UAC was not placed in the least restrictive setting and (2) evidence that agents and officers considered requisite factors, including the child's age, special needs, and particular vulnerability as a minor.

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number of portable toilets. At the NPC, we observed Border Patrol agents and OFO officers helping U.S. government public health volunteers provide basic care to UAC, including helping children as young as 2 and 3 years old eat and bathe. At the time of our visit, Border Patrol officials in Arizona were supplementing food supplied by a FEMA contractor with food purchased separately using Border Patrol funding. We also observed toiletries, toys, and other supplies that Border Patrol agents and OFO officers told us had been purchased with personal funds. In addition, we observed Border Patrol agents and OFO officers playing games with UAC.

**Figure 6: Nogales Placement Center Facility for Unaccompanied Alien Children, Summer 2014**



Source: U.S. Border Patrol. | GAO-15-521

For the remaining required element of care for Border Patrol and OFO—the requirement to separate UAC from unrelated adults and by gender—officials told us and we observed that mitigating circumstances made it challenging to meet the policy requirements at all times. Specifically, officials at 7 of 15 CBP facilities did not always meet the requirement to separate UAC from unrelated adults and by gender at the time of our visits. At these 7 facilities, we observed or were told that female and young male UAC would at times be placed in hold rooms with families. Border Patrol and OFO personnel told us that because of limited space in most of these facilities, they made decisions on how to segregate adults and children based on risk level. For example, some agents and officers stated that because of facility layouts, open areas are not a safe solution for lack of space, and determined that female and young male UAC were safer in hold rooms with families than in open areas with no physical barriers between UAC and adult males.

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The DHS OIG has reported that CBP has generally met care requirements, but identified some isolated problems.<sup>68</sup> Specifically, in 2010, the DHS OIG reported that CBP's care of UAC met the requirements of the Flores Agreement.<sup>69</sup> Inspections by OIG from July, August, and October 2014 also found that most facilities that OIG officials visited were adhering to care requirements, but there were isolated problems with the quantity of food provided, sanitation, and the temperature of facilities found during the July 2014 inspections. The subsequent inspections in August and October 2014 found that CBP had addressed these isolated problems. However, other organizations have reported on inconsistent compliance with the requirements for UAC care. For example, DHS's Office for Civil Rights and Civil Liberties conducted an investigation of selected Border Patrol and OFO facilities in south Texas during July 2014—during the height of the increase in UAC apprehensions—and found issues pertaining to sanitation and holding room conditions. Specifically, in October 2014, DHS Office for Civil Rights and Civil Liberties officials told us that, according to preliminary findings, some facilities had unsanitary conditions in holding room restroom areas, and some of the holding rooms lacked bathroom tissue, drinking cups, and readily available food.

In addition, as of April 2015, a complaint was filed in court concerning CBP's adherence to specific provisions of the Flores Agreement related to care; in particular, plaintiffs have alleged that CBP has not met the requirement to hold UAC in facilities that are safe and sanitary and that are consistent with the concern for the particular vulnerability of minors.<sup>70</sup>

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<sup>68</sup>DHS, Office of the Inspector General, *CBP's Handling of Unaccompanied Alien Children*, OIG-10-117 (September 2010).

<sup>69</sup>DHS OIG visited 30 CBP facilities in Arizona, Texas, Michigan, California, and Florida between September and December 2009.

<sup>70</sup>Motion to Enforce Settlement of Class Action, *Flores v. Reno*, No. 85-4544 (C.D. Cal. Feb. 2, 2015).



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## DHS Does Not Collect Complete or Reliable Data on Care of UAC or Their Time in the Department's Custody

Within DHS, CBP and ICE have not collected complete or reliable data documenting (1) the care provided to UAC while in DHS custody and (2) the length of time UAC are in DHS custody.

**Documentation of care provided to UAC.** CBP does not collect complete or reliable data on actions Border Patrol agents and OFO officers take to care for UAC; therefore, DHS does not have reasonable assurance that it is meeting its care requirements for UAC. Since 2008, Border Patrol and OFO have required agents and officers to document certain care actions for UAC, such as physical checks and meals.<sup>71</sup> However, in 2010, DHS OIG found that Border Patrol and OFO were not documenting care as required and recommended that CBP develop uniform documentation requirements for UAC care.<sup>72</sup> Border Patrol and OFO have taken some steps to develop and implement automated data systems that can record and maintain data on UAC care. In particular, in 2012 and 2013, Border Patrol issued policies requiring all sectors and stations to fully capture information on UAC care in its automated system, which allows agents to record care provided to UAC across 20 different actions that agents might take.<sup>73</sup>

In fiscal year 2014, Border Patrol fully implemented the automated system, which also allows agents to document the physical movements of UAC, including when UAC are transferred to another station.<sup>74</sup> We analyzed available record-level data on care provided to 55,844 UAC apprehended by Border Patrol agents nationwide from January through September 2014, and found that data were not complete or reliable

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<sup>71</sup>Physical checks, or welfare checks, are regular checks of holding rooms by agents or officers to ensure the safety and well-being of those in the room. Agents told us physical checks involve visual checks of the area, verbal communication with UAC in hold rooms, and physical inspection of the room.

<sup>72</sup>DHS, Office of the Inspector General, *CBP's Handling of Unaccompanied Alien Children*, OIG-10-117 (September 2010).

<sup>73</sup>In addition, Border Patrol developed data quality checks and training materials for the data system. See U.S. Border Patrol, *Use of the e3 Juvenile Detention Module*, OBP 50/10.9-C (April 24, 2012); U.S. Border Patrol, *Use of the Updated e3 Detention Module*, OBP 50/21-C (October 8, 2013). Border Patrol's automated system allows agents to record care provided to UAC across 20 different actions, some of which pertain to policies that implement the Flores Agreement.

<sup>74</sup>As of February 2015, none of the custodial action check boxes was a mandatory field in the data system.

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because agents did not routinely or accurately record actions in the system, as required by Border Patrol policy.<sup>75</sup> Our analysis of data showed inconsistent data entry across sectors. For example, data showed the following:

- Agents documented 14 of the 20 care actions for less than half of the 55,844 UAC (the remaining 6 actions were documented for more than 50 percent of the UAC).<sup>76</sup>
- Agents at 31 of 92 (34 percent) Border Patrol facilities nationwide did not document meals provided for at least half of the UAC in custody.<sup>77</sup>
- Agents at one station along the U.S. southwest border did not document meals provided for 9,201 of 13,574 UAC (68 percent) in custody. Of the 9,201 UAC that had no meal documented, 72 percent were in custody at that station for 12 hours or more.
- Agents at 50 of 92 facilities (54 percent) did not document physical checks for at least half of the UAC in custody; those at 19 of 92 facilities did not document physical checks for any UAC in custody.
- Agents at one station along the southwest U.S. border did not document physical checks for 4,694 of 5,229 (90 percent) UAC in custody. For the 4,694 UAC for whom agents did not document a physical check, 3,663 (78 percent) were in custody at that station for 12 hours or more.

We found additional limitations in the accuracy of Border Patrol's data because they indicate that the same care actions were often recorded multiple times within short time periods, which suggests either user or system error. We measured the percentage of actions in the 55,844 cases we examined that were entered multiple times within 10-, 5-, and 2-minute intervals, with the 2-minute interval strongly suggesting that the

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<sup>75</sup>We analyzed data from January through September 2014 because Border Patrol officials told us that the system was not fully implemented until 2014; therefore, data prior to 2014 were unreliable.

<sup>76</sup>Of the 55,932 UAC whose records we analyzed, records for 88 UAC did not contain care actions; therefore, care actions were documented for 55,844 UAC.

<sup>77</sup>There were 94 total facilities nationwide that had custody of at least 1 unaccompanied alien child from January through September 2014. However, 2 of the facilities are not included in this set of analyses because the records from those facilities were not completed.

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multiple entries were errors.<sup>78</sup> Border Patrol officials stated that agents may not have adequately recorded care actions because they were more focused on working to transfer custody of UAC to HHS as quickly as possible. Border Patrol officials in headquarters and California also told us that the multiple entries are likely a result of user error caused by lack of training or accidental entry, and officials in California and Texas told us that system error, such as the system freezing or not updating quickly, may also play a role. For example, data showed the following:

- Sixty-two percent (34,703) of the records we reviewed contained at least 1 likely error, and for each of those case files, the typical case had 12 likely errors.<sup>79</sup>
- Seventy of 94 facilities in the data had at least one care action recorded multiple times for a single child within a 10-minute period. At 29 of these 70 facilities, at least 25 percent of the actions recorded were likely errors, and at 10 of these 70 facilities, at least half of the actions recorded were likely errors. For example, 56 percent of all care actions that agents in the Rio Grande Valley sector documented consisted of the same action entered more than once within a 10-minute period. In particular, 49 percent of these likely errors were recorded within 2 minutes or less of one another.
- In 1 case in the Rio Grande Valley sector, a meal for the same child was recorded 11 times within 11 minutes.

In fiscal year 2012, OFO implemented an automated database that allows officers to record care actions such as meals and medical care. However, unlike Border Patrol, as of April 2015, OFO did not yet have a policy requiring officers to use the automated database to record care provided to UAC, and OFO headquarters officials stated that officers at most POEs do not use the automated database. For example, at a POE we visited in south Texas, OFO officers told us that they document most custodial actions in the narrative of Form I-213 as opposed to recording care

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<sup>78</sup>The 2-minute interval most strongly suggests an error because, while it is possible that agents could perform some care actions more than once within 10 minutes at times, it is unlikely that agents perform any of the care actions more than once within 2 minutes. The 10-minute interval also suggests likely error, but less strongly.

<sup>79</sup>In 34,703 cases, data indicated that at least 1 care action was recorded multiple times for a single child within 10 minutes. Of the 34,703 cases, 48 percent of the multiple actions were recorded within 2 minutes of each other, which suggests that these actions were likely errors.

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actions in the database. In contrast, at least one large land POE along the southwest U.S. border has been using the database to document care provided to UAC; however, OFO headquarters and port officials were unable to view data from the database for this POE until September 2014, when OFO upgraded its database to provide this capability. OFO officials said they have discussed developing a data review process and making use of the automated database mandatory, but officials did not have an expected implementation date or documentation of any plans as of February 2015.

*Standards for Internal Control in the Federal Government* states that agencies should document transactions and events as they occur and in an accessible manner, and that management should review documentation to assess performance.<sup>80</sup> Because agents and officers do not routinely document their actions taken to care for UAC, Border Patrol and OFO have limited data available to ensure they are meeting the requirements for care of UAC as set forth in TVPRA, the Flores Agreement, and agency policy. Furthermore, data that Border Patrol and OFO have collected since fiscal year 2014 are not reliable or available. Requiring OFO officers to record UAC care actions in an automated manner and ensuring that Border Patrol agents record UAC care actions in their automated system, as required, would help CBP to assess and better ensure compliance with all care requirements.

**Documentation of UAC time in DHS custody.** Border Patrol generally collects complete and reliable information on the dates and times during which UAC come into and leave its custody, but OFO and ICE do not collect such information. Therefore, DHS cannot accurately determine how long UAC have been in OFO and ICE custody, and if the length of time in custody before transfer to HHS is within the 72-hour limit established by TVPRA.<sup>81</sup>

Border Patrol's policy instructs agents to record the times that UAC enter custody—or are “booked in”—and leave their custody—or are “booked out.” Border Patrol's system provides automated date and time stamps for

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<sup>80</sup>[GAO/AIMD-00-21.3.1](#).

<sup>81</sup>Barring exceptional circumstances, any federal department or agency that has UAC in custody must transfer custody of such children to HHS not later than 72 hours after determining that such children are UAC. TVPRA § 235(b)(3) (8 U.S.C. § 1232(b)(3)).

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each action that agents enter into the system when UAC are in their custody. Our analysis of fiscal year 2014 data shows that Border Patrol agents used the “transfer” field in over 99 percent of cases to document when UAC left Border Patrol custody. Using this system, agents can also differentiate the type of transfer, including UAC transfers to another Border Patrol facility or a POE, ICE, or HHS shelter. As a result, Border Patrol can produce regular reports to identify the number of UAC who have been in DHS custody greater than 72 hours. According to CBP officials, this information is disseminated to FEMA, DHS senior leadership, and additional stakeholders.

OFO’s data system automatically generates a book-in date and time when officers enter a UAC apprehension in the system. In July 2014, OFO officials told us that their system did not have a field to record when UAC left OFO custody. OFO has a “time out” field in its system, but as of April 2015, officers are not required to use it. OFO officials told us they have discussed requiring a book-out date and time; however, they do not have time frames or documentation of any plans for implementation of the updates.

An ICE user manual describes how to book in and book out subjects, including UAC, and ICE officials stated that they cover the proper use of these fields during monthly conference calls and annual training. However, ICE does not have a policy that requires officers to record book-in or book-out dates and times for UAC in its custody. Further, ICE headquarters officials told us officers often enter book-out dates and times into the system a day or more after UAC have been transferred to HHS because officers may wait to enter the data until after they travel back to their office. Therefore, ICE officials stated that this delayed data entry affects the precision of the book-out times recorded in the system and makes them unreliable. Further, officials in one ICE field office told us that they do not use the book-out field when a UAC leaves ICE custody. In addition, ICE officials told us that they use book-in and book-out records to count time in ICE custody, but they recognize that the limitations in the data make these calculations imprecise.

The Flores Agreement requires information on all UAC who were placed in removal proceedings and remained in DHS custody more than 72 hours in the prior 6-month period, among other things, to be submitted to

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plaintiffs' counsel twice yearly.<sup>82</sup> From fiscal years 2009 through 2013, the reports compiled by ICE and submitted to plaintiffs' counsel by DOJ showed that a total of 1,280 UAC were in DHS custody for more than 72 hours. However, our analysis of the reports revealed data quality issues. For instance, the date of DHS's transfer of the UAC to ORR is missing for 13 percent of the 1,280 cases, so the time in DHS custody for these children was not fully documented in the reports. Further, our analysis identified that the apprehension date for 19 percent of UAC apprehended by Border Patrol was recorded incorrectly by ICE in these reports. ICE ERO officials told us that because ICE's data system does not provide reliable data on time in custody, the reports are compiled manually using weekly reports from ICE field offices—a method that ICE officials told us is also prone to data entry errors.

*Standards for Internal Control in the Federal Government* states that agencies should document transactions and events as they occur and in an accessible manner, and that management should review documentation to assess performance.<sup>83</sup> Requiring officers to accurately record book-in and book-out times would help ensure that OFO and ICE have data necessary to determine UAC's time in custody, and would better equip DHS to provide accurate data in reports to DOJ and ensure that it is complying with requirements to limit UAC's time in custody to 72 hours, apart from the case of exceptional circumstances.

