DEPORTATION SYSTEM FOR MINORS

**ICE/CBP Arrest**
- Vast majority of child apprehensions occur at the border.
- Internal apprehensions:
  - ICE may coordinate with local police, juvenile probation or detention officers;
  - Detainers: immigration hold while juvenile is completing sentence;
  - Denial of applications for immigration benefits.

**ICE/CBP Processing Station**
- At the border, CBP screens all children for fear of return/human trafficking.
  - If child is from a contiguous country (Mexico, Canada) and is determined not to be in need of protection, they are voluntarily returned.
  - Children from non-contiguous countries, e.g., Central America, are usually transferred to ORR custody.
- Both CBP & ICE must make a determination at arrest whether the child is “unaccompanied.”
  - Unaccompanied means a child who has no lawful imm status in the U.S., is under 18 years of age, & has no parent or legal guardian in the country present or available to provide care & physical custody.
  - If determined to be a UAC, the child must be transferred to ORR within 72 hours (as req’d by TVPRA).
- Charged with immigration violations.
- No counsel provided and if you have counsel, not typically allowed at this stage.
- Risk of losing right to hearing.
  - Pressured to sign documents giving up right to hearing.
- Consular assistance - Vienna Convention.

**Juvenile or Criminal Prosecution**
- Deportation process happens simultaneously or after prosecution/adjudication.

**Detention: ICE or ORR**
- Facilities can be federal, local/county, private.
  - Little is known about ICE facilities and they are generally secure.
  - ORR facilities include shelters, staff secure, secure, or therapeutic.
- Very little control over transfer.
- Juvenile delinquency, drugs, suspected gang affiliation, or any indication that minor is a flight risk increases likelihood of detention in secure setting.
- UACs should receive KYR and legal screening while detained.
- If child turns 18, will likely be transferred into ICE custody.

**Release**
- Process may happen concurrently w/ imm court.
- While in ORR custody, a parent, relative or friend fills out reunification packet and is approved or denied.
- Option of federal foster placement if no sponsor is identified and legal services provider confirms eligibility for imm relief.

**Immigration Court System**
- No right to counsel at the gov’t expense at Immigration Court or Appeals Court.
- Immigration Judge makes decision to deport and/or grant relief (lawful imm status), but USCIS has initial jurisdiction to consider Special Immigrant Juvenile Status (SIJS) and asylum applications.
- If granted voluntary departure, UAC not req’d to pay own return.
- Immigration Judge is DOJ employee.
- Appeal to Board of Immigration Appeals within 30 days.
  - Can be detained throughout appeal.

**Federal Courts**
- Circuit Courts of Appeal are extremely limited as to what immigration cases they can review.

**Detention Watch Network**
Adapted from Deportation 101 by Families for Freedom, National Immigration Project of the NLG, NYSDA Immigrant Defense Project, and Detention Watch Network (March 2007) Revised September 2014.

Immigrant Legal Resource Center
www.ilrc.org
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