

November 21, 2022

The Honorable Alejandro Mayorkas  
Secretary of the Department of Homeland  
Security  
2707 Martin Luther King Jr Ave., SE  
Washington, D.C. 20528

The Honorable Xavier Becerra  
Secretary of Health and Human Services  
U.S. Department of Health & Human  
Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

**RE: Welcoming and Serving Unaccompanied Afghan Minors (UAMs)**

Dear Secretary Mayorkas and Secretary Becerra:

On behalf of 84 organizations, we write to urge you to strengthen the U.S. capacity to welcome and serve unaccompanied Afghan children and ensure they receive the services they need to thrive in their communities. Now is an important time to take every possible step to ensure that the Afghan children we relocated and resettled in the United States have a safe place to call home.

We urge (1) the Department of Homeland Security (DHS), Customs and Border Protection (CBP) to classify qualifying Afghan minors not previously classified as Unaccompanied Afghan Minors (UAM); and (2) the Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR) to ensure that regardless of classification, all Afghan children who qualify as UAMs are able to receive child welfare-centered post-release services for unaccompanied children and full legal representation. We also encourage the administration to work with Congress to ensure robust funding is available in the FY 2023 omnibus funding legislation and in the FY 2024 President's budget request to serve Afghan minors and unaccompanied children.

We appreciate that ORR and the CARE team have taken the important steps to ensure that qualifying Afghan minors who were not classified as UAMs can still benefit from the CARE family reunification process. However, Afghan minors who initially were not designated as UAMs, despite being under 18 and without a parent or guardian, deserve the chance to be classified correctly and [eligible for the same post-release services](#) as UAMs who receive ORR's services for unaccompanied children (UC).

Some Afghan minors were not designated as UAMs for various reasons upon arrival in the United States. For example, certain minors arrived who presented as an adult because of incorrect dates of birth on their Tazkiras, and CPS refused to engage with the case because their document indicated they were an adult. In those instances, age redetermination is possible for those who can obtain notarized letters from parents in Afghanistan or other documentation like client attestations, medical records, or other U.S. or Afghan-government issued identification. In other cases, some qualifying Afghan minors presented as accompanied, such as the child of an adult they traveled with, and then later clarified that the child is an extended family member, or a friend of the family. These cases have been identified by resettlement agencies providing Afghan Placement and Assistance (APA) program services or Office of Refugee Resettlement (ORR) benefits to the minors or the "family" they are living with. However, there are likely additional qualifying Afghan minors who have not been designated as UAMs who have not intersected with a local resettlement site. These Afghan minors who came to the U.S. in the care of an extended family member, family friend, or older sibling were originally assessed either on the Safe Havens or at port of entry by ORR's Federal Field Specialists, who

determined which children merited the designation of UAM based on specific, set criteria related to their relationship to any adults they may have been traveling with upon entry to the U.S. and their safety with them. However, both prior to and after the issuance of special guidance from ORR on UAM determination ([“Field Guidance #19”](#)), there was confusion and varying interpretations of said guidance, and as a result many of these Afghan minors were not designated as UAMs.

## 1. Importance of Child Welfare Lens for UAMs

We recognize that ORR has invested unprecedented resources into the Preferred Communities program to serve Afghan parolees who arrived pursuant to Operation Allies Welcome (OAW). We further recognize that even if not designated, qualifying Afghan minors remain eligible for ORR’s programs until March 31, 2023 or for the duration of their parole, whichever is longer. However, PC programs are not best situated to provide child welfare services.

Resettlement agencies do not necessarily have the expertise to provide child welfare services or have child welfare staff who can be present in the home. In addition, not all resettlement sites have PC programs who can provide intensive case management (ICM) for UAMs. Regardless of classification, it is important for ORR to infuse resources into resettlement agencies to provide wrap-around and child welfare services to qualifying Afghan minors and their families who request those services.

This is particularly important now that the Afghan Placement and Assistance (APA) program is winding down. As of October 1st, Afghan parolees are eligible to receive APA services if they arrived in the U.S. within the last 90 days or departed from the NCC within the last 90 days – whichever is later. Additionally, these individuals will only be able to receive virtual APA services and will not be able to receive in-person APA services. On January 1, 2023, Afghan parolees will no longer be eligible to receive APA services. This means that the only UAMs who will be able to receive APA services, beginning on October 1st, are those who arrived in the last 90 days or departed the NCC in the last 90 days. Further, qualifying Afghan minors not designated as UAMs are not in the PRS database, and many of them have experienced significant challenges in accessing the referral process for ICMs.

