



# Disability Rights

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F L O R I D A

## **Follow-up Monitoring Report**

### **Homestead Emergency Temporary Shelter for Unaccompanied Children**

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## Executive Summary

As Florida's Protection and Advocacy (P&A) System for individuals with disabilities, Disability Rights Florida (DRF) has federal authority to advocate for the protection of the rights of individuals with disabilities in the State of Florida including, but not limited to, individuals with mental illness and individuals with intellectual and developmental disabilities. This authority gives DRF access to public and private facilities in Florida that provide care or treatment to people with disabilities to monitor compliance by the facility with respect to the rights and safety of the residents.

Immigrant children who arrive at the U.S. border without an adult parent or guardian are placed in the custody of the Office of Refugee Resettlement (ORR), an agency of the U.S. Department of Health and Human Services (HHS).<sup>1</sup> Many of the children detained in ORR facilities have experienced significant trauma and may require appropriate mental health care for symptoms of anxiety, Post Traumatic Stress Disorder (PTSD), depression, sleep disturbances and other mental health conditions.

ORR contracts with Comprehensive Health Services (CHS), a private, for-profit corporation, to operate Homestead Emergency Temporary Shelter for Unaccompanied Children (Homestead) in Homestead, Florida. Homestead is ORR's largest shelter for immigrant children. Over the past year the population of the Homestead facility has expanded from 1200 to a high of 2300 immigrant boys and girls between the ages of 13 and 17.

DRF conducted monitoring visits to Homestead August 2018 and May 2019. Our report from the August 2018 visit noted serious concerns regarding overcrowding, length of stay, and related treatment issues. Those concerns prompted our second visit in May 2019 following media reports about ORR's plans to *double* the population of the Homestead facility. This report is based on our May 2019 monitoring.

On July 3, 2019, about six weeks after our visit, ORR stopped accepting additional children at Homestead. One month later, ORR announced the closure of Homestead and indicated that all remaining children had been transferred to other state licensed ORR facilities or released to a sponsor. However, Homestead facility is not permanently closed. ORR continues to contract with CHS and directed CHS to

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<sup>1</sup> Unaccompanied children are immigrant children who arrive at the U.S. border without an adult parent or guardian are placed in ORR custody.

maintain operating capacity to reopen Homestead if necessary. A recent media report indicates that ORR may reopen the facility as soon as October 2019.<sup>2</sup> It seems unusual that ORR would vacate Homestead just a few months after announcing a large expansion and authorizing CHS to increase capacity to more than 2000 immigrant children. ORR's intentions regarding Homestead going forward are unclear. DRF intends to continue to monitor the situation.

### **Summary of DRF's Findings and Recommendations (in bold)**

Homestead is not subject to State minimum square footage requirements, staffing requirements or other State minimum requirements designed for the health and welfare of children in other child care facilities. **ORR should eliminate the use of non-state licensed emergency temporary shelters.**

Although Homestead is deemed a "temporary" shelter, the average length of stay is about two months with some children held there for more than three months. Homestead is crowded, noisy, regimented and impersonal. Subjecting children to these conditions for months can exacerbate the trauma and mental health symptoms that many immigrant children are experiencing. **If children are to be housed in such facilities at all, ORR should strictly limit their length of stay to 20 days or less.**

There is uncertainty regarding how reports of abuse and sexual assault are reported and investigated at Homestead. Children are told they can report allegations of abuse to the State Abuse Hotline but the State has no jurisdiction to investigate such reports. **ORR should require CHS to enter into an agreement allowing State child protective services immediate access to the facility to investigate any report of abuse or assault at Homestead.**

ORR and CHS had no firm plan on how to evacuate well over a thousand children from Homestead in the case of a hurricane or other emergency. **ORR and CHS must immediately develop an emergency evacuation plan with the cooperation of the Miami Dade County Office of Emergency Management.**

Interviews with children do not correlate with the daily activities document provided to monitors. **ORR should conduct unannounced visits to Homestead to ensure that the activities listed are actually being provided.**

Some children may be continuing to be prescribed psychotropic medications unnecessarily. Whenever possible the goal should be to wean children from