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### Interagency Process to Refer and Transfer UAC from DHS to HHS Shelters Is Inefficient and Does Not Have Clearly Defined Roles and Responsibilities

The interagency process to refer UAC from DHS to HHS shelters is inefficient and vulnerable to error. DHS and HHS rely on e-mail communication and manual data entry to coordinate the transfer of UAC to shelters, and each DHS component submits shelter requests to HHS in a different way. Further, DHS and HHS do not have documented standard procedures for the interagency process, including clearly defined roles and responsibilities for each agency throughout the process. When CBP determines that UAC should be transferred to an ORR shelter, CBP e-mails a referral form with a child's information to either

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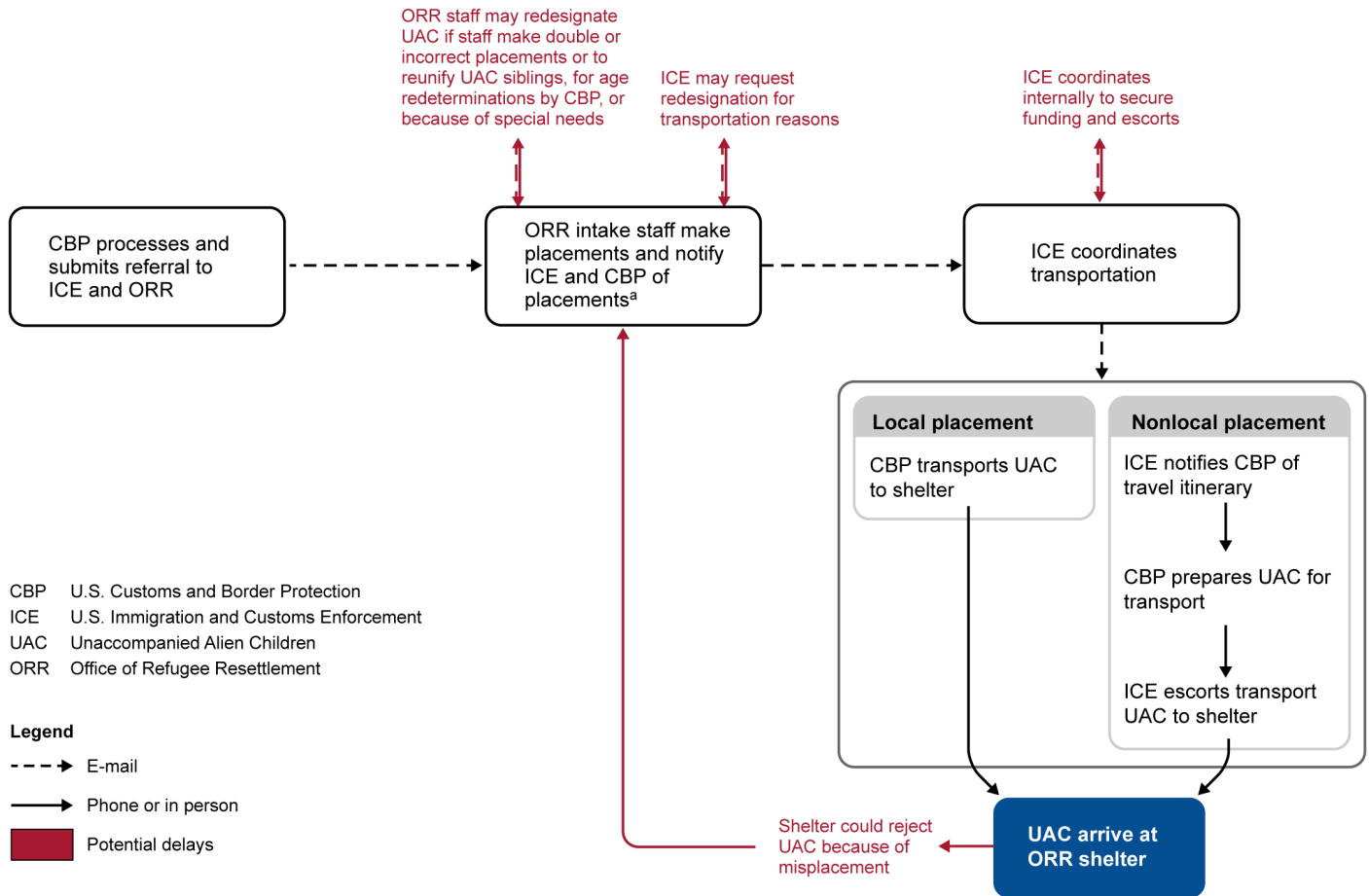
<sup>82</sup>Under the Flores Agreement, the former INS is required to prepare these reports and provide them to plaintiffs' counsel. Under current processes, ICE prepares the reports and provides them to the Department of Justice (DOJ). According to DOJ officials, DOJ does not use the reports for any other purpose than to provide them to plaintiffs' counsel in accordance with terms of the Flores Agreement.

<sup>83</sup>[GAO/AIMD-00-21.3.1](#).

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ICE, which sends it on to ORR from certain locations, or directly to ORR officials in headquarters who are responsible for identifying available shelter beds. ORR officials check their data system to find available beds. Once ORR has identified and assigned a shelter bed for a child, an ORR official sends an e-mail to CBP or ICE, often with a list of several children who have been placed in shelters. After CBP or ICE officials examine the e-mails to identify which UAC are in their respective custody, they coordinate to transport the child to the shelter. Figure 7 depicts the referral and placement process as of April 2015, and identifies points in the process where DHS and HHS officials told us that potential errors or miscommunications have, at times, affected the efficiency of the referral and placement process.

**Figure 7: Interagency Process to Refer and Transfer Unaccompanied Alien Children Apprehended by U.S. Customs and Border Protection from the Department of Homeland Security to the Department of Health and Human Services' Shelters**



Source: GAO analysis of DHS and HHS information. | GAO-15-521

<sup>a</sup>In some locations, ORR coordinates placement with CBP and ICE.

**UAC referral and placement process relies on e-mails and manual data entry.** ORR officials in headquarters, as well as Border Patrol, OFO, and ICE officials in Arizona, Texas, and California, told us that the referral and placement process is inefficient and time and resource intensive. Each agency uses its own data system to manage and track UAC, and because the data systems do not automatically communicate information with one another, the agencies rely on e-mails and duplicative manual data entry when coordinating the placement of UAC in shelters. In some cases, ORR sent e-mails concerning the shelter placements for multiple



UAC to an entire Border Patrol sector, and the POEs within it, making the e-mails time-consuming to search. For example, in September 2014, we observed a team of Border Patrol agents in Texas who had been reassigned from other duties to search through placement e-mails for all UAC in the sector to determine if any UAC in their custody had been placed in a shelter. HHS headquarters officials stated that ORR sends shelter placement information to the recipients indicated by DHS. Table 4 shows that this increase in apprehensions resulted in higher numbers of UAC transferred to HHS.

**Table 4: Number of Unaccompanied Alien Children (UAC) Transferred from the Department of Homeland Security (DHS) to the Department of Health and Human Services during Fiscal Years 2009 through 2014**

	2009	2010	2011	2012	2013	2014	Total
Border Patrol	3,600	5,200	4,700	10,600	21,600	53,200	98,900
Office of Field Operations (OFO)	<sup>a</sup>	<sup>a</sup>	<sup>a</sup>	500	1,200	3,000	4,700
U.S. Immigration and Customs Enforcement	1,100	1,300	1,100	900	500	300	5,100
<b>DHS total</b>	<b>4,700</b>	<b>6,500</b>	<b>5,800</b>	<b>12,000</b>	<b>23,300</b>	<b>56,500</b>	<b>108,700</b>

Source: GAO analysis of DHS data. | GAO-15-521

Notes: Numbers are rounded to the nearest hundred.

<sup>a</sup>OFO was not able to provide the number of UAC apprehended and transferred during fiscal years 2009 through 2011 because OFO had data only for the number of children apprehended and transferred and could not break out how many were UAC and how many were accompanied children.

The reliance on e-mail and associated manual data entry also makes the referral and placement process vulnerable to error and possible delay in the transfer of UAC from DHS to HHS. We analyzed e-mail exchanges between ORR and Border Patrol in the Rio Grande Valley sector to place 593 UAC in shelters during a 3-day period in July 2014, during the influx of UAC, and 135 UAC during a 3-day period in November 2014, after the influx had ended. We identified miscommunications between agencies, as well as errors during both time periods, including UAC who had to be redesignated to different shelters after initial placements and UAC who were assigned to multiple shelters simultaneously.<sup>84</sup> For example, in the

<sup>84</sup>A redesignation occurs when HHS changes the shelter assignments for UAC after assigning them initially. Our analysis found that at least 37 (6 percent) of the 593 UAC placed from July 6 to July 8, 2014, and at least 11 (8 percent) of the 135 UAC placed from November 17 to November 19, 2014, had their placements canceled, redesignated, or were mistakenly placed. These changes may occur because of placement process mistakes or for other reasons, such as medical conditions or to ensure siblings are placed at the same shelter. We also identified miscommunications, such as e-mails sent to the wrong agency personnel.

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e-mails we examined, we found that ORR staff recorded one UAC's personal information incorrectly, which resulted in a Texas shelter holding an empty bed for 14 days while the child had been already placed in a shelter in Pennsylvania. The incorrect entry of this child's personal information also meant that ORR and DHS had to exchange multiple e-mails to resolve the discrepancy between their records.

**DHS components use different methods to refer UAC to HHS.** DHS and ORR have identified the lack of compatible data systems as a challenge in the UAC referral and shelter placement process and, in fiscal year 2014, began exploring ways to automate communications to address inefficiencies. In summer 2014, ORR began allowing CBP and ICE to enter information directly into ORR's UAC data system when referring UAC for placement in shelters. As of March 2015, ICE was using ORR's system, while Border Patrol was developing an alternative approach, and OFO was using the process described in figure 5.

- According to ORR officials, as well as ICE officials in Rio Grande Valley and San Diego, ICE inputs referral information directly into ORR's system. However, ICE officials stated that using ORR's system directly has increased data entry requirements without reducing reliance on e-mail and phone communication. ICE officials also told us that, despite the increased data entry requirements, they are continuing to use ORR's system.
- Border Patrol and ORR officials stated that efforts are under way to automate most of the steps in the referral process between these agencies. However, as of May 2015, Border Patrol is not entering referral information directly into ORR's data system because Border Patrol officials said they do not want agents to have to enter the same data into its two separate systems (as ICE is doing) or train all of the agents on how to operate ORR's system. Border Patrol and ORR have been unable to move forward with a fully automated referral and placement process because DHS has not accredited the security of ORR's data system. In March 2015, CBP officials stated that DHS is waiting to begin its security accreditation process until HHS accredits ORR's system. ORR officials told us in January and April 2015 that they are also working to update their data system to meet HHS security requirements. In the interim, Border Patrol and ORR are developing a temporary automated process that allows Border Patrol's system to automatically fill out the referral form when agents create a new apprehension record. Agents are to send an encrypted referral form to ORR via e-mail, and ORR is to import the information

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directly into its system without ORR staff having to manually enter it. Border Patrol officials said that eliminating the duplicate data entry in the referral process will increase efficiency for Border Patrol. According to Border Patrol officials, automating most of the referral process will decrease UAC processing time by 5 minutes per case, which would have saved a total of about 5,000 hours of agents' time during fiscal year 2014. Border Patrol officials stated that they would like to pilot the alternative system in one sector in May 2015 before fully implementing it in all sectors, but did not have a time frame for when they would have a fully automated way to communicate with ORR's data system because of the security accreditation requirement.

- OFO headquarters officials said that they were unaware that their officers could access ORR's system and are not involved in or planning any efforts to link OFO's data system with ORR's system. In May 2015, ORR officials stated that there are no efforts under way with OFO to link the two data systems. OFO headquarters officials said they have not received feedback from the field about the current referral process. However, OFO officials in the Rio Grande Valley told us that the placement process has cost them time and resources. For example, one POE on the U.S. southwest border set up a port-wide e-mail specifically for ORR placements, which all officers on duty check regularly and which officials reported took significant amounts of time. However, we observed that these port officials continued to handle large quantities of e-mails despite having no UAC in custody at the time of our visit in September 2014. These officials also reported that placement errors had caused them to transport children to shelters that would not accept them, and that they were not always informed of travel itineraries.

**Roles, responsibilities, and procedures are not documented.** The roles and responsibilities of DHS components are not consistent during the referral and placement process, and DHS points of contact for ORR vary across Border Patrol sectors and ICE and OFO areas of operation. For example, the ICE San Diego field office coordinates placements with ORR on behalf of all Border Patrol stations and POEs in its area of operations, except for two stations in the El Centro sector. However, in the Rio Grande Valley and Tucson stations and POEs, CBP handles referral and placement communications with ORR. Border Patrol officials stated that they have a designated UAC coordinator for every sector along the southern border who is responsible for UAC placement and other tasks. However, ORR sends sector-wide placement e-mails on multiple UAC; CBP officials in the Rio Grande Valley, which has the

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highest volume of UAC apprehensions, told us that Border Patrol agents and OFO officers spend significant amounts of time searching e-mails for critical information.

Also, in e-mail exchanges we analyzed, ORR officials sent one e-mail with placements for 7 UAC to the wrong ICE and CBP region. We also found multiple instances in which different ORR officials sent duplicate placement e-mails for the same UAC. The inefficiencies in the placement process for UAC have been a long-standing challenge for DHS and HHS. In 2005, the DHS OIG found that, despite an initial effort to create a memorandum of understanding that would outline roles and responsibilities, the two departments had not delineated their respective organizational functions regarding UAC. In particular, the DHS OIG reported that clear roles and responsibilities across DHS components would help provide a point of contact for entities outside of DHS.<sup>85</sup> Moreover, in 2008, after the HHS OIG recommended that ORR develop a memorandum of understanding with DHS on the shelter placement process, ORR stated that it was coordinating with DHS on a joint manual.<sup>86</sup> However, ORR officials told us that, for unknown reasons, the departments never created such a manual.

In addition, ORR officials told us that from 2013 to 2014, ORR and DHS were developing a memorandum of understanding to outline agency responsibilities in the UAC process, but efforts were set aside during the increase in UAC apprehensions in fiscal year 2014 and efforts to develop such a document have not been renewed. In 2013, DHS developed an internal concept of operations to be used in the event of another large increase in UAC apprehensions; however, DHS policy officials told us that this document was never approved or implemented. As of January 2015, DHS has been working under an interim concept of operations while a DHS working group develops a land migration contingency plan that will include procedures for potential future surges in UAC apprehensions.<sup>87</sup>

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<sup>85</sup>Department of Homeland Security, Office of Inspector General, *A Review of DHS' Responsibilities for Juvenile Aliens*, OIG-05-45, September 2005.

<sup>86</sup>Department of Health and Human Services, Office of Inspector General, *Division of Unaccompanied Children's Services: Efforts to Serve Children*, OEI-07-06-00290, March 2008.

<sup>87</sup>The Joint Task Force West is part of the Southern Borders and Approaches Campaign launched by the DHS Secretary in November 2014 and is designed to help DHS agencies on the southwest border enhance coordination of operations.

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However, according to DHS policy officials, the plan will not address procedures and responsibilities for DHS components to refer and transfer UAC to HHS during normal operating conditions.

DHS and HHS have participated in interagency efforts to handle and plan for a potential surge in the apprehension of UAC who require transfer to HHS. In June 2014, the DHS Secretary directed FEMA to take the lead in managing interagency coordination for UAC issues as the head of the Unified Coordination Group, which includes CBP, ICE, the Department of Defense, and HHS. FEMA officials told us that, during the influx in 2014, they identified the UAC placement process as a challenge and helped facilitate ORR placement operations in Arizona as a temporary measure. As of April 2015, FEMA leads the Unified Coordination Group, which has created an emergency response plan for the Rio Grande Valley region that outlines steps to rapidly increase federal capacity if the number of UAC reaches extremely high levels again. However, the plan does not address the interagency referral and placement process that is in place during routine operations, nor does it address operations outside of the Rio Grande Valley.

Best practices of high-performing organizations include fostering collaboration both within and across organizational boundaries to achieve results; moreover, federal programs contributing to the same or similar results should collaborate to ensure that program efforts are mutually reinforcing, and should clarify roles and responsibilities for their joint and individual efforts.<sup>88</sup> Further, agencies should work together to establish a shared purpose and shared goals; develop joint strategies or approaches that complement one another and work toward achieving shared goals; and ensure the compatibility of the standards, policies, procedures, and data systems to be used.<sup>89</sup> We have reported on a range of mechanisms agencies can use to implement these practices for collaboration.<sup>90</sup> These include interagency agreements and memorandums of understanding, as well as collaboration technologies such as shared databases and web portals that help facilitate collaboration. DHS and HHS have utilized some

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<sup>88</sup>GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: October 2005).

<sup>89</sup>[GAO-06-15](#).

<sup>90</sup>GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: September 2012).

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of these mechanisms under emergency operations during the large increase in UAC apprehensions in fiscal year 2014. However, DHS and HHS do not have a documented interagency process that clearly defines the roles and responsibilities of each DHS component and ORR for UAC referrals and placements during normal operations. Having documented procedures and defined roles and responsibilities could prevent miscommunication and errors in disseminating placement decisions, reduce time spent on the referral and placement process, and help ensure that UAC are transferred from DHS to HHS within 72 hours under normal operations.

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### DHS-Negotiated Repatriation Arrangements with Mexico Reflect Some but Not All TVPRA Requirements

DHS has entered into local arrangements with Mexican consulates to ensure the safe and humane repatriation of Mexican nationals, including UAC. However, these arrangements do not reflect minimum TVPRA requirements for agreements with Canada and Mexico with respect to the repatriation of UAC. TVPRA requires that State negotiate agreements with contiguous countries for the repatriation of children.<sup>91</sup> These agreements are to be designed to protect children from severe forms of trafficking in persons and must, at minimum, provide that (1) no child shall be returned unless to appropriate officials, including child welfare officials where available; (2) no child shall be returned outside of reasonable business hours; and (3) border personnel of countries who are parties to the agreements are to be trained in the terms of the agreements.

Officials from State's Bureau of Western Hemisphere Affairs and Office of the Legal Advisor told us that the department has not entered into agreements regarding the repatriation of UAC with Mexico or Canada. Instead, DHS has negotiated and signed repatriation arrangements at the national and local levels with Mexico. According to officials, State has not acted in a formal advisory capacity during the negotiation and implementation of these arrangements in the past because they more directly relate to DHS's operations. A senior official in the Bureau of Western Hemisphere Affairs told us that State's role is generally to facilitate cooperation between the government of Mexico and DHS, as necessary. For example, bureau officials participate in a bilateral, interagency repatriation technical working group, which meets every other month to review repatriation practices. A senior official in the Bureau of

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<sup>91</sup>TVPRA § 235(a)(2)(C) (8 U.S.C. § 1232(a)(2)(C)).

