

Unaccompanied Children in the United States

**Training for Justice AmeriCorps
through EOIR Office of Legal Access Programs**

Presented by:

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The Young Center for Immigrant Children's Rights

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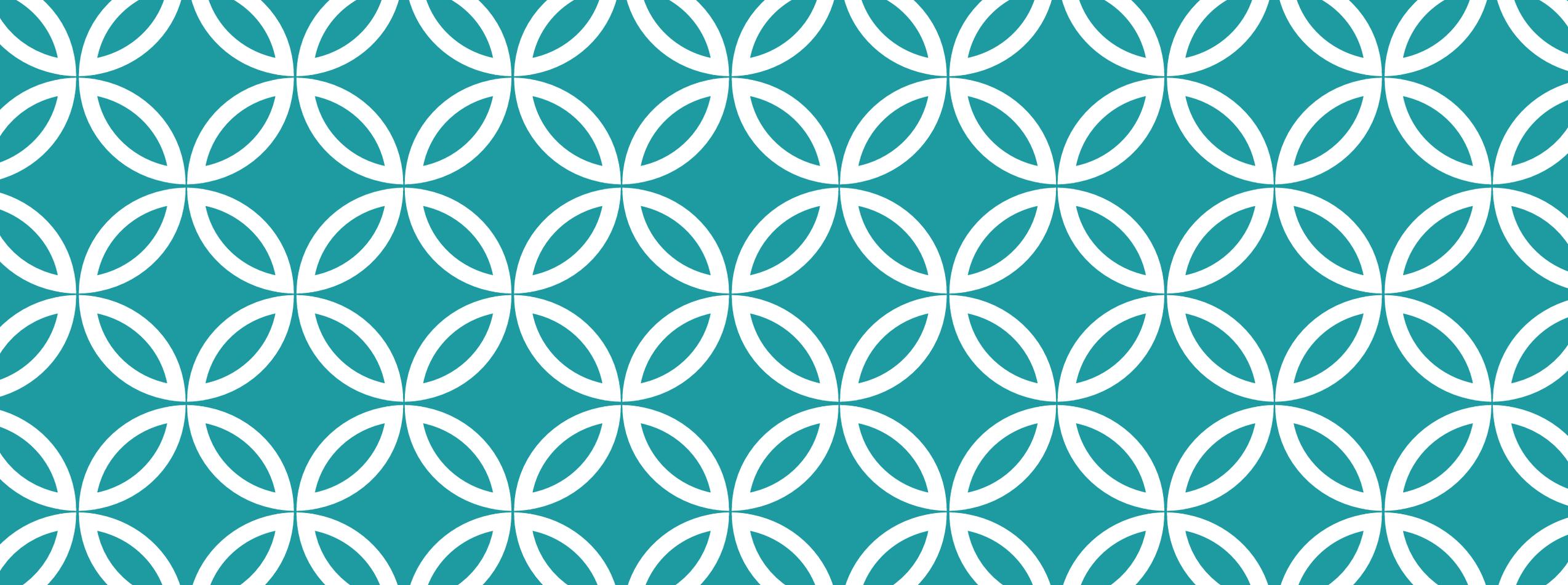
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INTRODUCTION

- ❖ Part One: The Flow of Children Through the Immigration System
- ❖ Part Two: Contact with Other Stakeholders
- ❖ Part Three: Post-Release