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<sup>2</sup> Monique Madan, *Homestead detention center for immigrant children expected to reopen as soon as October*, Miami Herald, August 14, 2019. Available at <https://www.miamiherald.com/news/local/immigration/article233990032.html>

psychotropic medications and treat remaining symptoms through trauma informed care and psychosocial treatments. **ORR must ensure that Homestead and the other shelters appropriately monitor the continuing need for psychotropic medications and accurately report that information to the prescribing psychiatrist.**

Children are being treated with psychotropic medications based on questionable “informed consent.” The coercive nature of seeking “consent” from parents or guardians who may be thousands of miles away from their children in government detention undermines the concept of informed consent. Likewise utilizing CHS or ORR staff is inappropriate because they may have a number of competing interests that disqualify them from providing consent. **ORR should require Homestead to follow Florida law and obtain court authorization for treatment prior to administering medical or mental health care to minor children.**

ORR does not require mental health counselors at Homestead to be licensed in Florida. The lack of privacy during individual counseling sessions, especially sessions by Skype, undermines their effectiveness and was of particular concern to our monitoring team. **All mental health clinicians should be licensed or eligible for licensure. In addition, Homestead should take immediate steps to ensure that confidentiality and privacy is provided during all individual counseling sessions.**

ORR and CHS do not provide children individualized educational services. In addition, children at Homestead do not have access to special education screening or any specialized services pursuant to the Individuals with Disabilities Education Act (IDEA). **ORR and CHS should enter into an agreement with Miami Dade Public Schools for educational services including provision of services in accordance with the IDEA and Section 504 of the Federal Rehabilitation Act.**

## Introduction

The Office of Refugee Resettlement (ORR) is part of the U.S. Department of Health and Human Services (HHS). ORR is responsible for the care and placement of minor children referred to ORR by the Department of Homeland Security (DHS). ORR is “mandated by law” to place unaccompanied children “in the least restrictive setting that is in the best interest of the child.”<sup>3</sup>

Homestead was opened in February 2018 as a “influx care facility” (ICF) by ORR for minors crossing the border without their parents.<sup>4</sup> ORR contracted with the private corporation Comprehensive Health Services (CHS), a subsidiary of Caliburn, to operate Homestead. Unlike ORR’s “standard” shelters which are required to be state licensed, an ICF such as Homestead is not subject to State or local licensing standards or oversight. State requirements for child or foster care facilities regarding minimum staffing levels or minimum square footage for living space do not apply to Homestead. ORR requires influx care facilities to provide only basic standards of care such as appropriate food, clothing, housing, hygiene items and facilities and medical care.<sup>5</sup> ORR states that educational services and recreational/leisure activities are “encouraged” only “to the extent practicable.”<sup>6</sup>

This monitoring report is a supplement to the Report issued by Disability Rights Florida from our first monitoring visit to Homestead facility on August 29 and 30, 2018. You can view the original Homestead report issued by Disability Rights Florida [here](#). This supplemental report is based on DRF’s second monitoring visit to

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<sup>3</sup> ORR Policy Guide §1.2.1 “Placement Considerations.”

<https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>

<sup>4</sup> ORR gives this definition of “Influx Care Facility:” “A type of care provider facility that is opened to provide temporary emergency shelter and services for unaccompanied alien children during an influx or emergency. Influx care facilities may be opened on Federally owned or leased properties, in which case, the facility would not be subject to State or local licensing standards; or, at facilities otherwise exempted by the State licensing authority.” ORR Policy Guide, Guide to Terms,

<https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-guide-to-terms>

<sup>5</sup> ORR Policy Guide §1.7.6, “HPC and Influx Care Facility Services,”

<https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>

<sup>6</sup> This was emphasized recently when the administration threatened to withdraw educational recreational and legal services from children housed at Homestead. Monique Madan, *Trump administration to migrant kids: No more art, soccer, lawyers or school for you*,

Miami Herald, June 5, 2019. Available at:

<https://www.miamiherald.com/news/local/immigration/article231203923.html>

the Homestead facility on May 29, 2019. The DRF monitoring team for the May 2019 visit was the same team that monitored the facility in August 2018. The four-person monitoring team included Disability Rights Florida staff with significant experience monitoring facilities in Florida that provide care to individuals (including juveniles) with disabilities and members knowledgeable about the educational rights of children with disabilities. Two of the team members are fluent in Spanish.