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Western Hemisphere Affairs told us that through this group, they are able to provide advice and input on DHS-negotiated arrangements and their implementation, such as hours during which UAC can be repatriated. The officials told us that they do not review the local repatriation arrangements to determine if they satisfy TVPRA requirements, but stated that it would be possible to provide such input through State's role in the working group.<sup>92</sup>

In 2004, DHS negotiated a memorandum of understanding with Mexico to ensure the safe and humane repatriation of all Mexican nationals, including UAC. This document contains a set of principles and practices that serve as the basis for 30 local repatriation arrangements negotiated and agreed upon by DHS and Mexican consulates throughout the United States from 2006 through 2009, which remain in effect. As these arrangements and the memorandum of understanding represented the primary agreements with Mexican officials for UAC repatriation, we reviewed them to determine whether they reflected minimum requirements for agreements with contiguous countries regarding UAC repatriation. Our analysis of the memorandum of understanding and local repatriation arrangements indicates that they reflect some, but not all, repatriation requirements in TVPRA. Specifically, the memorandum states that UAC should be returned during daylight hours, where possible to appropriate family welfare officials, but it does not identify appropriate officials or contain any provisions for the training of border personnel in the arrangements.

Further, our analysis of the 30 DHS-negotiated local repatriation arrangements shows that fewer than one-third contained provisions directing that no UAC be returned unless to appropriate employees or officials, for example, by providing titles of Mexican officials to whom Mexican nationals are to be returned; and only one arrangement identified child welfare representatives. In terms of prohibiting the return of UAC outside of reasonable business hours, fewer than half of arrangements identified the hours during which UAC could be returned to Mexico. Among those that identified the hours, the allowable hours for repatriation varied widely. In most cases, UAC could not be repatriated later than 6 p.m., but according to one arrangement, UAC can be

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<sup>92</sup>An attorney for State's Office of the Legal Advisor raised a potential constitutional separation of powers concern with respect to TVPRA's statutory directive that the Secretary of State enter into an agreement with another country.

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repatriated until 10 p.m., and another permits UAC to be repatriated at any hour. According to officials from DHS's policy office, reasonable business hours depend on the availability of Mexican government officials, with whom DHS officials in the field coordinate, to accept UAC.<sup>93</sup> Last, none of the local repatriation arrangements addresses the requirement that border personnel be trained in the terms of the repatriation arrangements. As of February 2015, a DHS policy official said that DHS was updating all 30 arrangements, but that the department did not have plans to make any substantive changes to the provisions affecting the return of UAC.

DHS policy officials told us that although the local repatriation arrangements were not initially negotiated with the intent to fulfill TVPRA requirements because many were negotiated before TVPRA was enacted, the department considers these arrangements to broadly reflect TVPRA requirements. However, the officials stated that TVPRA repatriation requirements are not directly outlined in all local repatriation arrangements and acknowledged that none of them addresses the training requirement. The officials told us that they have not explicitly included TVPRA requirements in the arrangements because they did not deem it necessary to include specific U.S. legislative mandates in bilateral arrangements. Further, DHS headquarters officials told us that they defer to officials in the field when reviewing arrangements and do not generally request changes to a provision unless U.S. or Mexican officials identify a problem that needs to be addressed. However, given that DHS's local repatriation arrangements serve as the primary agreements governing the repatriation of Mexican UAC, revising the arrangements to reflect

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<sup>93</sup>The memorandum of understanding provides that "incapacitated persons, unaccompanied minors and other vulnerable individuals should be repatriated during daylight hours to ensure their safety." While some local repatriation arrangements we reviewed provided for hours consistent with the memorandum of understanding's directive that UAC be repatriated during daylight hours, as detailed above, over half of the local repatriation arrangements did not identify hours during which UAC could be returned and other local repatriation arrangements allowed for hours inconsistent with daylight hours. In addition, all of the arrangements contained a provision stating "The Participants should repatriate persons with special needs during daylight hours to ensure their safety." The arrangements generally defined "persons with special needs" as including, but not limited to, "unaccompanied minors, the elderly, pregnant women, and individuals who are mentally or medically incapacitated." Because this provision was not a requirement for UAC repatriation during daylight hours and, at times, conflicted with more specific provisions related to UAC repatriation, we did not view it as fulfilling the TVPRA requirement that UAC be returned during reasonable business hours.



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minimum requirements of TVPRA, in consultation with State, would help better position DHS to ensure that minimum legislative requirements for agreements designed to protect children from severe forms of trafficking in persons are being met.

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## Total DHS Costs Associated with UAC Are Unknown, and HHS Costs Were Over \$2 Billion for Fiscal Years 2009 through 2014

### DHS Began Tracking Some Costs Associated with UAC in 2014

Total DHS costs associated with UAC apprehension, custody, and care are unknown for fiscal years 2009 through 2014. Prior to mid-fiscal year 2014, CBP did not collect data on costs specifically associated with UAC. According to Border Patrol and OFO officials, differentiating UAC costs from costs for accompanied children and adults is difficult because, for example, certain duties such as interviewing UAC are considered part of normal operations. Although ICE also did not collect costs specifically associated with UAC prior to fiscal year 2014, ICE estimated its costs for UAC custody, transfer, and repatriation were approximately \$41 million for fiscal years 2009 through 2013.<sup>94</sup>

In May 2014, following the DHS Secretary's memorandum establishing a contingency plan for the large increase in apprehensions of UAC

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<sup>94</sup>ICE developed average cost estimates based on fiscal year 2013 average costs and applied them to the number of UAC for fiscal years 2009 through 2013. According to ICE, the average cost to transport an unaccompanied alien child ranged from about \$260 for ground transportation to more than \$1,300 for commercial air flights in fiscal year 2013, including ICE personnel costs to escort the child. According to these estimates, UAC transport costs increased over threefold from approximately \$5 million in fiscal year 2009 to approximately \$17 million in fiscal year 2013 because of the increase in the number of UAC transported. Additionally, an April 2015 DHS OIG report stated that ICE could have used its alien charter flight resources more effectively, resulting in cost savings of up to \$41 million over a 3.5-year period. DHS OIG, *ICE Air Transportation of Detainees Could Be More Effective*, OIG-15-57, April 9, 2015.

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occurring at that time, CBP and ICE implemented project codes to begin tracking some UAC costs. Costs for these agencies from February through September 2014 totaled approximately \$97 million—\$67 million (69 percent) for CBP and about \$30 million (31 percent) for ICE.<sup>95</sup> Of CBP's UAC project code costs, about 44 percent was for contracted services; about 23 percent was for construction, rent, and utilities for its UAC processing centers; and about 22 percent was for personnel travel, salaries, overtime, and benefits. Of ICE's UAC project code costs, about 76 percent was to transport UAC and 18 percent was for ICE salaries, benefits, and overtime. Table 5 shows UAC costs charged to DHS project codes from February through September 2014.<sup>96</sup>

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<sup>95</sup>CBP and ICE began tracking costs in May 2014; however, costs that could be easily identified from February through May 2014 were retroactively reassigned to the UAC project codes.

<sup>96</sup>CBP and ICE did not start using a project code to track UAC costs until May 2014; however, CBP's Border Patrol, and ICE retroactively reassigned costs that could be easily identified from March through May 2014 and February through May 2014, respectively, which are included in our analysis. Additionally, not all UAC costs were captured; therefore, these amounts represent the minimum cost for this time period.

**Table 5: Department of Homeland Security (DHS) Costs Charged to Project Codes for Unaccompanied Alien Children (UAC), February through September 2014**

(Dollars in thousands)

Cost category	U.S. Customs and Border Protection (CBP) <sup>a</sup>	U.S. Immigration and Customs Enforcement (ICE)	DHS total <sup>b</sup>
Salaries, Benefits, and Overtime	\$8,931	\$5,489	\$14,420
Personnel Travel	6,070	1,510 <sup>c</sup>	7,580
UAC Travel	5,030 <sup>d</sup>	22,529 <sup>e</sup>	27,559
Supplies and Materials	1,290	87	1,377
Equipment	946	10	956
Facility Construction, Rent, Utilities <sup>f</sup>	15,198	0	15,198
Transportation of Items	27	<sup>g</sup>	27
Other Contract Services	29,538	130	29,669
<b>Total<sup>b</sup></b>	<b>\$67,030</b>	<b>\$29,755</b>	<b>\$96,785</b>

Sources: GAO analysis of CBP and ICE data. | GAO-15-521

Notes: CBP and ICE did not start using a project code to track UAC costs until May 2014; however, CBP's Border Patrol, and ICE retroactively reassigned costs that could be easily identified from March through May 2014 and February through May 2014, respectively, which are included in our analysis. Additionally, not all UAC costs were captured; therefore, these amounts represent the minimum cost for this time period. Costs reported were current as of February 17, 2015 for Border Patrol; April 24, 2015, for all other CBP offices; and March 25, 2015, for ICE.

<sup>a</sup>In addition to the Border Patrol and Office of Field Operations, other CBP offices that charged costs to UAC project codes include the Office of Human Resource Management, Office of Congressional Affairs, Office of Information Technology, Office of International Affairs, Joint Field Command, and Joint Operations Directorate.

<sup>b</sup>Amounts may not sum to totals because of rounding.

<sup>c</sup>Amount includes travel costs for ICE personnel escorting UAC.

<sup>d</sup>CBP's UAC travel costs include flight assistance provided by FEMA to transport UAC. Costs associated with transporting UAC from Border Patrol stations to local shelters were not captured by the project code because, according to Border Patrol officials, these costs could not be easily distinguished from costs associated with other aliens.

<sup>e</sup>UAC travel amounts include special agency costs, which are costs to repatriate UAC to certain countries. These costs totaled approximately \$355,000, and may include travel costs for ICE personnel escorts.

<sup>f</sup>Costs includes UAC facility construction, rent, communication, and utilities.

<sup>g</sup>Costs charged were less than \$1,000.

To provide additional insight into CBP's UAC costs, we analyzed project code costs for each CBP office. Specifically, from March through September 2014, CBP charged \$67 million to the project codes—about \$46 million (69 percent) for Border Patrol, about \$16 million (24 percent)

for the Office of Administration, about \$3.5 million (5 percent) for OFO, and about \$1.5 million (2 percent) for other CBP offices.<sup>97</sup> Of Border Patrol's UAC project code costs, about 70 percent was for contracted services, including food, medical, sanitation, and decontamination, as well as FEMA flight assistance with UAC transport during the large UAC increase, and about 26 percent was for personnel travel, salaries, overtime, and benefits. Of CBP's Office of Administration's UAC costs, about 92 percent was for construction, rent, and utilities for UAC processing facilities and about 8 percent was for contracted services, such as temporary air conditioning, waste removal, and custodial services. Of OFO's UAC costs, about 76 percent was for personnel travel, salaries, overtime, and benefits and about 18 percent was for equipment, supplies, and materials. Table 6 shows additional details of the costs charged to UAC project codes for CBP's Border Patrol, Office of Administration, OFO, and other offices from March through September 2014.

**Table 6: U.S. Customs and Border Protection (CBP) Costs Charged to Unaccompanied Alien Children (UAC) Project Codes, March through September 2014**

(Dollars in thousands)

Cost category	Border Patrol	Office of Administration	Office of Field Operations	Other CBP offices <sup>a</sup>	Total <sup>b</sup>
Salaries, Benefits, and Overtime	\$5,989	\$2	\$2,683	\$257	\$8,931
Personnel Travel	5,989	20	4	58	6,070
UAC Travel	5,030 <sup>c</sup>	0	0	0	5,030
Supplies and Materials	998	0	292	1	1,290
Equipment	580	12	343	11	946
Facility Construction, Rent, Utilities <sup>d</sup>	2	14,784	0	412	15,198
Transportation of Items	0	27	<sup>e</sup>	0	27
Other Contract Services	27,360	1,234	220	725	29,538
<b>Total<sup>b</sup></b>	<b>\$45,947</b>	<b>\$16,078</b>	<b>\$3,541</b>	<b>\$1,460</b>	<b>\$67,030</b>

Sources: GAO analysis of CBP data. | GAO-15-521

<sup>97</sup>CBP began tracking costs in May 2014; however, Border Patrol retroactively reassigned costs, which could be easily identified from March through May 2014 to the UAC project codes, which are included in our analysis. Other CBP offices that charged costs to UAC project codes include the Office of Human Resource Management, Office of Congressional Affairs, Office of Information Technology, Office of International Affairs, Joint Field Command, and Joint Operations Directorate.

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Notes: CBP did not start using project codes to track UAC costs until May 2014; however, Border Patrol retroactively reassigned costs that could be easily identified from March through May 2014 to the UAC project codes, which are included in our analysis. Additionally, not all UAC costs were captured; therefore, these amounts represent the minimum cost for this time period. Costs reported were current as of February 17, 2015, for Border Patrol and April 24, 2015, for all other CBP offices.

<sup>a</sup>Other CBP offices include the Office of Human Resource Management, Office of Congressional Affairs, Office of Information Technology, Office of International Affairs, Joint Field Command, and Joint Operations Directorate.

<sup>b</sup>Amounts may not sum to totals because of rounding.

<sup>c</sup>CBP's UAC travel costs include flight assistance provided by the Federal Emergency Management Agency to transport UAC. Costs associated with transporting UAC from Border Patrol stations to local shelters were not captured by the project code because, according to Border Patrol officials, these costs could not be easily distinguished from costs associated with other aliens.

<sup>d</sup>Costs include UAC facility construction, rent, communication, and utilities.

<sup>e</sup>Costs charged were less than \$1,000.

The project codes are generally used to capture UAC costs that CBP and ICE officials can easily distinguish from costs for accompanied children and adults; however, such UAC costs vary by type across DHS components. For example, Border Patrol tracked costs for UAC custody, care, and transportation such as food, medical services, showers, and other contracts during the large UAC increase, as well as personnel salaries, benefits, and travel expenses for those assigned to provide UAC care and custody. Border Patrol also implemented a second project code to track costs for law enforcement activities to interdict or disrupt the flow of UAC into the United States. However, according to Border Patrol officials, they do not track UAC costs for general activities (such as overhead) because these costs cannot be easily differentiated from costs for other detainees. For OFO, the project code captures costs incurred specifically for UAC, including personnel overtime, procurements, and other direct costs, such as temporary duty travel for personnel to assist with the UAC increase. In general, according to OFO officials, their project code does not capture UAC operational costs, such as employee salaries and overhead, because OFO cannot easily distinguish these costs from costs for adults and accompanied children.<sup>98</sup> For ICE, the project code captures costs for UAC care, transport, and detention as well as personnel, such as salaries and travel to escort UAC.<sup>99</sup> According to

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<sup>98</sup>For CBP's other offices, the project code is primarily used to track costs to construct and maintain UAC processing facilities, as well as personnel travel costs and some salary costs related to these efforts.

<sup>99</sup>ICE officials stated that they do not track certain costs, such as short-term detention in temporary staging facilities, because it is not practical to differentiate UAC detention costs from those for other detainees or facility overhead costs.

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CBP and ICE officials, CBP and ICE personnel are required to use the project codes when UAC costs are easily distinguished from costs for other detainees. However, OFO allows its program managers to decide whether it is practical to use the UAC project code. Therefore, DHS costs charged to the project codes represent the minimum UAC costs to the department from February through September 2014.

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### HHS Total UAC Costs and Average Daily Cost per Bed in Basic Shelters Have Increased since Fiscal Year 2009

HHS ORR's costs for its UAC program totaled over \$2 billion from fiscal years 2009 through 2014, with about \$910 million (45 percent) of the costs incurred during fiscal year 2014. ORR's UAC program costs consist of three categories: shelter costs, services to UAC, and administrative costs. Shelter costs include care and custody of UAC and account for about 84 percent of total program costs for fiscal years 2009 through 2014.<sup>100</sup> Shelter costs vary by shelter type and location, and UAC length of stay. Services to UAC include medical care, legal services, background checks, and home assessment/post-release services provided by HHS or HHS-contracted organizations, and account for about 12 percent of overall program costs for fiscal years 2009 through 2014. Administrative costs include ORR UAC program staff salaries and benefits, as well as travel and supplies, and account for about 4 percent of overall program costs for fiscal years 2009 through 2014.

ORR's UAC costs increased about 600 percent from fiscal year 2009 to fiscal year 2014, primarily, because of the increase in the number of UAC apprehended and transferred to ORR shelters. As shown in table 7, total costs steadily increased during fiscal years 2009 through 2013, with a sharper increase of about 142 percent from fiscal year 2013 to fiscal year 2014.

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<sup>100</sup>ORR has grant agreements with organizations to operate four types of UAC shelters throughout the United States: basic, secure, therapeutic, and long-term foster care.