Given CBP’s authority in classifying and re-classifying minors as UAMs, we urge CBP to ensure unclassified qualifying Afghan minors are designated as UAMs as soon as possible, so that they are eligible for post-release services. We do not have a precise estimate of the number of unclassified qualifying Afghan minors, but IRC has seen close to 40 cases of qualifying Afghan minors not classified as UAMs, and CWS encountered a few cases where APA services were provided to an Afghan minor who had not been designated as a UAM but was found to be unaccompanied. Overall, we estimate that the number of unclassified qualifying Afghan minors is estimated to be in the hundreds; this is a comparatively low figure, compared to the number of UC in the ORR portal.

We appreciate ORR’s fiscal challenges in expanding post release services to 100% of the UC population. While the number of unclassified qualifying Afghan minors is estimated to be in the hundreds, even at an extremely high level of service provision, the budget outlay for ORR would be less than \$4 million (assuming ~300 unclassified qualifying Afghan minors around \$7,500 per child for cost of PRS).<sup>1</sup> This is a comparatively low figure, compared to the number of UCs in the

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<sup>1</sup> We estimated this cost based on ~\$2100-2200 for a high school aged UC in year 1, then \$1400-1650 for PRS for that child as long as they are under 18.

ORR portal and to the \$250 million that Congress directed specifically to PRS in the explanatory statement for the FY22 appropriations bill.

## **2. Importance of Full Legal Representation for UAMs**

We further recognize that ORR is investing robust funding in access to counsel for Afghan parolees through PC programs. However, much of this funding is going toward referrals and there are challenges in hiring more competent attorneys to provide representation. Classifying qualifying Afghan minors as UAMs would enable specialized children's legal service providers working under the HHS contract with the Vera Institute to provide full and competent legal representation.

Indeed, ORR has provided additional funding through the Preferred Communities grant. However, many unaccompanied Afghan children qualify for particular forms of relief, such as Special Immigrant Juvenile Status, which requires representation in state court by an attorney versed in state court proceedings and child welfare law. While the PC grant will enable many Afghan adults and families to access legal representation and ultimately receive full legal status in the US, Afghan children who arrived to the US on their own via OAW will require more specialized legal assistance than most PC awardees are able to provide.

## **3. Stories of Impacted Afghan minors**

Resettlement agencies and other providers have encountered Afghan minors, demonstrating the particular vulnerabilities that exist for this population and the urgent needs that arise in situations involving placement disruptions.

Case Example 1: During phase 1 of Operation Allies Welcome, three sibling UAMs<sup>2</sup> (designated "unaccompanied") were released to their 17-year-old elder brother from a safe haven (base). However, he was not in a position to take care of them (and did not want to). The family found a basement apartment (rented from a homeowner landlord) to rent on their own; they were paying for food and rent on their own from the 17-year-old brother's job. The 14- and 15-year-old girls were home alone most of the time; they were responsible for food shopping, cooking, laundry, etc. The homeowner renting the basement was going out of the country and did not want them there while she was away; as a result, a local service organization was trying to help them rent a room for the three weeks they could not be in their apartment. The children were very independent, attending school - but did not have any formal support outside their 17-year-old brother. Additional concerns arose when PRS workers got the sense that the girls felt unsafe with the brother. CPS was contacted and declined to intervene because there was no guardian to initiate proceedings against. Although the minors in this case were classified as UAMs, this case serves as a warning for what can happen if you are NOT classified correctly -- if they hadn't been designated as UAMs and in the ORR system, it's likely child welfare workers never would have encountered them.

Case Example 2: Minor S was not designated as a UAM at the safe haven and was released to his sister and brother-in-law. During the first several months, minor S's caregivers were frequently verbally fighting. Minor S witnessed intimate partner violence, and his mental health suffered. His family connected to virtual APA (VAPA) services over the phone, at which point the staff identified that there was a minor in the home. He confided in VAPA staff the mental health struggles he was facing, and his lack of connection to his community. The fights among his

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<sup>2</sup> One 14-year-old girl, one 15-year-old girl, and one 17-year-old boy.

sponsor and caregiver became more severe that eventually he decided he wanted to move out to live with his brother in another state. Because of the expertise of the IRC Post Release Services team in child protection, the VAPA team asked for support and the PRS staff intervened to speak with the brother and minor to ensure the move was safe for the minor. Although he was happy to move in with his brother, he still could not receive post release services once in Colorado due to his lack of being designated a UAM (this was verified on the UC portal) which was difficult for his brother since his brother also recently arrived from Afghanistan. Minor S could have benefited from PRS and having legal representation from an attorney who is funded to represent UC and UAMs. This cannot occur in both his previous and new placement because he did not receive this UAM designation.