## Access Issues

Even though ORR had allowed our visit to Homestead in August 2018, the agency questioned our authority as a P&A to monitor the facility when we requested our May 2019 monitoring visit. After a meeting between National Disabilities Rights Network<sup>7</sup> (NDRN) and ORR officials, ORR (without conceding our legal authority to monitor) permitted DRF's visit in "the best interest of the children" at the facility. ORR made it clear that our monitoring should be strictly limited to minor children with disabilities and that general information regarding census figures on gender, age, length of stay, and staff rosters or other requests that ORR considered "outside the scope of the visit" would not be provided. Although the staff at Homestead were generally helpful during our visit, it appears that ORR views P&A access narrowly and is reserving the right to deny future access at its discretion.

## Purpose of Monitoring Visit

The Homestead facility census at the time of our August 2018 visit was approximately 1250 children. At that time, we were told the maximum capacity of the facility was 1300. Our initial monitoring report cited serious concerns regarding overcrowding and related issues. In addition, although the facility is deemed a "temporary" shelter, the average length of stay at the time was about 70 days with some children we interviewed being there for more than three months.<sup>8</sup> Over the course of the next 8 months we learned through media reports that the census of the Homestead facility had grown by 1000 children, with plans to add another 1000

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<sup>7</sup> NDRN is the national membership organization for the federally mandated Protection and Advocacy (P&A) Systems. <http://www.ndrn.org>. NDRN negotiated an agreement with ORR in July 2018 to allow P&A access to ORR Care Facilities.

<sup>8</sup> ORR does not place a limit on the time a child can be housed at temporary emergency shelters like Homestead. Staff at the shelter told our team that the intent is to move children out in 30 days or less. However, our team during our August 2018 visit found children who had been housed at Homestead for more than three months. ORR considers four months to be an "extended stay" in ORR custody. Office of Refugee Resettlement, Children Entering the United States Unaccompanied, ORR Policy Guide § 1.4.3. <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>

children<sup>9</sup>. Based on our concerns from the August 2018 visit we determined that a follow up visit was necessary to reevaluate the care being provided to children with disabilities in light of the significant increase in the population.

Before the visit, DRF requested a list of youth identified by the facility as having “special needs,” disabilities, or medical or mental health needs.<sup>10</sup> When we arrived we were informed that only one child in the facility had been identified as “special needs” or receiving psychotropic medication.<sup>11</sup> We expressed surprise at this low number and asked about it. We were told by Janice Medina, Program Director for Homestead shelter, that four children meeting these criteria had just been transferred out of Homestead to other facilities. She also told us that Homestead is actively seeking transfer of such children to other facilities such as His House Children’s Home or the Msgr. Bryan Walsh Children’s Village, formerly known as Boys Town, in Miami.<sup>12</sup> While on site, we interviewed the one child identified by CHS as having “special needs” at Homestead.

The day after our visit to Homestead we visited another ORR facility in South Florida. While there, we identified six additional children with disabilities that had been transferred from Homestead to the other facility in the last 30-60 days. We interviewed these children about their experiences at Homestead and include their information in this report.

## Monitoring Visit

The monitoring visit began with a meeting with Director Medina who provided us with basic information regarding the current census of Homestead and provided an overview on how Homestead was managing the additional numbers of children. On the date of our May 2019 visit the census was approximately 2300 children. Director Medina told us there were plans for another 350 children to be admitted shortly. Homestead has expanded its facility by taking over and renovating a

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<sup>9</sup> Graham Kates, *Nation’s Largest Holding Facility for Migrant Children Expands Again*, CBS News, April 4, 2019. Available at <https://www.cbsnews.com/news/homestead-nations-largest-holding-facility-for-migrant-children-expands-again/>

<sup>10</sup> We made a similar request prior to our August 2018 visit and received a list of 23 children.

<sup>11</sup> ORR defines a “special needs minor” as: “an unaccompanied alien child whose mental and/or physical condition requires special services and treatment.” ORR Policy Guide, Guide to Terms, <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-guide-to-terms>

<sup>12</sup> These facilities are much smaller ORR contracted facilities in the South Florida Area. Unlike Homestead, they are licensed by the State of Florida.

vacated vocational center complex across the street from the original facility. The new buildings are referred to by staff as the “North Side” and the original buildings are the “South Side.”