**Table 7: Department of Health and Human Services (HHS) Office of Refugee Resettlement's (ORR) Costs for Unaccompanied Alien Children (UAC), Fiscal Years 2009 through 2014**

(Dollars in thousands)

Cost category	2009	2010	2011	2012	2013	2014	Total <sup>a</sup>
Administration	\$8,500	\$11,000	\$11,800	\$15,800	\$14,000	\$26,800	\$88,000
Shelters	105,300	130,900	137,800	227,400 <sup>b</sup>	308,900	793,000 <sup>b</sup>	1,703,300
Services to Children	19,300	21,100	25,200	35,300	52,700	90,300	243,900
<b>Total costs<sup>a</sup></b>	<b>\$133,200</b>	<b>\$163,000</b>	<b>\$174,900</b>	<b>\$278,500</b>	<b>\$375,600</b>	<b>\$910,100</b>	<b>\$2,035,300</b>

Source: HHS ORR data. | GAO-15-521

Notes: Costs are based on end-of-year obligations.

<sup>a</sup>Numbers may not sum to totals because of rounding.

<sup>b</sup>Includes costs associated with emergency shelters.

In fiscal years 2012 and 2014, ORR incurred a total of over \$260 million in additional costs for temporary shelter beds to accommodate the unexpected increases in UAC.<sup>101</sup> Temporary beds were added through additional shelter grants and memorandums of agreement with Department of Defense facilities. Table 8 shows the total costs for UAC in temporary beds during fiscal years 2012 and 2014.

**Table 8: Department of Health and Human Services (HHS) Office of Refugee Resettlement's (ORR) Costs for Unaccompanied Alien Children (UAC) in Temporary Facilities, Fiscal Years 2012 and 2014**

(Dollars in thousands)

Temporary facility type	2012	2014	Total <sup>a</sup>
Emergency reception <sup>b</sup>	\$28,600	\$28,700	\$57,400
Department of Defense facilities <sup>c</sup>	200	205,000	205,200
<b>Total costs<sup>a</sup></b>	<b>\$28,800</b>	<b>\$233,700</b>	<b>\$262,500</b>

Source: GAO analysis of HHS ORR data. | GAO-15-521

Notes: Costs are based on end-of-year obligations.

<sup>a</sup>Numbers may not sum to totals because of rounding.

<sup>b</sup>Emergency reception is temporary shelter care provided at grantee facilities.

<sup>101</sup>Costs for temporary beds are included in the total shelter costs for fiscal year 2012 and 2014, as reported in table 8.

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<sup>c</sup>Costs associated with temporary beds at the Department of Defense facilities include costs for board, lodging, and care of UAC by shelter grantees as well as facilities costs, such as maintenance and utilities.

From fiscal year 2009 to fiscal year 2014, the average daily cost per bed in basic shelters, which accounted for about 81 percent of ORR's nationwide average bed capacity during those years, increased every year except one.<sup>102</sup> Specifically, average daily cost per bed in basic shelters rose from a low of \$153 per bed in fiscal year 2009 to a high of \$248 per bed in fiscal year 2014, an increase of about 63 percent. The \$248 average cost per bed in fiscal year 2014 equates to over \$90,000 per bed on an annual basis. The largest increase in average daily cost per bed from 1 year to another during this 6-year time period occurred from fiscal year 2010 (\$164 per bed) to fiscal year 2011 (\$202 per bed), a 23 percent increase. ORR officials attributed the increases during the 6-year time period to expanding ORR's network of shelter grantees to more expensive locations and increasing the staffing ratio for shelters, that is, the number of staff per child. According to ORR officials, basic shelters were previously more concentrated in southwest Texas, where rent and labor costs were relatively low. During fiscal years 2009 through 2014, ORR began adding bed capacity through grantees in other areas of the United States where rent and labor costs are higher. Additionally, ORR increased the staffing ratio requirement for shelters by adding case management staff to help process UAC in an effort to reduce their length of stay at shelters. Table 9 shows the average daily cost per bed and average annual cost per bed for basic shelters during fiscal years 2009 through 2014.<sup>103</sup> For additional information on costs at five of HHS's UAC shelters during fiscal year 2013, see appendix IV.

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<sup>102</sup>Average cost per bed excludes costs for temporary beds in fiscal years 2012 and 2014, which totaled about \$29 million and \$234 million, respectively. Actual cost per bed varies based on shelter type, location, actual number of beds, and actual number of days for which beds were contracted.

<sup>103</sup>We are unable to report on the average cost per bed for secure and therapeutic shelters because the annual cost and bed capacity data were not comparable across these shelter types. As a result, we focused on average cost per bed in basic shelters. According to ORR officials, the average cost per bed for secure and therapeutic shelters is generally higher than for basic shelters.



**Table 9: Average Cost per Bed Nationwide at Basic Shelters for the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR), Fiscal Years 2009 through 2014**

	2009	2010	2011	2012 <sup>a</sup>	2013	2014 <sup>a</sup>
<b>Percentage of total bed capacity at basic shelters</b>	81%	76%	74%	78%	85%	90%
<b>Average daily shelter cost per bed</b>	\$153	\$164	\$202	\$227	\$213	\$248
<b>Average annual shelter cost per bed<sup>b</sup></b>	\$55,700	\$59,800	\$73,800	\$82,800	\$77,800	\$90,700

Source: GAO analysis of HHS data. | GAO-15-521

Notes: We calculated the average cost per bed using the total annual costs (based on end-of-year obligations) and average annual number of beds. Actual costs per bed vary based on shelter type, location, actual number of beds, and actual number of days for which beds were contracted. Basic shelter costs and beds include costs and beds for transitional foster care.

<sup>a</sup>The average cost per bed for fiscal years 2012 and 2014 does not include costs for beds at temporary facilities, such as at Department of Defense facilities, which totaled approximately \$29 million and \$234 million, respectively.

<sup>b</sup>The average daily shelter cost per bed multiplied by 365 days may not equal the average annual shelter cost per bed because of rounding.

## Conclusions

Every year, DHS apprehends tens of thousands of UAC, some of whom may be vulnerable to trafficking or other forms of abuse. TVPRA requires that DHS establish policies and programs to ensure that UAC in the United States are protected from traffickers and others seeking to victimize or engage such children in harmful activity. Developing and implementing training for OFO officers at airports, who have substantive contact with UAC, could better position those officers to comply with TVPRA requirements. DHS is also responsible for screening UAC and either safely repatriating them or referring them to an HHS shelter. Revising the Form 93 to include indicators or questions for all TVPRA screening criteria that Border Patrol agents and OFO officers are to assess before repatriating a child, and developing written guidance on how they are to implement the trafficking and credible fear criteria, would better ensure that agents and officers have the necessary information to determine outcomes for UAC that are consistent and in accordance with TVPRA requirements and CBP policy. In addition, ensuring that Border Patrol agents consistently document the rationales for their decisions regarding the independent decision and trafficking criteria would allow CBP management to assess on an agency-wide basis whether these decisions, which account for case-by-case factors, were justified and consistent with TVPRA and CBP policy. Determining which agents and officers are required to complete the annual UAC training and ensuring that they have done so, as required, would help CBP to meet training requirements under TVPRA and CBP policies and guidance.

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In addition to screening responsibilities, Border Patrol agents and OFO officers are also required under TVPRA, the Flores Agreement, and CBP policy to protect and care for UAC while they are in DHS custody. In doing so, requiring and ensuring that agents and officers routinely record care actions provided to UAC in an automated manner, and accurately record the length of time the children spend in DHS custody, would better enable DHS managers to ensure they are caring for UAC in accordance with the law, including the 72-hour limit for a child to be in DHS custody once determined to be a UAC, except in exceptional circumstances. Furthermore, developing a documented interagency referral and transfer process with defined roles and responsibilities, as well as procedures to disseminate placement decisions, for each agency involved could better enable agencies to find shelters for UAC in an efficient and effective manner, and with minimal errors. Additionally, as DHS revises the local repatriation agreements it has with Mexico that govern the repatriation of UAC, ensuring that the revised agreements reflect all provisions of TVPRA concerning the repatriation process, in consultation with State, could better ensure that Mexican children are repatriated safely.

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## Recommendations for Executive Action

To better ensure that DHS complies with TVPRA requirements for training, screening, and transferring UAC to HHS, we recommend that the Secretary of Homeland Security direct the Commissioner of U.S. Customs and Border Protection to take the following six actions:

- develop and implement TVPRA training for OFO officers at airports who have substantive contact with UAC;
- revise the Form 93 to include indicators or questions that agents and officers should ask UAC to better assess (1) a child's ability to make an independent decision to withdraw his or her application for admission to the United States and (2) credible evidence of the child's risk of being trafficked if returned to his or her country of nationality or last habitual residence;
- provide guidance to Border Patrol agents and OFO officers that clarifies how they are to implement the TVPRA requirement to transfer to HHS all Mexican UAC who have fear of returning to Mexico owing to a credible fear of persecution;
- develop and implement guidance on how Border Patrol agents and OFO officers are to implement the TVPRA requirement to transfer to HHS all Canadian and Mexican UAC who are victims of a severe form of trafficking in persons;

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- ensure that Border Patrol agents document the basis for their decisions when assessing screening criteria related to (1) an unaccompanied alien child's ability to make an independent decision to withdraw his or her application for admission to the United States, and (2) whether UAC are victims of a severe form of trafficking in persons; and
  - determine which agents and officers who have substantive contact with UAC, complete the annual UAC training, and ensure that they do so, as required.

To help ensure that CBP has complete and reliable data needed to ensure compliance with care requirements under the Flores Agreement and CBP policies, we recommend that the Commissioner of U.S. Customs and Border Protection take the following two actions:

- require that OFO officers record care provided to UAC in an automated manner, and
- ensure that Border Patrol agents record care provided to UAC in Border Patrol's automated system, as required.

To help ensure that DHS has complete and reliable data needed to ensure compliance with the UAC time-in-custody requirement under TVPRA and for required reports on UAC time in custody under the Flores Agreement, we recommend that the Secretary of Homeland Security take the following two actions:

- require OFO officers to record data in their automated system when UAC leave OFO custody in order to track the length of time UAC are in OFO custody, and
- require ICE officers to record accurate and reliable data in their automated system when UAC leave ICE custody in order to track the length of time UAC are in ICE custody.

To increase the efficiency and improve the accuracy of the interagency UAC referral and placement process, we recommend that the Secretaries of Homeland Security and Health and Human Services jointly develop and implement a documented interagency process with clearly defined roles and responsibilities, as well as procedures to disseminate placement decisions, for all agencies involved in the referral and placement of UAC in HHS shelters.

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To ensure that minimum legislative requirements to protect UAC from severe forms of trafficking in persons are in repatriation agreements with Mexico and are met, we recommend that the Secretary of Homeland Security, in coordination with the Secretary of State, ensure that TVPRA requirements for these agreements are reflected in local repatriation arrangements as DHS renegotiates these arrangements with Mexico.

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## Agency Comments and Our Evaluation

We provided a draft of this report to DHS, HHS, DOJ, and State for their review and comment. DHS and HHS provided formal, written comments, which are reproduced in full in appendixes V and VI, respectively. DHS and HHS also provided technical comments on our draft report, which we incorporated as appropriate. DOJ and State did not have formal comments on our draft report; DOJ provided technical comments, which we incorporated as appropriate.

DHS concurred with our 12 recommendations and described actions underway or planned to address them. In particular, DHS indicated, among other things, that CBP will develop training on identifying and screening UAC for OFO officers at airports who have substantive contact with UAC, issue guidance to field personnel emphasizing TVPRA transfer procedures for Mexican UAC who have fear of returning to Mexico owing to a credible fear of persecution, and issue guidance clarifying TVPRA transfer procedures for UAC who are nationals or habitual residents of Canada or Mexico who are victims of a severe form of trafficking in persons. In commenting on our draft report, DHS also stated that CBP has established a working group to review and revise elements of the TVPRA-related questions on the Form 93 to better assess a child's ability to make decisions and the risk of trafficking if the child is returned, as appropriate. DHS also stated that CBP will explore adding a mechanism in its automated system to document an unaccompanied alien child's ability to make an independent decision to withdraw his or her application for admission to the United States. DHS indicated, among other things, that OFO will work with CBP's Office of Information and Technology to make technological changes to its automated system to enable it to record appropriate care actions for all UAC and record when UAC enter into, and are transferred from, OFO's custody. DHS also indicated that ICE plans to develop guidance, including time frames for data entry, on proper UAC book-in and book-out procedures for recording UAC's time in ICE custody in its automated system. Regarding our recommendation that DHS and HHS jointly develop and implement a documented interagency process for the placement and referral of UAC in HHS shelters, DHS indicated that DHS's Office of Policy will convene a

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meeting with appropriate agency officials to initiate a plan for close coordination, and that staff will work toward an institutionalized coordinating framework. Regarding our recommendation that DHS, in coordination with State, ensure that TVPRA requirements are reflected in agreements with the government of Mexico, DHS indicated that the departments have begun negotiations with Mexico on options for including in the arrangements additional and specific references to TVPRA requirements. DHS also noted, and we acknowledge, that the extent to which proposed changes to the agreements are accepted will be dependent on the binational negotiations with Mexico. These and other actions that DHS indicated are planned or under way should help address the intent of our recommendations if implemented effectively.

HHS concurred with our recommendation that DHS and HHS jointly develop and implement a documented interagency process for the placement and referral of UAC in HHS shelters. HHS stated that the department will fully support efforts to document the interagency process used in the UAC referral and placement process.

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We are sending copies of this report to interested congressional committees, the Secretaries of Homeland Security, Health and Human Services, and State, as well as the Attorney General of the United States. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or [gablerr@gao.gov](mailto:gablerr@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix VII.



Rebecca Gambler  
Director, Homeland Security and Justice

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# Appendix I: Eligibility of Unaccompanied Alien Children for Federal Public Benefits

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With certain exceptions, unaccompanied alien children (UAC) are generally not eligible to receive federal public benefits because these children lack lawful immigration status in the United States and are not considered qualified aliens.<sup>1</sup> According to the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR) officials, UAC cannot receive federal benefits because they do not meet the definition of a qualified alien as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.<sup>2</sup> ORR officials stated that, as a result, UAC in HHS custody are not eligible for the Temporary Assistance for Needy Families program, Supplemental Nutrition Assistance Program, supplemental security income, Medicaid, or other federal benefit programs. However, under specific statutory exceptions, applicable to aliens generally, UAC may be eligible for certain federal public benefits regardless of alienage, even though they do not meet the definition of "qualified alien." The exceptions are as follows:

- emergency medical assistance,
- short-term noncash in-kind emergency disaster relief,
- public health assistance for immunizations and treatment of communicable diseases,
- programs such as soup kitchens that deliver in-kind services at the community level, and

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<sup>1</sup>6 U.S.C. § 279(g)(2) (definition of UAC). Under 8 U.S.C. § 1641, "qualified aliens" include, among others, (1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA); (2) an alien who is granted asylum under INA § 208, 8 U.S.C. § 1158;(3) a refugee who is admitted to the United States under INA § 207, 8 U.S.C. § 1157; or (4) an alien who is paroled into the United States under INA § 212(d)(5), 8 U.S.C. § 1182(d)(5) for a period of at least 1 year.

Subject to certain exceptions, a federal public benefit is defined under statute as any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States, and any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States. See 8 U.S.C. § 1611(c). Note that the statute does not address alien eligibility for a basic public education. See 8 U.S.C. § 1643(a)(2).

<sup>2</sup>Pub. L. No. 104-193, tit. IV, subtit. D, § 431, 110 Stat. 2105, 2274 (codified as amended at 8 U.S.C. § 1641).

- U. S. Department of Agriculture’s school meals programs.<sup>3</sup>

ORR officials stated that after UAC transition out of ORR custody and are placed with sponsors, eligibility for federal benefits would generally depend on whether or not the sponsors pursue immigration status on behalf of the UAC.<sup>4</sup> However, ORR officials said they do not track federal benefits provided to children after they leave ORR custody.

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<sup>3</sup>See 8 U.S.C. §§ 1611(b)(1)(A) (Medicaid-reimbursed health care for an “emergency medical condition” defined under 42 U.S.C. § 1396b(v)(3), provided, among other requirements, the alien otherwise meets the eligibility criteria for medical assistance under the State plan approved under 42 U.S.C. §§ 1396, *et seq.*); (B) (Short-term, noncash, in-kind emergency disaster relief); (C) (public health assistance for immunizations and testing and treatment of symptoms of communicable diseases); (D) (Programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, which provide in-kind services at the community level, do not condition assistance on the recipient’s income or resources, and are necessary for the protection of life or safety), 1615(a) (an individual who is eligible for public education benefits under State or local law shall not be ineligible, on the basis of citizenship, alienage, or immigration status, to receive benefits provided pursuant to the school lunch program under 42 U.S.C. §§ 1751, *et seq.*, or the school breakfast program under 42 U.S.C. § 1773).