THE FLOW OF CHILDREN THROUGH THE IMMIGRATION SYSTEM

The Apprehension of
Unaccompanied Children

DEFINITION OF AN UNACCOMPANIED IMMIGRANT CHILD

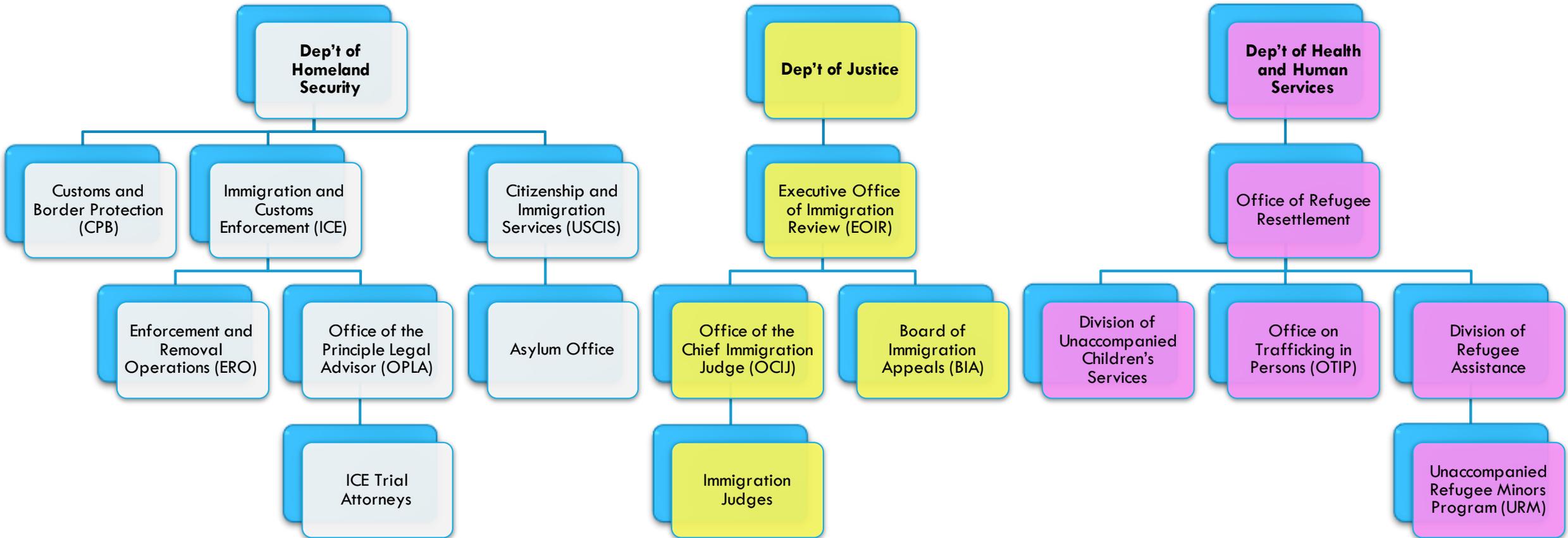
Under 18 years of age

No lawful immigration status in the U.S.

No parent or legal guardian in the U.S. available to provide care and physical custody

6. U.S.C. §279(g)(2)

Key Government Agencies



TYPES OF APPREHENSIONS MADE BY DHS

Internal Apprehensions

ICE apprehensions

- Through law enforcement or anti-trafficking enforcement
- Through juvenile delinquency proceedings

Border Apprehensions

CBP or ICE apprehensions

- At the northern or southern border
- Port of entry
- Airports
- Vast majority of children apprehended this way

CBP APPREHENSION STATISTICS – UNACCOMPANIED CHILDREN

Sector	Fiscal Year 2014	Fiscal Year 2015	% Change □
Big Bend Sector	244	839	228%
Del Rio Sector	3,147	2,285	-30%
El Centro Sector	612	668	1%
El Paso Sector	945	1,662	52%
Laredo Sector	3,627	2,459	-35%
Rio Grande Sector	48,468	23,864	-52%
San Diego Sector	875	1,084	14%
Tucson Sector	7,869	6,019	-27%
Yuma Sector	328	1,090	211%
Southwest Border Total	66,115	39,970	-42%

INITIAL APPREHENSION AND SCREENING BY DHS

Children from Contiguous Countries (Mexico and Canada)

Screened by DHS to determine:

- If child is unable to make independent decision; or
- If child is a victim of trafficking; or
- If child fears persecution in his/her home country

If so: DHS deems child as unaccompanied

If not: DHS will immediately send child back
(voluntary return)