Director Medina told us the average length of stay at Homestead was currently 52 days, down from 70 days. She attributed the decrease to several factors: increased number of case managers working to place children with sponsors; a change in ORR policy eliminating the need for fingerprinting of every member of a sponsor family; the facility and ORR transferring children who required additional services such as mental health services to other ORR facilities; and increased transfers of “category 4” children (those children without a known or viable sponsor family), who take longer to place in other ORR facilities.<sup>13</sup>

## Facility Tour

### North Side

The North Side houses children ages 16-17 and has approximately 1000 children. To accommodate the expansion on the North Side, CHS has converted several buildings that were once used for a vocational training program into sleeping and living areas for the children. These buildings were not originally constructed to be used as housing. CHS has converted the buildings to eight large open bay dormitories consisting of a large room with about 70 bunk beds (140 beds) each. The rows of bunks are just two to three feet apart and provide no privacy. Children told us the sleeping quarters are noisy even at night and several children reported difficulty sleeping in these settings. Shower and hygiene facilities are provided in adjacent air-conditioned tent structures. There are also large tents for a school area, a cafeteria and an intake area. At the time of our visit the outdoor recreation area on the North Side consisted of a large dirt and gravel area. We observed children playing soccer. CHS staff told us they were working on making a more suitable recreation area. We also observed construction/renovation of one of the buildings that we were told will house additional children as the facility expands.

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<sup>13</sup> ORR has grouped children into the following four categories based on their release options: **Category 1:** Parent or legal guardian (This includes qualifying step-parents that have legal or joint custody of the child or teen); **Category 2:** An immediate relative--a brother, sister, aunt, uncle, grandparent or first cousin. (This includes biological relatives, relatives through legal marriage, and half-siblings); **Category 3:** Other sponsor, such as distant relatives and unrelated adult individuals; **Category 4:** No sponsors identified.

ORR Policy Guide §2.2.1, “Identification of Qualified Sponsors,”  
<https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2>

Girls and boys are separated in the dorms, classrooms, cafeteria and recreation areas.

## **South Side**

The physical layout of the South Side is much the same as it was during our August 2018 visit. At the time of our May 2019 visit the census of the South Side was about 1300, the same as our August 2018 visit. However, the South Side now is limited to children from 13 to 15 years of age. The dormitories and sleeping area are the same, utilizing multiple bunk beds in dormitory rooms housing 24 children each or in large open bay dorms with row of bunk beds. It appears that the Cafeteria has been expanded with the addition of an air-conditioned tent.

## **Services**

### **Mental Health Services**

The information we received from Homestead indicates that children are provided individual counseling and group counseling each week. The therapy sessions we observed were held in large open rooms in the presence of other children. Cubicles were provided for each child but there was little or no privacy and children we interviewed stated that they could easily overhear each other. Some children did tell us that upon request some therapists were willing to meet with them in more private settings. However, it did not appear that this practice was uniformly applied or that all children were informed of this option.

The information from Homestead also stated that clinical group counseling sessions are led by a clinician for approximately 50 minutes and occur once a week. However, the children we interviewed who had received mental health services gave us conflicting reports on the frequency of the counseling services. One child reported receiving no group therapy sessions.

In our previous report we expressed concerns that the counseling and therapy services at the facility lacked the necessary frequency or intensity necessary to treat or identify the presence or symptoms of possible mental illness. These concerns stemmed from insufficient numbers of licensed therapists to provide treatment services and the lack of confidentiality and privacy that would allow children to openly discuss matters of concern. At our May 2019 visit Director Medina informed us that Homestead had greatly increased the number of therapists available to work with the children. Director Medina stated that there are 90 mental health therapists on site with another 45 therapists available for remote therapy sessions by Skype. As before, these therapists are not required by CHS or ORR to be licensed. Director Medina told us that 40-50 of the therapists are licensed although not necessarily in the state of Florida. We were also told that some of the

therapists are interns. There are 10 therapist supervisors who are required by CHS to have a license.<sup>14</sup>

Director Medina explained that the expansion of the number of therapists was in part the result of utilizing technology such as Skype which allows therapists to communicate with the children even though the therapist may be in another state. We observed children utilizing the Skype services for their individual therapy sessions. Children wore headphones and a microphone and were seated in small cubicles in front of a computer. As noted above, the room and cubicles provided little or no privacy during the counseling sessions. One child we interviewed recounted that he was speaking to his therapist regarding bullying he had endured as a result of his sexual orientation when another child in the booth next to him stood up and began questioning him.