<sup>4</sup>If ORR is unable to locate sponsors for UAC, the UAC remain in ORR shelters until they turn 18 years of age and are then treated as adult aliens.

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# Appendix II: Objectives, Scope, and Methodology

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Our objectives were to determine the (1) extent to which the Department of Homeland Security (DHS) has developed and implemented policies and procedures to ensure that all unaccompanied alien children (UAC) are screened as required and (2) DHS and the Department of State (State) developed and implemented policies and procedures to ensure that UAC are cared for as required while in DHS custody and during repatriation; and (3) costs associated with apprehending, transporting, and caring for UAC in DHS and Department of Health and Human Services (HHS) custody during fiscal years 2009 through 2014.

To determine the extent to which DHS developed and implemented policies and procedures to ensure that all UAC are screened as required, we reviewed U.S. Customs and Border Protection (CBP) policies, procedures, and training to screen UAC, including the March 2009 memorandum *Implementation of the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA)*, the CBP Form 93 *UAC Screening Addendum*—the primary tool Border Patrol agents and Office of Field Operations (OFO) officers use to make trafficking and credible fear determinations, and document screening assessments—and CBP’s human trafficking and UAC virtual learning course. Our scope did not include the screening of UAC apprehended by U.S. Immigration and Customs Enforcement (ICE) because ICE does not conduct TVPRA screenings.<sup>1</sup> We obtained available fiscal year 2011 through fiscal year 2014 Border Patrol and OFO data on the percentage of agents and officers who completed the annual UAC training.<sup>2</sup> On the basis of interviews with CBP officials and written responses these officials provided to explain how they document completion of UAC training, we determined that the data were not sufficiently reliable to report training completion rates. We assessed CBP training efforts against TVPRA

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<sup>1</sup>According to ICE officials, for UAC apprehended by ICE at a land border, ICE transfers them to Border Patrol for TVPRA screening. For UAC apprehended by ICE at a nonland border, the provision of TVPRA that allows UAC to withdraw an application for admission and return to their country of origin does not apply; therefore, ICE does not conduct TVPRA screening for these children. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Pub. L. No. 110-457, § 235(a)(2)(B), 122 Stat. 5044, 5075 (codified at 8 U.S.C. § 1232(a)(2)(B)).

<sup>2</sup>Data were not available for fiscal years 2009 or 2010.



training requirements and training best practices.<sup>3</sup> We also analyzed fiscal year 2009 through 2014 Border Patrol and fiscal year 2012 through 2014 OFO UAC apprehension data—the most recent years for which complete UAC data were available—to determine the outcome of the screening process for UAC from Canada and Mexico, as well as UAC from other countries.<sup>4</sup> In addition, we obtained and analyzed Border Patrol data on UAC who claimed fear of return to their country for fiscal year 2014, the most recent year for which data were available. Further, we analyzed Border Patrol's, OFO's, and ICE's fiscal years 2009 through 2014 apprehension data to determine whether DHS transferred UAC to an HHS shelter or repatriated them, as well as demographic trends, such as the age, gender, and country of origin of UAC.<sup>5</sup> We assessed the reliability of the data by (1) reviewing related documentation, such as data fields, the database schema, and database training materials; (2) interviewing CBP officials responsible for ensuring data quality; (3) reviewing the data for missing data or obvious errors; (4) comparing selected data fields with information from UAC case files and HHS data; and (5) tracing certain data fields to source documents. During our

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<sup>3</sup>GAO, *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*, [GAO-04-546G](#) (Washington, D.C.: March 2004). The guide identified a best practice to ensure that training is connected to improving individual and agency performance in achieving specific results that we used to evaluate activities related to border security. We obtained the information in this guide through consultations with government officials and experts in the private sector, academia, and nonprofit organizations; examinations of laws and regulations related to training and development in the federal government; and reviewing the sizable body of literature on training and development issues, including previous GAO products on a range of human capital topics.

<sup>4</sup>Border Patrol apprehends UAC at U.S. borders between ports of entry, and OFO encounters UAC at ports of entry. ICE apprehends UAC within the United States at locations other than borders or ports of entry. According to CBP officials, OFO encounters UAC instead of apprehending them because UAC have not technically entered the United States at ports of entry until OFO officers have processed them. For the purposes of this report, we use a form of the term “apprehend” for all DHS entities responsible for UAC—Border Patrol, OFO, and ICE.

<sup>5</sup>Border Patrol apprehension data for fiscal year 2009 through July 2014 were queried (i.e., obtained from relevant databases) as of August 2014, and data for August and September 2014 were queried as of October 2014. OFO apprehension data for fiscal years 2012 and 2013 were queried as of August 2014, and data for fiscal year 2014 were queried as of October 2014. OFO was not able to provide the number of UAC apprehended during fiscal years 2009 through 2011 because OFO had data only for the number of children apprehended and could not break out how many were UAC and how many were accompanied children. ICE apprehension data for fiscal years 2009 through 2014 were queried as of October 2015.

assessment, we found some inconsistencies in the disposition, or outcome, data field when conducting internal checks of the data. We rounded this information to the nearest hundred for reporting purposes. We found Border Patrol and OFO's apprehension data to be sufficiently reliable for the purposes of determining whether CBP transferred UAC to an HHS shelter or repatriated them to their countries of nationality or last habitual residence. We also found the DHS apprehension data to be sufficiently reliable for the purpose of reporting UAC demographic trends, such as age, gender, and country of nationality.

Further, we reviewed 21 OFO and 20 Border Patrol nongeneralizable, randomly selected cases of non-Canadian and non-Mexican UAC apprehended at land borders and ports of entry (POE) during fiscal year 2014 that CBP databases indicated were repatriated to determine if the disposition for each child was correct.

Because neither Border Patrol nor OFO has complete information on screening decisions in its database stored in an aggregate manner, we analyzed fiscal year 2014 case files of Mexican UAC Border Patrol apprehended. We selected this population because Mexican UAC apprehended by Border Patrol account for 90 percent of the Canadian and Mexican UAC whom CBP apprehended that year. Specifically, we drew a stratified random sample of 180 Mexican UAC from a study population of 15,531 Mexican UAC who were recorded in Border Patrol's database as having been apprehended in fiscal year 2014. We selected these 180 UAC with probabilities proportionate to the number of Mexican UAC from two strata defined by the outcome of the UAC screening process—repatriation to Mexico or transfer to an HHS shelter. With this random sample, each member of the study population had a nonzero probability of being included, and that probability could be computed for any unaccompanied alien child. The sample size for the stratum of UAC that Border Patrol repatriated to Mexico was 97 out of the 14,931 that the Border Patrol database show were repatriated in fiscal year 2014. The sample size for the stratum of UAC that Border Patrol transferred to HHS was 84 of the 600 Mexican UAC who Border Patrol's database showed were transferred to HHS that year. In reviewing the case file information for these UAC, we found that the outcome listed for one child did not match the outcome information in the CBP database, and we excluded that case. As a result, the sample for the stratum of UAC that Border Patrol transferred to HHS decreased from 84 to 83 cases. We analyzed case file information, including CBP Form 93s to determine if CBP screening complies with relevant TVPRA requirements and CBP policies and procedures. Because we followed a probability procedure based on

random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. All percentage estimates from the case file review have margins of error at the 95 percent confidence level of plus or minus 10 percentage points or less. All numerical estimates other than percentages in this report are presented along with their margins of error at the 95 percent confidence level.

Further, we visited 11 Border Patrol facilities and four land POEs for a total of 15 CBP facilities in three regions—Arizona (July 2014), south Texas (September 2014), and southern California (October 2014)—to, among other things, observe DHS screening operations and interview Border Patrol agents, OFO officers, and Mexican consular officials regarding implementation of UAC screening policies and procedures.<sup>6</sup> We selected Arizona and south Texas because they have historically had the most UAC apprehensions by Border Patrol, while southern California has had the most UAC encounters by OFO. The locations were also chosen for geographic variability. During our visit to south Texas, we observed the screening of 8 UAC by Border Patrol agents. The results from our visits to these three regions cannot be generalized; however, the visits provided us with first-hand observations on UAC screening practices, and insights regarding how Border Patrol agents and OFO officers implement screening policies and procedures. In addition, we interviewed headquarters Border Patrol, OFO, and Office of Training and Development officials to discuss CBP's UAC screening policies, procedures, and training. We compared CBP's UAC screening efforts discussed during these visits and interviews and the screening information obtained from our analyses of CBP information with TVPRA screening requirements and CBP policy, as well as standards in *Standards for Internal Control in the Federal Government*.<sup>7</sup>

In addition, we reviewed studies on the screening of Mexican UAC completed by the nongovernmental organization Applesseed in 2011 and

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<sup>6</sup>We discussed UAC screening procedures at 13 of the 15 facilities we visited.

<sup>7</sup>GAO, *Internal Control, Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

the United Nations High Commission for Refugees (UNHCR) in June 2014.<sup>8</sup> Our analysis included reviewing the reports' methodologies and discussing the reports with both the organizations, as well as with CBP. Further, we reviewed a September 2010 DHS Office of Inspector General (OIG) report on the treatment of UAC in CBP custody, which discussed CBP's UAC training efforts.<sup>9</sup> Our analysis included reviewing the report's methodology. We also met with the DHS Office for Civil Rights and Civil Liberties officials who conducted visits to south Texas CBP facilities in July 2014 to investigate civil rights complaints submitted by UAC and discussed their methodology and findings regarding the screening of UAC. As a result of our review and analysis, we determined that the conclusions in these studies and their results were valid and reasonable for use in our report.

To determine the extent to which DHS and State developed and implemented policies and procedures to ensure that UAC are cared for as required while in DHS custody and during repatriation, we reviewed CBP and ICE policies and procedures on how to care for UAC, which included the March 2009 memorandum *Implementation of the TVPRA*, Border Patrol's June 2008 *Hold Rooms and Short Term Custody* memorandum, and the August 2008 OFO Directive, *Secure Detention, Transport, and Escort Procedures*. We also evaluated ICE policies, such as ICE Directive 11087.1, *Operations of Holding Facilities*, September 2014, among others. We compared these against TVPRA and Flores Agreement requirements related to care. Further, we reviewed DHS UAC training documents, including CBP's human trafficking virtual learning course and ICE's UAC and Field Office Juvenile Coordination training. In addition, we reviewed September 2005 and September 2010 DHS Office of Inspector General reports on DHS's responsibilities for juveniles and the treatment

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<sup>8</sup>Appleseed, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors* (Washington, D.C.: 2011), and UNHCR, *Findings and Recommendations Relating to the 2012-2013 Missions to Monitor the Protection Screening of Mexican Unaccompanied Children Along the U.S.-Mexico Border* (Washington, D.C.: June 2014).

<sup>9</sup>DHS Office of Inspector General, *CBP's Handling of Unaccompanied Alien Children*, OIG-10-117 (Washington, D.C.: September 2010).

of UAC in CBP custody respectively, which discussed DHS and CBP's care of UAC.<sup>10</sup>

During our site visits to Arizona, southern California, and south Texas, we observed the care of UAC at 15 CBP facilities and discussed care of UAC with officials at each facility. The results from our visits are specific to the care observed at facilities in these three regions at a specific point in time and cannot be generalized; however, the visits provided us with first-hand observations of the care provided to UAC and the conditions of facilities in which UAC are held during various operating conditions, including surge and normal operations. To ensure that we observed and discussed care systematically at each facility, we developed a care checklist with the eight elements of care required by Border Patrol and OFO policy as well as three additional elements required only by Border Patrol policy. We evaluated these elements of care at each facility we visited based on the totality of our observations and interviews. For example, we observed and discussed with relevant officials the presence or absence of elements, such as access to drinking water, food, toilets, and sinks. On the basis of our observations and interviews, we determined that CBP had implemented its care policies at these facilities if at least 80 percent of the facilities we visited were generally providing care consistent with policy requirements at the time of our visits. However, to assess CBP implementation of the requirement that UAC be "held in the least restrictive setting appropriate for their age and special needs," we evaluated our observations and interviews to determine whether there was (1) no less restrictive environment available, and if there was a less restrictive environment, why the child was not placed in the least restrictive setting and (2) evidence that agents and officers considered requisite factors, including the child's age, special needs, and particular vulnerability as a minor. However, we did not discuss every element at each facility we visited in Arizona because we developed the checklist after the visit to Arizona.

We analyzed several data sets of information on DHS's care of UAC. OFO and ICE do not collect data on the care of UAC in their custody in an accessible format, so we analyzed only Border Patrol data on the care of

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<sup>10</sup>Department of Homeland Security, Office of Inspector General, *A Review of DHS' Responsibilities for Juvenile Aliens*, OIG-05-45, September 2005; Department of Homeland Security, Office of the Inspector General, *CBP's Handling of Unaccompanied Alien Children*, OIG-10-117 (September 2010).

UAC in Border Patrol custody. We examined the Border Patrol policy on documentation of care, OBP 50/10.9-C Use of the e3 Juvenile Detention Module, April 2012, which requires agents to document all care of UAC in their automated system, the e3 Detention Module. Border Patrol officials told us they could not provide us with complete care data prior to fiscal year 2014 because they did not fully implement their data system until then. We analyzed data on the care of 55,905 UAC in Border Patrol custody from January through September 2014. To assess the reliability of these data, we interviewed Border Patrol officials in headquarters and in Arizona, Texas, and California, who are responsible for managing or entering the data, and examined the data for completeness and potential errors. Because our initial analysis of the data showed potential errors, and because Border Patrol officials told us that they were unsure about the consistency with which agents in the field used Border Patrol's automated system, we determined that the Border Patrol custody data were not sufficiently reliable for the purposes of determining if Border Patrol agents cared for UAC as required. However, we determined that the data were sufficiently reliable for the purposes of determining how consistently agents used the automated system to document care of UAC and the frequency and type of potential errors, if any, in the data. To determine how consistently agents entered care information into Border Patrol's automated system, we analyzed the completeness of the custody data by cross-checking the data with Border Patrol apprehension data from January through September 2014. We measured if, and how often, meals and welfare checks were entered for each child in custody. We used meals and welfare checks because both actions are required by policy for all UAC in custody, and must be performed at frequent enough intervals that agents should perform each action at least once for every child in custody, according to policy. We also analyzed how frequently agents used each care action that is available in the system. We also interviewed Border Patrol officials in Arizona, Texas, and California on their use of the automated system.

In our initial data analysis, we found that agents were entering the same care action multiple times in a short time period. Therefore, in our full data analysis, we measured the frequency of these potential errors in the data by measuring how often a care action was entered more than once within a short time period. When agents entered an action more than once, they did not record them simultaneously, and so we did not identify these actions as duplicates and definite errors. However, these actions, such as meals, phone calls, or showers, were unlikely to have taken place more than once in a short time period. Therefore, we measured the frequency with which actions were entered within three time intervals: 10 minutes, 5

minutes, and 2 minutes. We selected these intervals because, while it is possible that an action could, on occasion, be performed more than once within a 10-minute period, it is unlikely that any of the actions would be performed more than once within a 2-minute interval. Thus, the 2-minute interval most strongly suggests error. However, because the volume of likely errors made it prohibitive for us to verify if each likely error was in fact an error, our analysis identifies those actions that we determined to be likely errors. We also interviewed Border Patrol officials in Texas, California, and headquarters to understand why these likely errors may be occurring. We compared these care efforts against the Flores Agreement, DHS policies, and standards in *Standards for Internal Control in the Federal Government*.<sup>11</sup>

With regard to time in custody, Border Patrol provided us with the dates and times that UAC were booked in to Border Patrol custody for UAC in custody from January 2014 through September 2014, which also contained information on book outs and transfers. OFO provided us with the dates and times that UAC were booked in and ICE provided book in dates, but neither DHS component was able to provide the dates and times that UAC were booked out. Additionally, we examined documentation about system requirements regarding time in custody for all components, and interviewed Border Patrol, OFO, and ICE officials about the reliability of the time-in-custody fields in their systems. On the basis of our analysis of Border Patrol data, and interviews with Border Patrol officials, we found Border Patrol time-in-custody data to be reliable. On the basis of interviews with OFO and ICE officials, we found the OFO and ICE time-in-custody data to be unreliable. As a result, we could not report the time UAC spent in DHS custody.