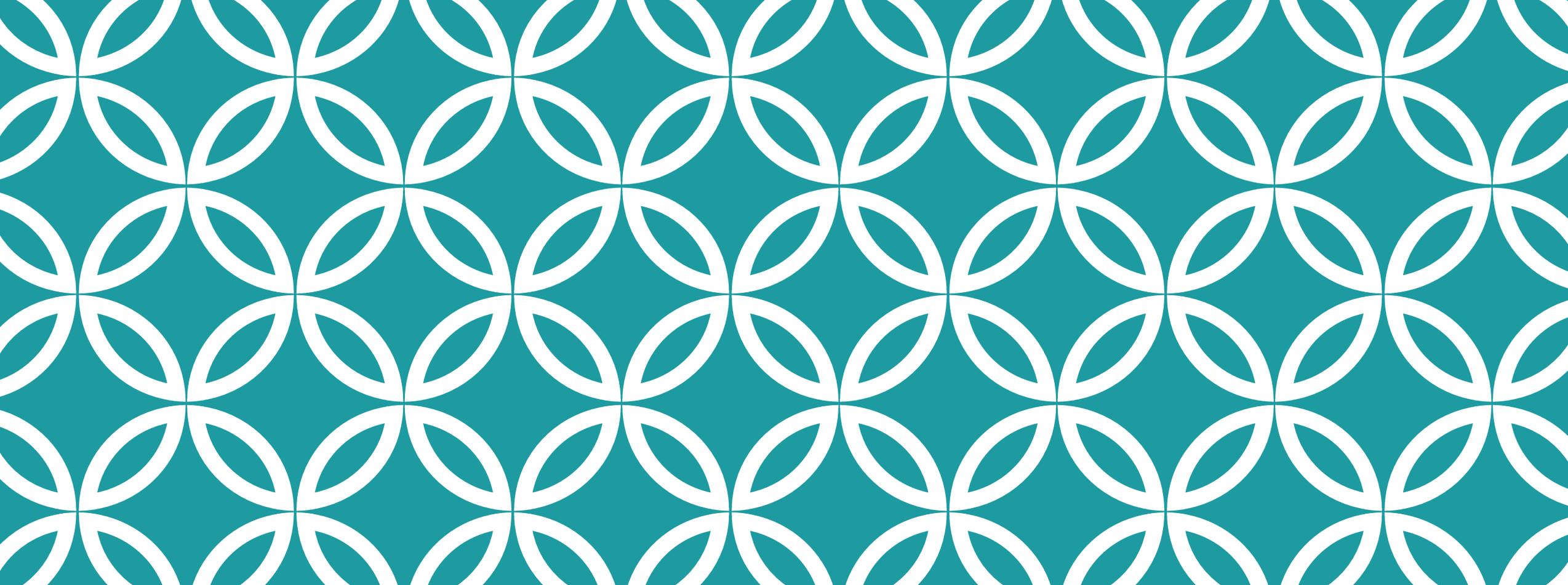
DHS has 48 hours to make this determination

Children from Non-contiguous Countries (Rest of the World)

Screened by DHS to determine if child
fits the statutory definition of an
unaccompanied child



CBP SCREENING



CARE & CUSTODY OF UNACCOMPANIED IMMIGRANT CHILDREN

Unaccompanied Children and
the Office of Refugee
Resettlement

FLORES SETTLEMENT AGREEMENT

- In 1985, two non-governmental organizations filed a class action suit on behalf of immigrant children against the Immigration and Naturalization Service (INS).
- In 1997, the parties reached a settlement agreement which dictated:
 - Children must be placed in the least restrictive setting
 - Sets standards for the treatment of children
 - Education
 - Medical and Dental Care
 - Counseling
 - Right to Privacy
 - Legal Services
 - Freedom of Religion
- The government is required to release unaccompanied children from immigration custody without unnecessary delay

TRANSFER TO THE CUSTODY OF THE OFFICE OF REFUGEE RESETTLEMENT (ORR)

- ICE Juvenile Coordinator contacts ORR; ORR determines appropriate placement for unaccompanied child based on the child's age, gender, medical & psychological needs, as well as trauma history.
- Transfer from DHS to ORR custody must occur within 72 hours.