Psychiatric medications are prescribed by a psychiatrist at Larkin Behavioral Health, the local community mental health provider. Children who may need medication are transported by Homestead to Larkin for appointments. Children told us that staff at Larkin attempt to contact their parents or guardians to obtain consent for the medications. Often the parents or guardians are in another country and have to be reached by phone. We did not have an opportunity to review any of the informed consent documents to determine how exactly this process takes place. It was our understanding that a representative of ORR or HHS provides consent in those cases when parents or guardians cannot be reached. Homestead does not follow the requirements of Florida state law for obtaining informed consent for minors in foster care or state custody<sup>15</sup>.

Most of the children we spoke with who were taking psychotropic medications did not know what medications they were being prescribed, the purpose of the medication or the symptoms the medication was intended to address. This was the case even for older children who otherwise appeared more than capable of understanding such matters.

Director Medina told us that children go through an initial assessment and are closely followed by staff to determine if there is a need for mental health services. Children needing such services are transferred to smaller facilities where greater supervision and care can be provided. However, we were also told that here have been "one or two" instances in which children have required emergency psychiatric

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<sup>14</sup> Director Medina told us there are 13 therapist supervisor positions of which 10 were filled.

<sup>15</sup> Florida law requires that if the parents' or guardians' legal rights have been terminated or if their identity or location is unknown, Children's Legal Services must file a motion seeking court authorization for the provision of psychotropic medication. Fla Stat. §39.407.

hospitalization pursuant to Florida’s civil commitment law. These children were then transferred from Homestead to other facilities. The fact that some children have required such hospitalization caused our team concern about the adequacy of the assessments and the capacity of staff to recognize symptoms of a child’s mental illness before the situation becomes a mental health crisis.<sup>16</sup>

## **Education**

The educational services provided at Homestead were much as they were during our August 2018 visit with the addition of a school tent on the North side. Classes are provided on both the North and South sides of the shelter. Each classroom has approximately 42-46 students, one to two teachers, and one or 2 Youth Care Workers (YCW) to assist. Male and female students are in separate classrooms. All classrooms have smart boards that the teachers use to instruct the students. Due to the size of the classrooms and the number of children, all classrooms we observed are overcrowded and loud.

The shelter does not follow Florida public school curriculum. Instead, CHS has developed its own curriculum with the guidance of their Director of Education, a former superintendent of a school district in Texas. Teachers are not required to be certified in Florida or any state but we were told that most teachers are certified.

As noted in our initial report, children attend school Monday – Friday for about six hours per day. The children are grouped into four levels based on age rather than academic achievement levels reflected through comprehensive educational testing or assessment. The levels are: Beginner (grades 1 to 5); Intermediate (grades 6 to 8); Advanced (grades 9 to 10); and Advanced Academics (grades 11 to 12). According to the information provided during our visit, the children are re-assessed about six to eight weeks after the initial assessment to determine whether they have made any progress and if they need to be moved on to a higher level. The teachers are encouraged by CHS to teach the students in English to the extent possible. They are given instruction on core academic subjects: reading, writing, math, science and social studies. A copy of the education assessment tool and curriculum was requested but has not been provided.

Homestead does not follow the requirements of the Individuals with Disabilities Education Act (IDEA)<sup>17</sup> and does not evaluate the children for the purposes of

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<sup>16</sup> DRF has asked to see the actual assessment instruments in use at Homestead. We have not yet received a response to our request.

<sup>17</sup> The Individuals with Disabilities Education Act (IDEA) is a law that makes available a free appropriate public education to eligible children with disabilities. The IDEA governs how states and

seeking whether they are a child with a disability eligible for special education services under the IDEA or eligible for educational supports under Section 504 of the Rehabilitation Act of 1973.<sup>18</sup> It seems highly likely that at least some of the children arriving at Homestead are eligible for services pursuant to the IDEA and Section 504, but Homestead does not provide any special education services. We were told by education staff that should a child display a need for more specific or intensive educational services, then they are transferred to a different facility, such as His House Children's Home or the Msgr. Bryan Walsh Children's Village, where they can access a smaller setting.<sup>19</sup>

### **Case Management**

In our report on our August 2018 visit we noted complaints by children about the high rate of turnover of case managers. We did not hear those complaints during our May 2019 visit. Director Medina reported that Homestead has been working hard to recruit and keep case managers. Part of this effort included utilizing off site case managers. These case managers meet with child clients remotely through the use of Skype. Most children reported meeting with their case managers once a week for 10-15 minutes.