We also reviewed reports listing the UAC that were in DHS custody longer than the statutorily required 72 hours, which ICE compiles and submits to the Department of Justice every 6 months to be submitted to plaintiffs' counsel as required by the *Flores v. Reno* Stipulated Settlement

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<sup>11</sup>GAO, *Internal Control, Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

Agreement.<sup>12</sup> Our analysis of the reports from 2009 to 2013 showed missing fields, dates that indicated children were in custody for less than 72 hours, and apprehension dates that occurred after the transfer to HHS's Office of Refugee Resettlement (ORR). Additionally, for UAC apprehended by Border Patrol, we compared the dates of apprehension documented in the reports with Border Patrol's apprehension data and found that many of the apprehension dates were entered incorrectly by ICE in the reports. We also interviewed ICE officials in headquarters and the field about the reports, and officials at the Department of Justice who receive the reports. According to our analysis and our interviews, we found the reports unreliable for determining the number of UAC that were in DHS custody for longer than 72 hours. We compared these efforts against the TVPRA requirement for transferring UAC and standards in *Standards for Internal Control in the Federal Government*.<sup>13</sup>

To determine the effectiveness of the process to transfer UAC from DHS to HHS, we examined e-mails between ORR intake and Border Patrol in the Rio Grande Valley sector to place UAC in shelters. We analyzed 111 e-mails to place 593 UAC from July 6 to 8, 2014, and 65 e-mails to place 135 UAC from November 17 to 19, 2014. We chose these dates so we could analyze communications during the surge of UAC (in July) and after the surge of UAC (November), and we chose the Rio Grande Valley sector because (1) over 70 percent of all UAC apprehended by Border Patrol in fiscal year 2014 were apprehended in that sector, and (2) Rio Grande Valley officials had an in-box e-mail account set up for ORR placement e-mails that allowed the officials to easily extract them. We analyzed the e-mails for cancellations, redesignations, and multiple placements and, on the basis of the rationales in the e-mails, identified and categorized the reasons for cancellations, redesignations and multiple placements. Our conclusions are not generalizable but provide important insight into the placement process.

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<sup>12</sup>The court-approved settlement agreement in the case of *Flores v. Reno* was the result of a class action lawsuit filed against the former Immigration and Naturalization Service (INS) challenging the agency's arrest, processing, detention, and release of juveniles in its custody. The agreement sets out nationwide policy for the detention, release, and treatment of minors in the custody of INS, which now includes ICE and CBP. Stipulated Settlement Agreement, *Flores v. Reno*, No. 85-4544 (C.D. Cal. Jan 17, 1997).

<sup>13</sup>[GAO/AIMD-00-21.3.1](#).



We observed and discussed the interagency transfer process in Arizona, Texas, and California, and interviewed DHS Policy, Federal Emergency Management Agency (FEMA), Border Patrol, OFO, ICE, and ORR officials in headquarters about the interagency process. In addition, we reviewed September 2005 and September 2010 DHS OIG reports on DHS's responsibilities for juveniles and the treatment of UAC in CBP custody respectively, which discussed roles and responsibilities for UAC within DHS, and the interagency process to transfer UAC to HHS.<sup>14</sup> Our analysis included reviewing the reports' methodologies. We also reviewed a 2008 HHS OIG report on ORR's efforts that discussed interagency coordination with DHS for UAC and reviewed the report's methodology.<sup>15</sup> Additionally, we analyzed plans developed by DHS to respond to a UAC influx, which included provisions for interagency coordination, such as an interim 2015 concept of operations developed for internal use by DHS.<sup>16</sup> We also reviewed an emergency response plan created by the Unified Coordination Group, which includes both DHS and HHS. We compared these efforts at interagency coordination, and information contained in the IG reports about the prior efforts to coordinate, against best practices and mechanisms for interagency collaboration.<sup>17</sup> We also visited two HHS shelters in Arizona and spoke with grantees and shelter employees at these sites to better understand the transfer process.

To understand the repatriation process, we interviewed Border Patrol, OFO, and Mexican consular officials in Arizona, Texas, and California, as well as DHS policy and ICE officials in Washington and officials from the Department of State's Bureau of Western Hemisphere Affairs. We also analyzed all 30 DHS-negotiated local repatriation arrangements and the

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<sup>14</sup>DHS Office of Inspector General, *A Review of DHS's Responsibilities For Juvenile Aliens*, OIG-05-45 (Washington, D.C.: September 2005); DHS Office of Inspector General, *CBP's Handling of Unaccompanied Alien Children*, OIG-10-117 (Washington, D.C.: September 2010).

<sup>15</sup>HHS Office of Inspector General, *Division of Unaccompanied Children's Services: Efforts to Serve Children*, OEI-07-06-00290 (Washington, D.C.: March 2008).

<sup>16</sup>U.S. Department of Homeland Security, *DHS Interim Land Migration Concept of Operations for Unaccompanied Alien Children, Family Units and Single Adults* (Washington, D.C.: January 2015).

<sup>17</sup>GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: October 2005), and *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: September 2012).

2004 memorandum of understanding between DHS and Mexico regarding the repatriation of Mexican nationals. We compared provisions for UAC in the arrangements with TVPRA requirements for the content of agreements with contiguous countries regarding the repatriation of UAC. Where there were not provisions in the arrangements specific to UAC, but were provisions that would reasonably apply to UAC, we evaluated the more general provisions against these TVPRA requirements; for example, provisions that applied to all aliens being repatriated.

To identify costs associated with apprehending, transporting, and caring for UAC in DHS custody, we obtained and analyzed financial data from CBP and ICE for fiscal year 2014. Because CBP and ICE did not collect data on UAC costs prior to fiscal year 2014, we analyzed available financial data collected using UAC project codes from February through September 2014 to determine DHS's UAC costs.<sup>18</sup> To determine the extent to which UAC costs were identified, we reviewed policies and procedures for tracking UAC costs and interviewed CBP and ICE officials. Additionally, we analyzed UAC transportation cost estimates developed by ICE to determine the estimated UAC transportation costs from fiscal years 2009 through 2013. These estimates were derived by ICE using fiscal year 2013 average costs and applied throughout fiscal years 2009 through 2013, adjusting for average annual inflation. We assessed the reliability of the cost data by (1) reviewing related documentation, such as financial statement audits and prior GAO work; (2) interviewing CBP and ICE officials responsible for ensuring cost data quality; and (3) looking for missing cost items or obvious errors. We determined that CBP's and ICE's financial project code costs were sufficiently reliable for the purposes of determining a minimum UAC cost for apprehending, transporting and caring for UAC while in DHS custody. We also determined that ICE's transport cost data were sufficiently reliable for the purposes of determining an estimate of ICE's UAC transport costs for fiscal years 2009 through 2013.

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<sup>18</sup>CBP and ICE did not start using a project code to track UAC costs until May 2014; however, CBP's Border Patrol, and ICE retroactively reassigned some costs incurred from March through May 2014 and February through May 2014, respectively, which are included in our analysis. Additionally, not all UAC costs were captured; therefore, these amounts represent the minimum cost for this time period. Specifically, we analyzed expenditures and un-liquidated obligations for CBP and ICE to determine total costs.

To identify costs associated with UAC in HHS custody, we obtained and analyzed financial summary data for HHS ORR's UAC program. Specifically, we analyzed UAC program cost data reported by ORR as of April 23, 2015—the most recent data available—to determine the total shelter, administrative, and UAC services costs. These data include summary information on end-of-year obligations by cost category compiled by ORR for fiscal years 2009 through 2014. We assessed the reliability of the data by (1) reviewing related documentation, such as prior GAO work; (2) comparing data against data in published sources, such as ORR's *Annual Report to Congress*; and (3) interviewing ORR officials knowledgeable about the data. We asked the officials about the reliability of their data—including questions about the purpose for which the data were collected, the source of the data, and how the data were compiled. We determined that ORR's financial summary data for its UAC program were sufficiently reliable for the purposes of reporting total program costs based on end-of-year obligations.

To determine the average cost per bed for basic shelters, we analyzed cost data for fiscal years 2009 through 2014 for UAC shelters by type of shelter, which was compiled by ORR and reported as of April 23, 2015—the most recent data available. We also analyzed the average monthly funded bed capacity for basic shelters reported by ORR as of April 7, 2015—the most recent data available. Since bed capacity fluctuates throughout the year, we averaged the average monthly funded bed capacity data to determine the average annual number of beds. We then calculated the average annual cost per bed for basic shelters by dividing the shelter costs by the average annual number of beds for basic shelters. For the average daily costs, we divided the average annual cost per bed by 365 days. According to ORR officials, actual cost per bed varies based on shelter type, location, actual number of beds, and actual number of days for which beds were contracted. We assessed the reliability of the data by (1) reviewing related documentation, such as prior GAO work; (2) comparing data against data in published sources, such as ORR's *Annual Report to Congress*; and (3) interviewing ORR officials who were knowledgeable about the data. We asked them data reliability questions, including questions about the purpose for which the data were collected, the source of the data, and how the data were compiled. We determined that ORR's shelter costs and average monthly funded bed capacity data for basic shelters were sufficiently reliable for the purposes of reporting the average cost per bed for basic shelters. On the basis of information provided by HHS, we are unable to report on the average cost per bed for secure and therapeutic shelters because the annual cost and

bed capacity data were not comparable across these shelter types. As a result, we focused on average cost per bed in basic shelters.

In addition to analyzing UAC costs for DHS and HHS, we analyzed grant funding documentation for 5 of HHS ORR's 34 UAC shelter grantees for fiscal year 2013. We selected the 5 grantees to reflect a variety of shelters based on the number of beds, dollar amount of the grant, type of shelter, and geographic location. We analyzed the federal financial report (White House Office of Management and Budget Standard Form 425) filed at the end of fiscal year 2013 for each grant to determine the total amount authorized and expended for each grantee. Further, we analyzed each grantee's funding application (White House Office of Management and Budget Standard Forms 424 and 424A) to determine the budgeted costs for each cost category. In some cases, a grantee may have had multiple grants or multiple funding requests within a single grant, which we included in our analysis. Additionally, we obtained data, reported by ORR as of April 7, 2015—the most recent data available—for the total number of beds by shelter type for fiscal year 2013 for each of the 5 grantees.<sup>19</sup> We assessed the reliability of the data by comparing the data with shelter types identified in source documentation and interviewing ORR officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of determining the maximum funded bed capacity for each sampled grantee.

We conducted this performance audit from May 2014 to July 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>19</sup>The total number of beds by shelter type for each of the 5 sampled grantees represents the maximum funded bed capacity for fiscal year 2013. Actual number of beds for each grantee may fluctuate throughout the year.

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# Appendix III: Summary Statistics for Unaccompanied Alien Children Apprehended by the Department of Homeland Security during Fiscal Years 2009 through 2014

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Within the Department of Homeland Security (DHS), U.S. Customs and Border Protection's (CBP) U.S. Border Patrol and Office of Field Operations (OFO), and the U.S. Immigration and Customs Enforcement (ICE) apprehend, process, detain, and temporarily care for unaccompanied alien children (UAC)—individuals less than 18 years old with no lawful immigration status and no parent or legal guardian in the United States available to provide care and physical custody.<sup>1</sup> Border Patrol apprehends UAC at U.S. borders between ports of entry (POE) and OFO apprehends UAC at POEs. ICE apprehends UAC within the United States at locations other than borders or POEs.<sup>2</sup> Border Patrol accounted for 186,233 (about 90 percent) of DHS's UAC apprehensions during fiscal years 2009 through 2014, and Border Patrol apprehended over 75 percent of these UAC in two sectors—about 52 percent in Rio Grande Valley, Texas, and about 25 percent in Tucson, Arizona. Figure 8 shows the number of UAC apprehensions by Border Patrol on a year-by-year basis in its Rio Grande Valley and Tucson sectors and all other sectors for fiscal years 2009 through 2014. Figure 8 also illustrates that the Rio Grande Valley's share of all Border Patrol apprehensions continually increased and accounted for most of the increase in Border Patrol apprehensions in the past 6 years.

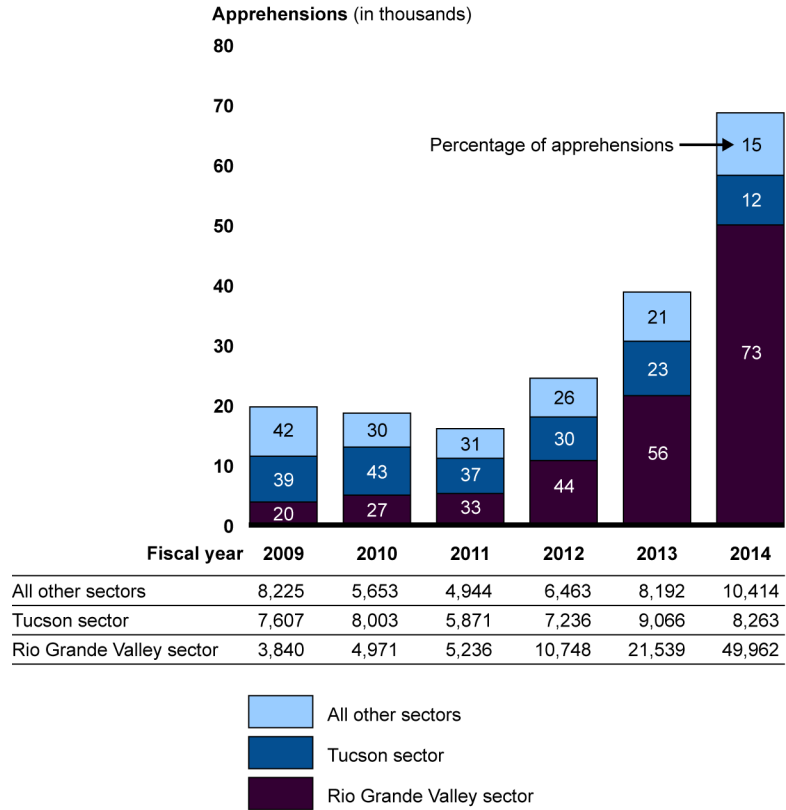
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<sup>1</sup>Unaccompanied alien child refers to a child who (1) has no lawful immigration status in the United States, (2) has not attained 18 years of age, and (3) has no parent or legal guardian in the United States or no parent or legal guardian in the United States available to provide care and physical custody. 6 U.S.C. § 279(g)(2). As such, children traveling with related adults other than a parent or legal guardian—such as a grandparent or sibling—are still deemed UAC.

<sup>2</sup>According to CBP officials, OFO encounters UAC instead of apprehending them because UAC have not technically entered the United States at POEs until they have been processed by OFO officers, while Border Patrol and ICE apprehend UAC. For ease of discussion throughout this appendix, we use a form of the term “apprehend” for all DHS entities responsible for UAC—Border Patrol, OFO, and ICE.

**Appendix III: Summary Statistics for Unaccompanied Alien Children Apprehended by the Department of Homeland Security during Fiscal Years 2009 through 2014**

**Figure 8: U.S. Border Patrol Apprehensions of Unaccompanied Alien Children (UAC) for the Rio Grande Valley, Texas, and Tucson, Arizona, Sectors and All Other Sectors, Fiscal Years 2009 through 2014**



Source: GAO analysis of Border Patrol data. | GAO-15-521

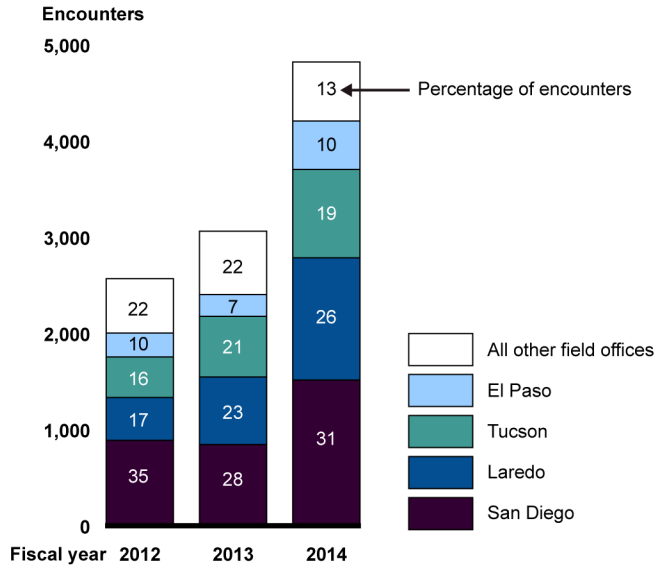
Note: Percentages may not total 100 because of rounding.

OFO has apprehended fewer UAC than Border Patrol during fiscal years 2012 through 2014, and about one-third of OFO’s apprehensions occurred in its San Diego, California, field office, which includes the San Ysidro and Otay Mesa POEs.<sup>3</sup> As shown in figure 9, the number of UAC apprehensions in the Tucson, Arizona, and Laredo, Texas, field offices continually increased each year from fiscal year 2012 through 2014.

<sup>3</sup>OFO was not able to provide the number of UAC apprehended during fiscal years 2009 through 2011 because OFO had data only for the number of children apprehended and could not break out how many were UAC and how many were accompanied children.

