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1 very little oversight and accountability where  
2 instances of abuse could occur with complete  
3 impunity because of the quick turnaround time that's  
4 occurring at the border.

5           And these children, they've got the right  
6 to make a phone call. They don't make the phone  
7 call necessarily to a lawyer. And they also have  
8 rights to relief from removal, including asylum and  
9 special immigrant juvenile protection. But it's  
10 another gaping black hole that we're just only  
11 starting to learn about because we've been really  
12 only focusing on the 8,000 children who are going  
13 through removal proceedings who are getting better  
14 access to pro bono counsel.

15           So I thank you very much and look forward  
16 to your questions.

17           CHAIRMAN WALTON: Thank you for your  
18 testimony.

19           Ms. Tosado, if -- Mr. Nugent seems to say  
20 it's pretty bleak for children.

21           MS. REBEKAH TOSADO: He does.

22           CHAIRMAN WALTON: Do you agree with him?

23           MS. REBEKAH TOSADO: Well, I would like to  
24 provide you some information on the role of our  
25 office and what DHS's continued role is in this

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1 area.

2 I want to emphasize that we have two main  
3 missions, and one includes providing proactive legal  
4 and policy advice to departmental components, which  
5 means a lot of times we need to -- our work needs to  
6 be informed by what you are seeing as the impact of  
7 policies and procedures on your clients.

8 So we urge you to bring concerns to us and  
9 to ICE directly. And, also, we have a mechanism to  
10 investigate and resolve complaints. And many of the  
11 issues that you discussed could be addressed through  
12 the complaint process.

13 So the area of unaccompanied minors,  
14 population of unaccompanied minors is one my office  
15 has been involved in.

16 You've already heard that the Homeland  
17 Security Act -- it transferred responsibility for  
18 care and protection of minors to ORR, which means  
19 Department of Homeland Security -- that's  
20 unaccompanied minors -- no longer has that  
21 responsibility for housing a majority of minors.  
22 There are some minors that we still do house in some  
23 of our facilities, as Mr. Nugent has mentioned.

24 The DHS responsibilities that we continue  
25 to have include apprehension of unaccompanied

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1 minors, their processing either at the ports of  
2 entry or at the processing stations, referring the  
3 cases to ORR, and managing the court cases,  
4 immigration cases.

5           Just to give you a little bit of an  
6 overview of how it happens, how the process works,  
7 Customs and border protection officers at the port  
8 of entry or the Border Patrol agents that are  
9 stationed along the border normally are the law  
10 enforcement officials that interact with  
11 unaccompanied minors. It could be ICE officers as  
12 well in the interior.

13           When an unaccompanied minor is apprehended,  
14 they are transported either to the processing  
15 station, unless it's at the port of entry, in which  
16 they're held there for a short period of time, or  
17 in -- at least for a transitional period.

18           As I think the two witnesses testified,  
19 they're not detention facilities. They're not meant  
20 to be detention facilities, and they don't provide  
21 the services that one would expect of detention  
22 facilities.

23           But there are some requirements that need  
24 to be met. The two things I wanted to mention is  
25 that minors are not placed with unrelated adults.

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1 That is a mandate, and that is something that is  
2 followed at the detention facilities.

3 In addition to that, minors are supervised  
4 by the CBP officers or the Border Patrol agents  
5 while they're in their custody.

6 Once the processing has been completed --  
7 or when the processing is about to take place, if  
8 there's an unaccompanied minor, the Border Patrol  
9 will call ICE, the coordinator, the juvenile  
10 coordinator to make contact with ORR and provide  
11 them information about the unaccompanied minor so  
12 that the -- so that a placement can be identified.

13 Once ORR enters into the process, a  
14 designation is made to transfer that minor to the  
15 ORR, either its facility -- in some cases it's  
16 foster care.

17 And the -- so at that point the ICE -- at  
18 that point the designation is made. The practice  
19 right now is for the DHS officials to transport that  
20 minor to ORR, whatever placement is available and  
21 made available by that agency.

22 ICE and NCBP both have policies and  
23 procedures in place that are aimed to ensure that  
24 unaccompanied minors are treated with, quote,  
25 dignity, respect, and special concern for their

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1 particular vulnerability as children, end quote, and  
2 that's from the agreement.

3 For a number of years ICE policy has been  
4 incorporated into a juvenile protocol manual which  
5 was first developed by the INS after the agreement.  
6 And that policy is in the process of being updated.

7 Chief of the Border Patrol, Aguilar, issued  
8 policy to the field which provides a great deal of  
9 guidance on how Border Patrol agents should handle  
10 unaccompanied minors that come into their  
11 short-term -- into the facilities for a short-term  
12 basis. And the memorandum affirms the procedures  
13 that require the Border Patrol to contact ICE so  
14 that ORR is notified immediately.

15 But it also states that unaccompanied  
16 minors will be processed expeditiously. And what's  
17 important here is that they are to be -- they have  
18 priority over all other aliens in custody and  
19 reiterates the need to comply with the agreement and  
20 for the standards for temporary hold rooms and  
21 requires that unaccompanied minors receive hot meals  
22 or three meals a day and be provided to access to  
23 snacks, milk, and juice during that short-term hold.

24 The memorandum states it is imperative that  
25 the guidance be adhered to and that unaccompanied

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1 minors be relocated to an ORR-approved facility as  
2 soon as possible.

3 Our office has been working with these two  
4 components within the department to improve  
5 conditions, detention for unaccompanied minors, and  
6 to expedite the transfer of these minors to ORR.

7 We've received some complaints and  
8 investigative complaints regarding treatment of  
9 unaccompanied minors. We have recently issued a  
10 final report on recommendations to ICE and Customs  
11 and border probation. This is an internal document  
12 we talked about before.

13 And our office will continue to work with  
14 the components and with ORR to monitor conditions  
15 and treatment of minors in DHS custody.

16 Thank you.

17 CHAIRMAN WALTON: The report, the internal  
18 report you just referenced, you're saying we would  
19 not be able to gain access to that?

20 MS. REBEKAH TOSADO: Well, sir, the way  
21 that our office carries out its responsibilities is  
22 to work with the components, to gain access to as  
23 much information as we can, and to provide a  
24 confidential report that is not released to the  
25 complainant.