### **Telephone Access**

Children stated they have access to phones twice per week to speak with family members and are limited to ten minutes per call. These calls are usually made from a case manager's office under their supervision. Children do not have privacy during the phone calls.

Phones with direct lines to consulates and abuse hotlines are located in common areas near dorms and classrooms. There is no privacy for children using these phones. The numbers for the "UC Sex Abuse Hotline" and the Florida Abuse Hotline are posted at these phones.<sup>20</sup> However, we later learned through a media report that the Florida Abuse Hotline and the Florida Department of Children and Families

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public agencies provide early intervention, special education, and related services.  
<https://sites.ed.gov/idea/about-idea/>

<sup>18</sup> Section 504 is a civil rights law that prohibits discrimination against individuals with disabilities. Section 504 ensures that the child with a disability has equal **access** to an education. The child may receive accommodations and modifications.

<sup>19</sup> Educational services at these facilities are provided by their local public school districts.

<sup>20</sup> The UC (Unaccompanied Children) Sexual Abuse Hotline reports, as appropriate, any allegations received directly from any child or third party to State Child Protective Services (CPS), local law enforcement, and HHS. HHS forwards each Hotline report to the appropriate care provider, who ensures that all children and youth are safe and provided with appropriate services and that all required reports have been submitted. <https://grijalva.house.gov/uploads/Hotline.pdf>

(DCF), the agency that conducts abuse and child protective services investigations, does not have jurisdiction to conduct investigations at the Homestead facility because it is a federal facility on federal land.<sup>21</sup>

### **Sibling Separations**

Siblings are separated by age and gender and are not permitted daily contact with each other. Siblings are only allowed contact under supervision of CHS staff. According to information provided by CHS all siblings have lunch together on Fridays, Saturdays, Sundays, and Mondays to accommodate them having leisure, unstructured time together. Director Medina told us that siblings also have a separate clinical group on Tuesdays in which they are allowed to speak, hug or touch in appropriate manners, under the supervision of clinical and YCW staff.

### **Emergency/Hurricane Preparedness**

Our visit took place two days before the start of the hurricane season.<sup>22</sup> We asked Director Medina about an evacuation plan in case of emergency such as a hurricane. She stated there is a plan being developed by ORR/CHS but they have not yet seen a written plan. Staff told our team that all children would be safely evacuated via train, bus, plane. We requested a plan on how the facility would carry out the evacuation of over 2000 children in the event of a hurricane. We followed up on this request by email to CHS and ORR on July 18, 2019 and have not received a response from either entity. News reports on this subject since our visit indicate that the population of Homestead was reduced to about 1200 because of the concern about the facility's ability to evacuate in the case of an emergency.<sup>23</sup>

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<sup>21</sup> In a June 2019 news report, a DCF spokesperson stated that "DCF does not have jurisdiction to conduct child protective investigations at [Homestead] federal facility. The DCF representative also stated that "The Homestead facility has discretion to allow DCF to conduct child protective investigations as we do not have jurisdiction." <https://www.wlrn.org/post/seventh-sex-abuse-allegation-homestead-children-migrant-shelter-surfaces>

<sup>22</sup> The Atlantic hurricane season runs from June 1 through November 30. However, it is not unusual for Florida to have off season tropical storms or even hurricanes in late April or May. Thus, emergency preparedness is nearly a year round necessity in South Florida.

<sup>23</sup> Monique O. Mandan, *Homestead immigrant detention center moves kids out to prepare for hurricane season*, Miami Herald, July 13, 2019, available at <https://www.miamiherald.com/news/local/immigration/article232586302.html>

## Concerns and Recommendations

### **Overcrowding and Related Problems**

As an influx care facility ORR does not require that Homestead comply with State or local licensing standards or oversight. State requirements for child or foster care facilities regarding minimum staffing levels or minimum square footage for living space do not apply to Homestead. ORR's standards are not sufficient to protect children from overcrowded conditions or to ensure that children with disabilities will be identified and appropriately cared for while at Homestead.

### **Recommendation**

ORR should eliminate the use of non-state licensed emergency temporary shelters.