Appendix III: Summary Statistics for Unaccompanied Alien Children Apprehended by the Department of Homeland Security during Fiscal Years 2009 through 2014

Figure 9: U. S. Customs and Border Protection’s (CBP) Office of Field Operations Apprehensions of Unaccompanied Alien Children by Field Office, Fiscal Years 2012 through 2014



Fiscal year	2012	2013	2014
All other field offices	564	659	613
El Paso	248	226	504
Tucson	423	630	917
Laredo	445	701	1,270
San Diego	887	845	1,515

Source: GAO analysis of CBP Office of Field Operations data. | GAO-15-521

Note: Percentages may not total 100 because of rounding.

As shown in table 10, most of the increase in DHS apprehensions of UAC from fiscal year 2009 through 2014 has come from three Central American countries: El Salvador, Guatemala, and Honduras. UAC from Mexico continued to account for a significant number of apprehensions—between 12,000 and 19,000 a year—during this 6-year time period. However, starting in fiscal year 2013, the total number of UAC from these three Central American countries surpassed the number of UAC from Mexico and, in fiscal year 2014, far surpassed the number of UAC from Mexico.

**Appendix III: Summary Statistics for  
Unaccompanied Alien Children Apprehended  
by the Department of Homeland Security  
during Fiscal Years 2009 through 2014**

**Table 10: Department of Homeland Security (DHS) Apprehensions of Unaccompanied Alien Children (UAC) from Countries with the Highest Number of UAC, Fiscal Years 2009 through 2014**

	2009	2010	2011	2012	2013	2014	Total
<b>Mexico</b>	16,813	14,610	12,482	16,204	18,995	17,341	<b>96,445</b>
<b>Guatemala</b>	1,271	1,643	1,702	4,037	8,376	18,202	<b>35,231</b>
<b>Honduras</b>	1,123	1,122	1,051	3,167	7,106	19,272	<b>32,841</b>
<b>El Salvador</b>	1,292	1,979	1,466	3,532	6,279	17,019	<b>31,567</b>
<b>Ecuador</b>	141	240	132	220	474	715	<b>1,922</b>
<b>India</b>	3	72	147	38	243	117	<b>620</b>
<b>Canada</b>	10	10	12	143	225	134	<b>534</b>
<b>Nicaragua</b>	18	35	14	50	102	227	<b>446</b>
<b>China</b>	27	47	19	60	61	135	<b>349</b>
<b>Peru</b>	8	22	16	21	52	79	<b>198</b>
<b>Haiti</b>	5	8	2	24	43	48	<b>130</b>
<b>Cuba</b>	9	4	7	21	26	50	<b>117</b>
<b>Brazil</b>	17	18	2	24	22	19	<b>102</b>

Source: GAO analysis of DHS data. | GAO-15-521

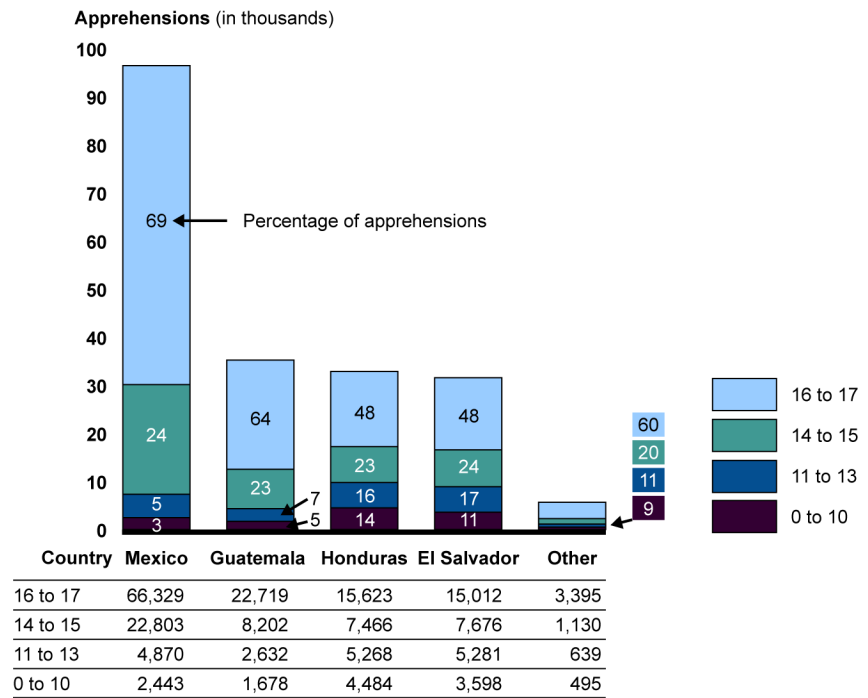
Note: This table includes countries that had more than 100 apprehensions of their UAC from fiscal years 2009 through 2014. U.S. Customs and Border Protection's (CBP) Office of Field Operations (OFO) was not able to provide the number of UAC apprehended during fiscal years 2009 through 2011 because OFO had data only for the number of children apprehended and could not break out how many were UAC and how many were accompanied children.

During fiscal years 2009 through 2014, UAC from Guatemala, Honduras, and El Salvador whom DHS apprehended were generally younger than UAC from Mexico. Specifically, as shown in figure 10, over 25 percent of UAC from Honduras and El Salvador, and 12 percent of UAC from Guatemala, were younger than 14 years old compared with 8 percent for UAC from Mexico.



Appendix III: Summary Statistics for  
 Unaccompanied Alien Children Apprehended  
 by the Department of Homeland Security  
 during Fiscal Years 2009 through 2014

**Figure 10: Department of Homeland Security Apprehensions of Unaccompanied Alien Children (UAC) by Country of Citizenship and Age, Fiscal Years 2009 through 2014**



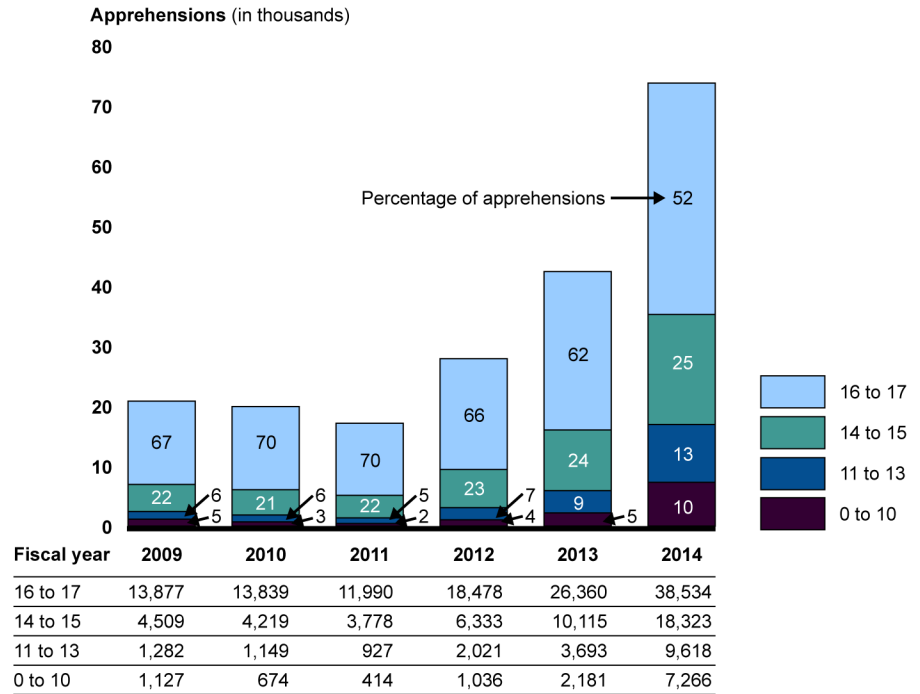
Source: GAO analysis of DHS data. | GAO-15-521

Note: U.S Customs and Border Protection's Office of Field Operations (OFO) was not able to provide the number of UAC apprehended during fiscal years 2009 through 2011 because OFO had data only for the number of children apprehended and could not break out how many were UAC and how many were accompanied children. Percentages may not total 100 because of rounding.

Further, the percentage of younger UAC whom DHS apprehended has increased in numbers and as a percentage of total apprehensions since fiscal year 2009. For example, figure 11 shows that the percentage of apprehended UAC under the age of 14 increased from 11 percent in fiscal year 2009 to 23 percent in fiscal year 2014.

**Appendix III: Summary Statistics for Unaccompanied Alien Children Apprehended by the Department of Homeland Security during Fiscal Years 2009 through 2014**

**Figure 11: Percentage of Department of Homeland Security (DHS) Apprehensions of Unaccompanied Alien Children (UAC) by Age, Fiscal Years 2009 through 2014**



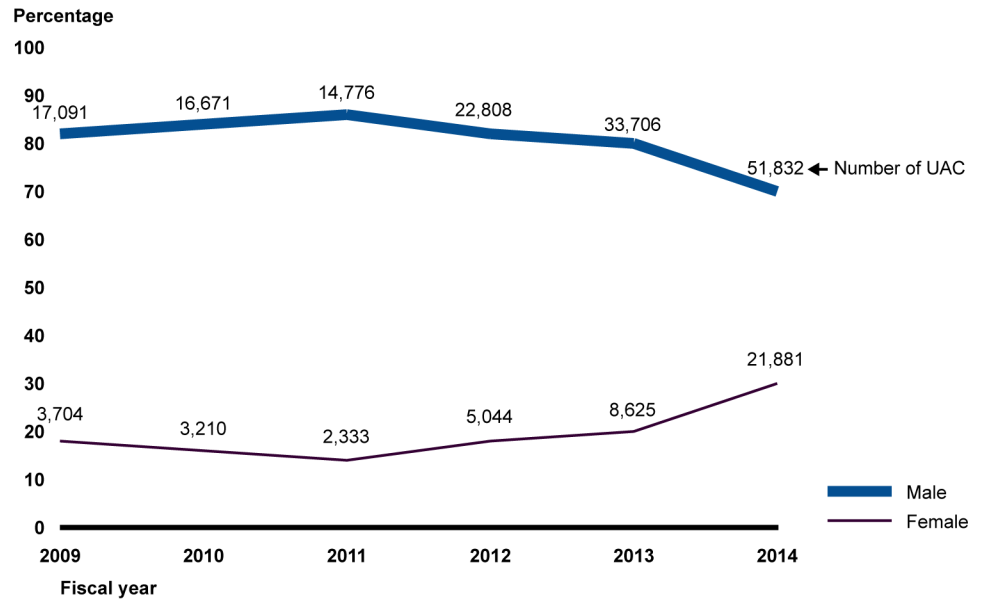
Source: GAO analysis of DHS data. | GAO-15-521

Note: U.S. Customs and Border Protection's Office of Field Operations (OFO) was not able to provide the number of UAC apprehended during fiscal years 2009 through 2011 because OFO had data only for the number of children apprehended and could not break out how many were UAC and how many were accompanied children. Percentages may not total 100 because of rounding.

In addition, the composition of UAC males and females changed during fiscal years 2012 through 2014. Specifically, as shown in figure 12, the percentage of male UAC decreased from 82 percent in fiscal year 2012 to 70 percent in fiscal year 2014, while the percentage of female UAC apprehended by DHS increased from 18 percent in fiscal year 2011 to 30 percent in fiscal year 2014.

**Appendix III: Summary Statistics for Unaccompanied Alien Children Apprehended by the Department of Homeland Security during Fiscal Years 2009 through 2014**

**Figure 12: Percentage of Department of Homeland Security (DHS) Apprehensions of Unaccompanied Alien Children (UAC) by Gender, Fiscal Years 2012 through 2014**



Source: GAO analysis of DHS data. | GAO-15-521

Note: DHS agents and officers were not able to determine an unaccompanied alien child's gender in all instances.

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# Appendix IV: Costs for Unaccompanied Alien Children at Five Shelter Grantees

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In addition to analyzing costs associated with apprehending and caring for unaccompanied alien children (UAC) for the Department of Homeland Security (DHS) and the Department of Health and Human Services (HHS), we analyzed financial records for 5 of HHS's Office of Refugee Resettlement's (ORR) 34 UAC shelter grantees for fiscal year 2013.<sup>1</sup> We selected the 5 grantees to reflect a variety of shelters based on the number of beds, dollar amount of the grant, type of shelter, and geographic location.<sup>2</sup> Types of shelter costs include administrative; shelter personnel salaries, benefits, training and travel; operational expenses, such as building maintenance and utilities; and services and supplies provided to UAC, such as food, clothing, first aid, and education. Additionally, some grantees incur costs associated with foster care, such as foster parent reimbursements and training.

Table 11 shows budgeted costs by cost category for each of the 5 sampled grantees as well as consolidated actual costs based on each grantee's year-end financial status reports.<sup>3</sup> As shown in the table, total budgeted and actual costs varied among the 5 grantees from about \$3 million to about \$86 million for fiscal year 2013. Labor costs (personnel salaries and fringe benefits) for each grantee accounted for 58 to 66 percent of overall budgeted costs, and supplies such as clothing, household, and educational materials accounted for 2 to 8 percent of overall budgeted costs.

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<sup>1</sup>According to HHS officials, grantees must provide HHS with estimated funding plans, which include budgeted costs for staffing, contracts, supplies, and overhead, as well as consolidated year-end financial reports on overall actual costs. We chose to review fiscal year 2013 because it was the most recent complete fiscal year in which data were available at the time of our review.

<sup>2</sup>According to HHS officials, ORR has grant agreements with organizations to operate four types of UAC shelters throughout the United States: basic, secure, therapeutic, and long-term foster care.

<sup>3</sup>Prior to receiving funding, a grantee submits a budgeted spending plan along with its application for assistance. At the end of each fiscal year, each grantee reports its consolidated actual costs to HHS based on the budgeted spending plans. We could not report actual costs for each cost category because the federal financial form (Office of Management and Budget Standard Form 425) that grantees must submit to HHS requires grantees to report only total actual costs, not actual costs for each cost category; therefore, we are reporting budgeted costs for the cost categories.

**Appendix IV: Costs for Unaccompanied Alien Children at Five Shelter Grantees**

**Table 11: Fiscal Year 2013 Budgeted Costs by Cost Category and Actual Total Costs for Five Sampled Unaccompanied Alien Children Grantees**

(Dollars in thousands)

<b>Cost category</b>	<b>Grantee A</b>	<b>Grantee B</b>	<b>Grantee C</b>	<b>Grantee D</b>	<b>Grantee E</b>
<b>Personnel</b>	\$40,066	\$28,123	\$9,898	\$8,308	\$1,620
<b>Fringe benefits</b>	14,935	6,578	2,774	2,298	524
<b>Travel</b>	329	2,636	17	293	252
<b>Equipment</b>	0	121	0	85	25
<b>Supplies</b>	2,956	3,512	397	1,032	276
<b>Contractual</b>	601	3,176	0	283	0
<b>Other</b>	16,098	9,563	5,055	1,785	595
<b>Total direct charges<sup>a</sup></b>	<b>74,985</b>	<b>53,710</b>	<b>18,140</b>	<b>14,084</b>	<b>3,292</b>
<b>Indirect charges</b>	11,210	5,920	2,540	2,084	0
<b>Total budgeted costs<sup>a,b</sup></b>	<b>\$86,195</b>	<b>\$59,630</b>	<b>\$20,680</b>	<b>\$16,168</b>	<b>\$3,292</b>
<b>Total actual costs</b>	<b>\$86,172</b>	<b>\$55,552</b>	<b>\$20,680</b>	<b>\$14,044</b>	<b>\$3,292</b>

Source: GAO analysis of data from Health and Human Services Office of Refugee Resettlement. | GAO-15-521

<sup>a</sup>Numbers may not sum to totals because of rounding.

<sup>b</sup>Total budgeted costs represent total authorized costs based on totals from grantees' Standard Form 425. Costs reported by grantees include shelter costs as well as some post-release and home assessment services.

During fiscal year 2013, there were three “mega grantees” that operated shelters in multiple states and had more than one type of shelter, whereas other grantees operated only one type of shelter.<sup>4</sup> As shown in table 12, the number of beds per grantee varied from 30 to over 1,400 in our sample. Shelter locations in our sample also varied from the larger “mega grantees” concentrated in the southwest and Illinois to smaller grantees in New York and Virginia.

<sup>4</sup>We included the three “mega grantees” in our analysis, shown by Grantees A, B, and C.