Case Example 3: Minor traveled with a non-parental relative but initially presented as biological son at the military base. Upon arrival at their final destination, the minor presented as the nephew and then later as just a friend. There was a placement breakdown and the minor no longer lives with the non-parental relatives he traveled alongside; instead he lives with two adult Afghan males and shares a bedroom with one. A CPS investigation was opened when the placement breakdown initially occurred - but closed because the minor verbally reported he was an adult (all documentation states he is a minor). We've taken this case to PRM and ORR but have not received guidance since the minor is not currently classified as a UAM due to initially presenting as a biological child to the adult they traveled with. In these instances, CWS is providing guidance on how to handle the case, but the minor is not receiving other services they are entitled to receive like post-release services.

Case Example 4: A nine year old boy was separated from his family during the evacuation from Afghanistan. He entered the United States with his paternal uncle on 8/29/21 with admission class OAR. Due to a medical emergency, upon arrival in the U.S., the minor, his uncle, aunt, and cousin were rushed to the hospital, and the minor was never formally designated as a UAM. The minor is scared to return to Afghanistan and desperately wants to be reunified with his family who remain there. He is struggling to adjust without his parents and has sought psychiatric assistance. It is imperative that the boy have access to PRS and full legal representation.

Thank you for your attention to this urgent matter. Please contact Meredith Owen at [mowen@cwsglobal.org](mailto:mowen@cwsglobal.org) and Diana Hochman at [Diana.Hochman@rescue.org](mailto:Diana.Hochman@rescue.org) with any questions or to schedule an engagement to discuss.

Sincerely,

Afghan Evacuation and Resettlement Lawyers (AERL)  
Afghan Refugee Relief  
Asian Pacific American Labor Alliance, AFL-CIO  
Association of Wartime Allies  
Asylum Seeker Advocacy Project (ASAP)  
Austin Region Justice for Our Neighbors  
Bethany Christian Services  
Cache Refugee and Immigrant Connection  
CAIR-Washington  
Careprovider.org Foundation  
Center for Gender & Refugee Studies  
Central American Refugee Center (CARECEN - NY)  
Church World Service

Coalition for Humane Immigrant Rights (CHIRLA)  
Community Supported Film  
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces  
Conklin Immigration Law LLC  
Cooperative Baptist Fellowship  
Disciples Immigration Legal Counsel  
Dorcas International Institute of RI  
Dorothy Day House, Washington DC  
DRUM - Desis Rising Up & Moving  
East Bay Refugee and Immigrant Forum  
Ecumenical Ministries of Oregon (EMO)  
Fellowship Southwest  
Florence Immigrant & Refugee Rights Project  
Franciscan Action Network  
Franciscans for Justice  
Freedom Network USA  
Gutiérrez Berríos & Co.  
Haitian Bridge Alliance  
HIAS Pennsylvania  
HUMAN RIGHTS INITIATIVE OF NORTH TEXAS  
Immigrant Legal Advocacy Project  
Interfaith Welcome Coalition - San Antonio  
International Refugee Assistance Project (IRAP)  
International Rescue Committee  
Islamic Relief USA  
Japanese American Citizens League  
Jewish Council for Public Affairs  
JFCS East Bay  
Journey's End Refugee Services  
Just Neighbors Ministry  
Justice Action Center  
Justice in Motion  
Kids in Need of Defense  
Legal Aid Justice Center  
Lutheran Social Services of the National Capital Area (LSSNCA)  
Maryknoll Office for Global Concerns  
MetroWest Legal Services  
Michigan Immigrant Rights Center  
Migrant Center for Human Rights  
National Advocacy Center of the Sisters of the Good Shepherd  
National Immigrant Justice Center  
National Justice For Our Neighbors  
National Network for Immigrant and Refugee Rights  
National Partnership for New Americans  
Nooristan Foundation  
Northern Nevada International Center  
Oasis Legal Services  
Opening Doors  
Partnership for the Advancement of New Americans (PANA)  
Prime Counsel, PLLC  
Project Lifeline

Refugee & Immigrant Transitions  
Refugee Advocacy Lab  
Refugee Congress  
Sisters of Mercy of the Americas Justice Team  
Sisters of St. Francis of Perpetual Adoration Justice, Peace and Integrity of Creation  
Commission  
Sisters of St. Francis of Philadelphia  
Tahirih Justice Center  
The Advocates for Human Rights  
The Connecticut and Refugee and Immigrants  
United Church of Christ Justice and Local Church Ministries  
VECINA  
We Are All America  
Westchester Jewish Coalition for Immigration (WJCI)  
Wind of the Spirit Immigrant Resource Center  
With Honor Action  
Women for Afghan Women  
Women's Campaign International  
Women's Refugee Commission  
World Hazara Council USA  
Young Center for Immigrant Children's Rights