### **Length of Stay**

As an ICF Homestead is not designed or intended to provide the full range of services as standard shelters. However, children are housed at Homestead for about the same length of stay as they are in standard shelters. In addition, standard shelters are typically much smaller than Homestead. Thus, DRF has extreme concerns about the length of stay of children, especially children with disabilities. Homestead is crowded, noisy, regimented and impersonal. Subjecting children to these conditions for months can exacerbate the trauma and mental health symptoms that many immigrant children are going through.

### **Recommendation**

If children are to be housed in facilities like Homestead at all, ORR should strictly limit their length of stay to 20 days or less.

### **Abuse Reporting**

The two numbers provided to youth for reporting physical or sexual abuse were the UC Sex Abuse Hotline, set up by ORR, and the Florida Abuse Hotline, operated by DCF. After our monitoring visit we did additional research on the UC Sex Abuse Hotline. Based on information published by ORR, the main function of the UC Hotline is to report allegations to local law enforcement and local child protective services in addition to ORR. In addition, after our visit a team member contacted the UC Sex Abuse Hotline to ask about the services that would be provided should a child report abuse. Our team member was told by the Hotline operator that children are told to report allegations to their case manager at the facility. DRF believes that referring the reporting child to officials at the facility where the abuse occurred is inappropriate. The child may not follow up due to fear of retaliation.

We also learned from media reports after our monitoring that there is serious doubt as to whether local law enforcement or DCF's child protective services investigators have jurisdiction to investigate allegations of abuse or sexual assault at Homestead because it is a federal facility located on federal property.<sup>24</sup> Therefore, referrals to state and local law enforcement or child protective services may be ineffective. It is unacceptable that there should be any doubt as to which governmental entity is responsible for receiving reports of abuse or sexual assault and conducting timely and appropriate investigations into those reports.

### **Recommendation**

ORR should take immediate steps to clarify how reports of abuse and sexual assault are to be reported and investigated when the child is in a federal facility such as Homestead. One possibility is that the contractor, such as CHS, should be required to enter into a memorandum of understanding or other agreement with State child protective services to allow state investigators to have immediate access to the facility to investigate any report of abuse or sexual assault.

### **Activities**

Interviews with children do not correlate with the daily activities document provided to monitors. For example, the activities document indicates that children are given 30 minutes to eat lunch. The children we interviewed uniformly reported that they only had 10 minutes to eat and they often did not have enough time to eat their food. In addition, the daily schedule of activities for Homestead given to us at the facility lists "vocational school" as an activity for children. However, the children we interviewed stated this did not take place.

### **Recommendation**

ORR should conduct unannounced visits to Homestead to ensure that the activities listed are actually being provided.

### **Emergency Preparedness**

During our visit we asked about plans to evacuate children from Homestead Shelter in the event of a hurricane. Many of the structures at Homestead that are critical to its daily operation (for example, shower and toilet facilities for some of the buildings converted to dormitories) are tent-like temporary structures that would likely not survive even a minimal hurricane. We were told that the residents would be evacuated from the facility but were given no specifics on how such an evacuation would be carried out, and facility staff acknowledged they do not have a

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<sup>24</sup> <https://floridapolitics.com/archives/291418-state-probed-abuse-claims-at-child-migrant-shelter>

written plan. Even at the reported reduced population, evacuating 1200 children from the facility with only a few days' notice would be extremely difficult and requires significant advance planning. As noted, we have requested but not yet received an actual plan for evacuating the facility in the event of a hurricane.

### **Recommendation**

Homestead should create an emergency evacuation plan as soon as possible and seek feedback on the suitability of such a plan from key stakeholders and experts, such as ORR and the Miami Dade County Office of Emergency Management

### **Mental Health Services**

After interviewing six children who were currently receiving psychotropic medications, we are concerned about the practices regarding prescription and continuation of psychotropic medications. These children told us that psychotropic medications were prescribed when they initially arrived at Homestead because they were having difficulty adjusting to their surroundings or sleeping.<sup>25</sup> Several reported that they continued with the medications even after the symptoms had stopped. It appeared that in several instances the medications were prescribed for situational depression and anxiety (adjustment disorder with depressed mood). In such cases the goal should be to wean children from psychotropic medications and treat remaining symptoms through psychosocial therapy. We did not see evidence that this was being attempted.