**Appendix IV: Costs for Unaccompanied Alien Children at Five Shelter Grantees**

**Table 12: Number of Beds and Shelter Locations at Five Sampled Shelter Grantees for Fiscal Year 2013**

<b>Shelter type</b>	<b>Grantee A</b>	<b>Grantee B</b>	<b>Grantee C</b>	<b>Grantee D</b>	<b>Grantee E</b>
<b>Basic</b>	1,434	763	433	106	0
<b>Secure</b>	24	18	20	15	30
<b>Therapeutic</b>	0	0	0	0	0
<b>Foster care</b>	0	128	0	7	0
<b>Total bed capacity</b>	<b>1,458</b>	<b>909</b>	<b>453</b>	<b>128</b>	<b>30</b>
<b>Percentage of bed type</b>	98% basic 2% secure	84% basic 2% secure 14% foster care	96% basic 4% secure	83% basic 12% secure 5% foster care	100% secure
<b>Shelter locations</b>	Texas, Arizona, California	Texas	Illinois	New York	Virginia

Source: GAO analysis of data from Health and Human Services Administration for Children and Families. | GAO-15-521

Note: The number of beds represents the maximum funded bed capacity. Actual number of beds provided by grantees can vary throughout the year based on anticipated needs.

# Appendix V: Comments from the Department of Homeland Security



U.S. Department of Homeland Security  
Washington, DC 20528

**Homeland  
Security**

July 2, 2015

Rebecca Gambler  
Director, Homeland Security and Justice  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Re: Draft Report GAO-15-521, "UNACCOMPANIED ALIEN CHILDREN: Actions Needed to Ensure Children Receive Required Care in DHS Custody"

Dear Ms. Gambler:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

During the spring of 2014, the U.S. Government witnessed an influx of Unaccompanied Alien Children<sup>1</sup> (UAC) that reached historic proportions in the South Texas portion of the Rio Grande Valley Sector (RGV). The U.S. Border Patrol (USBP), which had managed significantly lower seasonal peaks of UAC in previous years, responded to this humanitarian crisis with exceptional professionalism by enhancing its capability and coordination with partner departments and agencies while continuing to carry out its border security responsibilities. The large numbers of UAC challenged existing capabilities of responsible Federal departments and agencies to process, transport, and shelter the UAC, resulting in an urgent humanitarian situation that required a unified and coordinated Federal response. As the influx continued to build, USBP took steps to enhance its processing, such as instituting virtual processing, separating UAC from other populations, and assigning several stations to house and process UAC.

The volume of UAC significantly increased during May 2014. On June 2, 2014, the President directed the Secretary of Homeland Security to establish an interagency Unified

<sup>1</sup> As defined by 6 U.S.C. § 279(g) (2), an "unaccompanied alien child" means a child who (A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.

Coordination Group (UCG) to ensure unity of effort across the executive branch in response to the crisis. USBP took an immediate and active role in the UCG and detailed agents to the Federal Emergency Management Agency (FEMA) to assist in response coordination. USBP continues its engagement in the UCG; it has assigned an Assistant Chief to the position of Deputy Federal Coordinating Official, and has been directly involved in the development of the UCG response plan for any future influx of UAC.

USBP also expedited the opening of the RGV's Centralized Processing Center, which added capacity for the processing of UAC and individuals apprehended as family units. In addition, USBP leveraged FEMA contracts to fly UAC from the RGV to Nogales, Arizona, where the Nogales Processing Center was brought on line to expedite processing and provide a more comfortable environment for the children. Agents were also detailed from other parts of the country to assist in the care and custody of UAC while the children were awaiting transfer to the custody of the U.S. Department of Health and Human Services (HHS)/Office of Refugee Resettlement.

The care of UAC, while in U.S. Customs and Border Protection (CBP) custody, is also of the highest importance to CBP's Office of Field Operations (OFO). Each CBP officer (CBPO) engaged in the processing of individuals who require additional inspection (also known as secondary inspection) understands the importance of proper care for UAC. Before and since the issuance of GAO's draft report, OFO has made significant strides to reinforce the importance of properly processing UAC. In particular, OFO has:

(1) initiated dual notification to HHS and U.S. Immigration and Customs Enforcement (ICE) of a UAC that requires placement in a shelter;

(2) begun updating mandatory Virtual Learning Center (VLC) training for CBPOs on the processing of UAC, which includes a discussion on human trafficking, the *Flores v. Reno* Settlement Agreement, and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA); and

(3) identified the path forward to refine and improve OFO's ability to track and report on actions associated with UAC's time in detention, and to automate the records for care provided for UAC while in OFO's custody.

The draft report contained 12 recommendations with which the Department concurs. Specifically, GAO recommended that the:

**Recommendation 1:** Secretary of Homeland Security direct the Commissioner of CBP to develop and implement TVPRA training for OFO officers at airports who have substantive contact with UAC.



**Response:** Concur. OFO, in consultation with CBP's Office of Chief Counsel, will devise TVPRA training, outlining special rules to identify and screen UAC. The training will emphasize the importance of: (1) properly identifying a juvenile as a UAC, (2) processing steps for a UAC and, (3) if the UAC is from a contiguous country, when that UAC may be permitted to withdraw his or her application for admission and return. TVPRA training will further address the notification timeline, transfer to HHS and proper recording of previously stated factors and the overall care given to the UAC. Estimated Completion Date (ECD): March 31, 2016.

**Recommendation 2:** Secretary of Homeland Security direct the Commissioner of CBP to revise the Form 93 to include indicators or questions that agents and officers should ask UAC to better assess (1) a child's ability to make an independent decision to withdraw his or her application for admission to the United States, and (2) credible evidence of the child's risk of being trafficked if returned to his or her country of nationality.

**Response:** Concur. CBP agrees that examination of the Form 93 as a screening tool is appropriate. CBP has established a Screening Working Group which will lead the effort to review and revise elements of TVPRA-related questions to better assess a child's ability to make decisions and the risk of being trafficked if returned, as appropriate. The Working Group includes representatives from CBP's USBP, OFO, Office of the Commissioner, Office of Administration, and Office of Training and Development. In addition, the DHS Office of Policy and the Office for Civil Rights and Civil Liberties will provide support in developing these reforms. ECD: April 30, 2016.

**Recommendation 3:** Secretary of Homeland Security direct the Commissioner of CBP to provide guidance to Border Patrol agents and OFO officers that clarifies how they are to implement the TVPRA requirement to transfer to HHS all Mexican UAC who have fear of returning to Mexico owing to a credible fear of persecution.

**Response:** Concur. On November 26, 2014, the Chief of the U.S. Border Patrol issued a memorandum, *Muster Module about Credible Fear Determination*, which included reminders to agents on UAC Credible Fear Determination. USBP will issue further guidance to field personnel emphasizing TVPRA transfer procedures for Mexican UAC who have fear of returning to Mexico owing to a credible fear of persecution. The guidance will remind USBP agents to treat each UAC case as a unique encounter to be processed based on the facts presented, to refrain from making assumptions and to ensure that all appropriate information is gathered regarding any claim of fear.

OFO will also issue further guidance to field personnel emphasizing TVPRA transfer procedures regarding Mexican UAC who have fear of returning to Mexico owing to a credible fear of persecution. The guidance will remind CBPOs to treat each UAC case as a unique encounter to be processed based on the facts of the case presented, to refrain

from making assumptions and to ensure that all appropriate information is gathered regarding any claim of fear. ECD: December 31, 2015.

**Recommendation 4:** Secretary of Homeland Security direct the Commissioner of CBP to develop and implement guidance on how Border Patrol agents and OFO officers are to implement the TVPRA requirement to transfer to HHS all Canadian and Mexican UAC who are victims of a severe form of trafficking in persons.

**Response:** Concur. USBP will issue additional guidance to the field clarifying TVPRA transfer procedures for UAC who are nationals or habitual residents of Canada and Mexico who are victims of a severe form of trafficking in persons. Also, OFO will issue further guidance to the field stressing TVPRA transfer procedures for UAC who are nationals or habitual residents of Canada or Mexico who are victims of a severe form of trafficking in persons. ECD: December 31, 2015.

**Recommendation 5:** Secretary of Homeland Security direct the Commissioner of CBP to ensure that Border Patrol agents document the basis for their decisions when assessing screening criteria related to (1) an unaccompanied alien child's ability to make an independent decision to withdraw his or her application for admission to the United States, and (2) whether UAC are victims of a severe form of trafficking in persons.

**Response:** Concur. Although USBP has the authority to allow aliens to withdraw applications for admission, agents typically do not exercise that option outside of the UAC context. Nevertheless, CBP will explore adding a mechanism in the e3 System of Record to document an unaccompanied alien child's ability to make an independent decision. The UAC's ability to make an independent decision is currently captured in the CBP Form 93, and CBP will examine this issue as part of its evaluation of the Form 93 (see response to Recommendation 2). ECD: March 31, 2016.

**Recommendation 6:** Secretary of Homeland Security direct the Commissioner of CBP to determine which agents and officers who have substantive contact with UAC, complete the annual UAC training, and ensure that they do so, as required.

**Response:** Concur. In a March 14, 2011 memorandum titled "*Required Training-Human Trafficking Awareness and Unaccompanied Alien Children Training*," the Chief of the U.S. Border Patrol directed all Chief Patrol Agents and Division Chiefs to ensure that all USBP agents under their supervision complete the required training, the *Flores v. Reno*/TVPRA course, and verify that the completion data was entered into the Training Records and Enrollment Network (TRAEN) under Course Number 079042. USBP Headquarters' training staff will monitor training completion progress nationwide by querying and reviewing TRAEN II reports quarterly. The staff will then coordinate with sectors to advance training completion rates to 100 percent by the year's end.

Headquarters' training staff commenced querying and reviewing TRAEN II reports on June 30, 2015.

The March 14, 2011 memorandum will also be updated and reissued. Specifically, USBP Headquarters training staff will facilitate the creation of the updated memorandum from the Chief of the Border Patrol to agents and supervisors in the field. The memorandum will remind agents of the importance of the mandatory Human Trafficking Awareness Training and Unaccompanied Alien Children, *Flores v. Reno*/TVPRVA VLC course (TRAEN 079042), and prompt them to complete it annually. Headquarters training staff will work to distribute this memorandum to the field no later than July 31, 2015.

In addition, OFO will issue a reminder memorandum to all OFO CBPOs, who have or will expect to have substantive contact with UAC, to complete the mandatory annual UAC training. ECD: December 31, 2015.

**Recommendation 7:** Commissioner of CBP require that OFO officers record all care provided to UAC in an automated manner.

**Response:** Concur. OFO utilizes the Secured Integrated Government Mainframe Access (SIGMA) module to record certain actions taken during secondary inspections, which will include recording CBPO's record of care provided to UAC. SIGMA requires system changes in order to be able to record all appropriate care provided to UAC, and to track at the transactional and aggregate level for reporting purposes.

OFO will work with the CBP Office of Information and Technology (OIT), to make technological changes to SIGMA to enable it to record appropriate care information regarding each UAC. Upon completion of the technological changes in SIGMA, OFO will send a memorandum and training muster to the field requiring the use of SIGMA to record care provided to UAC. ECD: March 31, 2016.

**Recommendation 8:** Commissioner of CBP ensure that Border Patrol agents record care provided to UAC in Border Patrol's automated system, as required.

**Response:** Concur. USBP will do or already has done the following:

- (1) Remind sector chiefs that agents are required to record actions in the e3 Detention Module (e3DM).
- (2) Modified its processing system to eliminate errors in e3 identified by GAO's discovery of multiple duplications of actions within minutes of each other.
- (3) Finish creating the "Status Check" function in e3, which will indicate those subjects requiring an action to be performed, such as welfare checks, meals, etc.

Status Check will also provide enhanced accountability for UAC that are in custody for greater than 72 hours, and allow agents the ability to record information related to each UAC's time in custody.

- (4) Incorporate new internal controls. Including more UAC-specific audits in the Self Inspection Program that will be capable of generating periodic reports for verification of actions taken.

ECD: December 31, 2015.

**Recommendation 9:** Secretary of Homeland Security require OFO officers to record data in their automated system when UAC leave OFO custody in order to track the length of time UAC are in OFO custody.

**Response:** Concur. OFO utilizes SIGMA at CBP ports of entry to record certain actions taken during secondary inspections. OFO will update SIGMA to include recording when OFO determines a juvenile is a UAC, when the UAC is encountered, and when the UAC departs from OFO.

OFO will also work with CBP OIT to make technological changes to SIGMA. Upon completion of the technological changes in SIGMA, OFO will send a memorandum and training muster to the field directing the use of SIGMA to record the appropriate information.

ECD: March 31, 2016.

**Recommendation 10:** Secretary of Homeland Security require ICE officers to record accurate and reliable data in their automated system when UAC leave ICE custody in order to track the length of time UAC are in ICE custody.

**Response:** Concur. ICE Enforcement and Removal Operation's Juvenile and Family Residential Management Unit will develop field guidance on proper UAC book-in and book-out procedures that require officers to record date and time of custody movements within ICE's system of record. This guidance will specify timeframes for data entry.  
ECD: June 30, 2016.

**Recommendation 11:** Secretaries of Homeland Security and HHS jointly develop and implement a documented interagency process with clearly defined roles and responsibilities, as well as procedures to disseminate placement decisions, for all agencies involved in the referral and placement of UAC in HHS shelters.

**Response:** Concur. DHS' Office of Policy will convene a meeting with appropriate agency officials to initiate a plan for close coordination so that placement decisions are

tracked appropriately. Staff will work towards an institutionalized coordinating framework to ensure that problems, gaps, and contingencies are quickly identified and resolved. ECD: January 31, 2016.

**Recommendation 12:** Secretary of Homeland Security, in coordination with the Secretary of State, ensure that TVPRA requirements for these agreements are reflected in local repatriation arrangements as DHS renegotiates these arrangements with Mexico.

**Response:** Concur. Recognizing that the TVPRA requires practices that are in most cases currently being followed by both countries, and seeing the value of enshrining these best practices in the Local Repatriation Agreements (LRA), DHS' Office of Policy, working with the Department of State, has already begun working with the Government of Mexico on options for including additional and specific references to TVPRA requirements in the LRAs. That conversation is ongoing and the extent to which these proposals are accepted will be dependent on bi-national negotiations with Mexico. Times and locations for the repatriation of UAC are closely coordinated to ensure that UAC are turned over during agreed upon business hours to the appropriate representative of the Government of Mexico responsible for the care of the UAC to ensure that they are treated in a safe and humane manner.

It is important to note that U.S. officials are bound to operate within the U.S existing legal framework, to include the TVPRA, regardless of whether or not specific provisions of the TVPRA are referenced in the LRAs.

ECD: June 30, 2016.

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Sincerely,



Jim H. Crumpacker, CIA, CFE  
Director  
Departmental GAO-OIG Liaison Office

# Appendix VI: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation  
Washington, DC 20201

JUN 26 2015

Rebecca Gambler  
Director, Homeland Security and Justice  
U.S. Government Accountability Office  
441 G Street NW  
Washington, DC 20548

Dear Ms. Gambler:

Attached are comments on the U.S. Government Accountability Office's (GAO) report entitled, "*Unaccompanied Alien Children: Actions Needed to Ensure that Children Receive Required Care in DHS Custody*" (GAO-15-521SU).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

A handwritten signature in blue ink that reads "Jim R. Esquea".

Jim R. Esquea  
Assistant Secretary for Legislation

Attachment

**GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S (GAO) DRAFT REPORT ENTITLED: UNACCOMPANIED ALIEN CHILDREN: ACTIONS NEEDED TO ENSURE CHILDREN RECEIVE REQUIRED CARE IN DHS CUSTODY (GAO-15-521SU)**

The U.S. Department of Health and Human Services (HHS) appreciates the opportunity to review and comment on this draft report.

We appreciate GAO's recognition of the complexity of the systems needed to safely care for unaccompanied children (UC) across many federal agencies. HHS is committed to strengthening processes for communicating with our interagency counterparts, including the Department of Homeland Security (DHS) and Department of Justice, to ensure effective coordination of programmatic and policy issues related to the apprehension, shelter, and care of UC.

**GAO Recommendation**

To increase the efficiency and improve the accuracy of the interagency UC referral and placement process, we recommend that the Secretaries of Homeland Security and Health and Human Services jointly develop and implement a documented interagency process with clearly defined roles and responsibilities, as well as procedures to disseminate placement decisions, for all agencies involved in the referral and placement of UC in HHS shelters.

**HHS Response**

HHS concurs with this recommendation. HHS agrees that it is important to continue to strengthen lines of communication and collaboration with DHS and will fully support efforts to document the interagency process used in the UC referral and placement process.

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# Appendix VII: GAO Contact and Staff Acknowledgments

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## GAO Contact

Rebecca Gambler, at (202) 512-8777 or [GamblerR@gao.gov](mailto:GamblerR@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Kathryn Bernet (Assistant Director); Tracy Abdo; Katherine Blair; Chuck Bausell, Jr.; Frances Cook; Joseph E. Dewechter; Michele Fejfar; Eric Hauswirth; Paul Hobart; Susan Hsu; Catherine Hurley; Connor Kincaid; Sasan J. Najmi; and Janet Temko-Blinder made key contributions to this report.



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U.S. Government Accountability Office, 441 G Street NW, Room 7149  
Washington, DC 20548