### **Recommendation**

Psychotropic medications should be used as sparingly as possible on children and their use should be reduced or stopped as soon as it is clinically appropriate. Homestead and the other shelters must appropriately monitor the continuing need for these medications and accurately report that information to the prescribing psychiatrist.

### **Informed Consent**

Children in the custody of the government receiving any type of medication must have the consent of a caregiver who is familiar with the child's needs, the medications being prescribed and the intended impact/clinical outcomes of the specific treatment. The caregiver must also be independent and make decisions based only on the best interest of the child. The coercive nature of seeking "consent" from parents or guardians of minor children in government detention undermines the concept of informed consent. Likewise utilizing CHS or ORR staff is

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<sup>25</sup> Some of these children have been prescribed antidepressants which carry with them warnings regarding their use on adolescent or teenaged children.

inappropriate because they may have a number of competing interests that disqualify them from providing consent.

### **Recommendation**

ORR should require Homestead to follow Florida Statute Section 39.407 and obtain a court order authorizing the administration of prescribed medication prior to administering medical or mental health care in any situation other than an emergency.

### **Individual Counseling Services**

ORR does not require mental health counselors at Homestead to be licensed in Florida. This raises concerns regarding the quality and effectiveness of the counseling sessions. Homestead has increased the number of counselors available to children by including the use of remote counseling by Skype. However, the lack of privacy during individual counseling sessions, especially sessions by Skype, undermines their effectiveness and was of particular concern to the Team.

### **Recommendation**

All mental health clinicians should be licensed or eligible for licensure. In addition, Homestead should take immediate steps to ensure that confidentiality and privacy is provided during all individual counseling sessions.

### **Education**

Educational services are not individualized to students' needs. The children are grouped into educational levels without comprehensive educational testing or assessment. In addition, children at Homestead do not have access to special education screening or any specialized services pursuant to the IDEA and Section 504. Many children are at Homestead for two months or more, which would allow time to conduct educational assessments and start services.

### **Recommendation**

ORR and CHS should enter into an agreement with Miami Dade Public Schools for educational services including provision of services in accordance with the IDEA and Section 504.<sup>26</sup>

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<sup>26</sup> The superintendent of the Miami-Dade County public school system has publicly indicated a willingness to provide educational services to the children at Homestead. Colleen Wright, *Miami schools chief: Why didn't feds tell us about immigrant children in Homestead?* Miami Herald June 20, 2018, available at <https://www.miamiherald.com/news/local/education/article213515364.html>

## Addendum and Next Steps

On July 3, 2019 ORR stopped accepting additional children at Homestead. One month later, according to ORR, all children at Homestead had been reunited with an appropriate sponsor or transferred to an ORR facility that was state licensed.<sup>27</sup> It is not clear how ORR managed to vacate Homestead in the space of 30 days or where the children from Homestead were transferred to.

However, Homestead facility is not permanently closed. ORR continues to contract with CHS and directed CHS to maintain operating capacity to reopen Homestead if necessary. A recent news article reported that ORR may reopen Homestead facility as soon as October 2019.<sup>28</sup> When ORR closed the facility in August 2019, CHS laid off more than 1000 workers from Homestead. Reopening the facility in October raises serious questions about CHS's capacity to hire and retain quality staff at the facility. It seems unusual that ORR would vacate Homestead just a few months after announcing a large expansion and authorizing CHS to increase capacity to more than 2000 immigrant children. ORR's decision-making and intentions regarding Homestead seem questionable. DRF intends to continue to monitor the situation.

In the meantime, DRF has identified three other "standard" ORR shelters in the South Florida area. These shelters have the combined capacity to house close to 400 immigrant children. DRF has begun monitoring these facilities and will continue to do so to ensure that the rights of children with disabilities housed at Florida-based ORR facilities are protected.

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<sup>27</sup>ORR Fact Sheet, *Unaccompanied Alien Children sheltered at Homestead Job Corps Site, Homestead, Florida, August 6, 2019*, <https://www.hhs.gov/programs/social-services/unaccompanied-alien-children/homestead-job-corps-site-fact-sheet/index.html>

<sup>28</sup> Monique Madan, *Homestead detention center for immigrant children expected to reopen as soon as October*, *Miami Herald*, August 14, 2019. Available at <https://www.miamiherald.com/news/local/immigration/article233990032.html>