TYPES OF ORR PLACEMENTS FOR UNACCOMPANIED CHILDREN

- Pursuant to the Flores Settlement Agreement and the TVPRA, unaccompanied children must be placed in the **least restrictive setting**.
- Types of beds available (least restrictive to most restrictive)
 - Transitional Foster Care (aka short-term foster care)
 - Shelter (vast majority of beds)
 - Residential Treatment Center
 - Staff-Secure
 - Secure

SERVICES PROVIDED TO CHILDREN IN ORR CARE

- Case Management services to facilitate the reunification process (documented in ORR file)
- Clinician for individual counseling (documented in ORR file)
- Group counseling (documented in ORR file)
- Educational services
- Recreation
- Medical and Dental
- Legal Services
- Child Advocate services

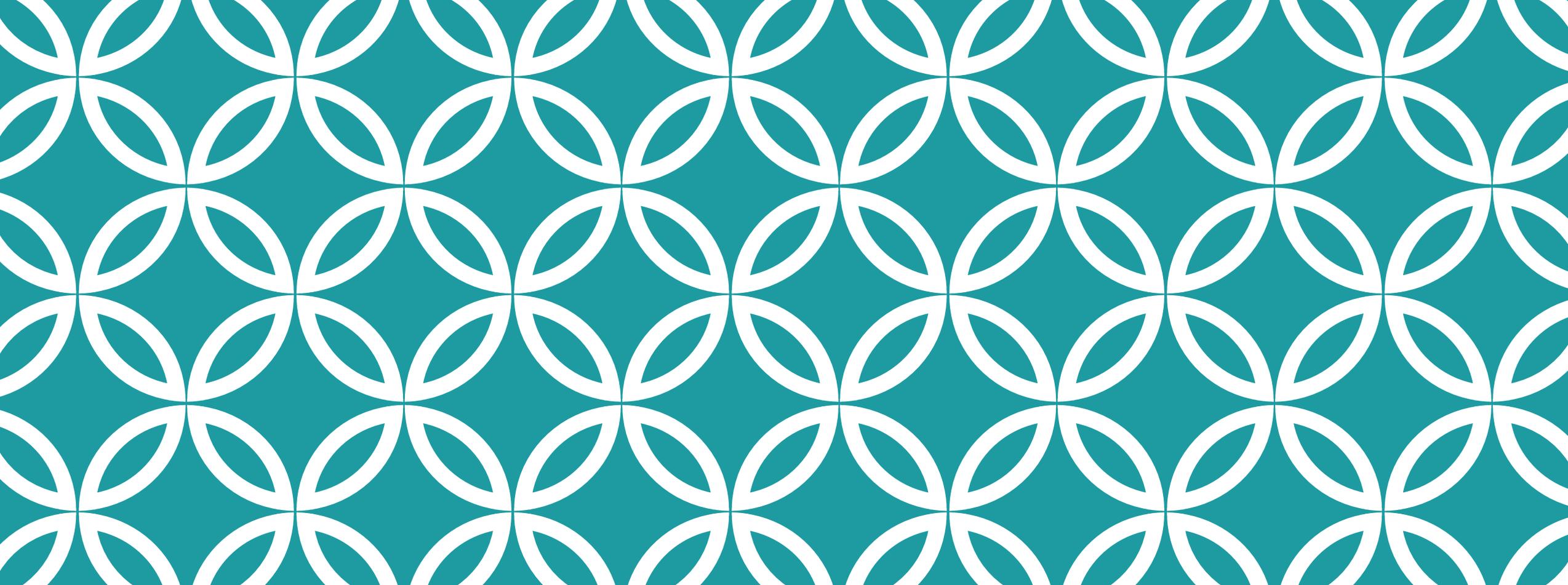
ORR REUNIFICATION PROCESS

- All sponsors must undergo a variety of background checks based on their category status
- Types of background checks for sponsors:
 - Public Records Check
 - Immigration Status Check
 - National (FBI) criminal history check
 - FBI Identification Index
 - Child Abuse and Neglect check (CA/N)
 - State Criminal History Repository Check and/or Local Police Check
- Some sponsors undergo home studies
- Recommendation made by case manager, home study worker (if applicable) GDIT 3rd party reviewer, FFS, possibly ORR headquarters



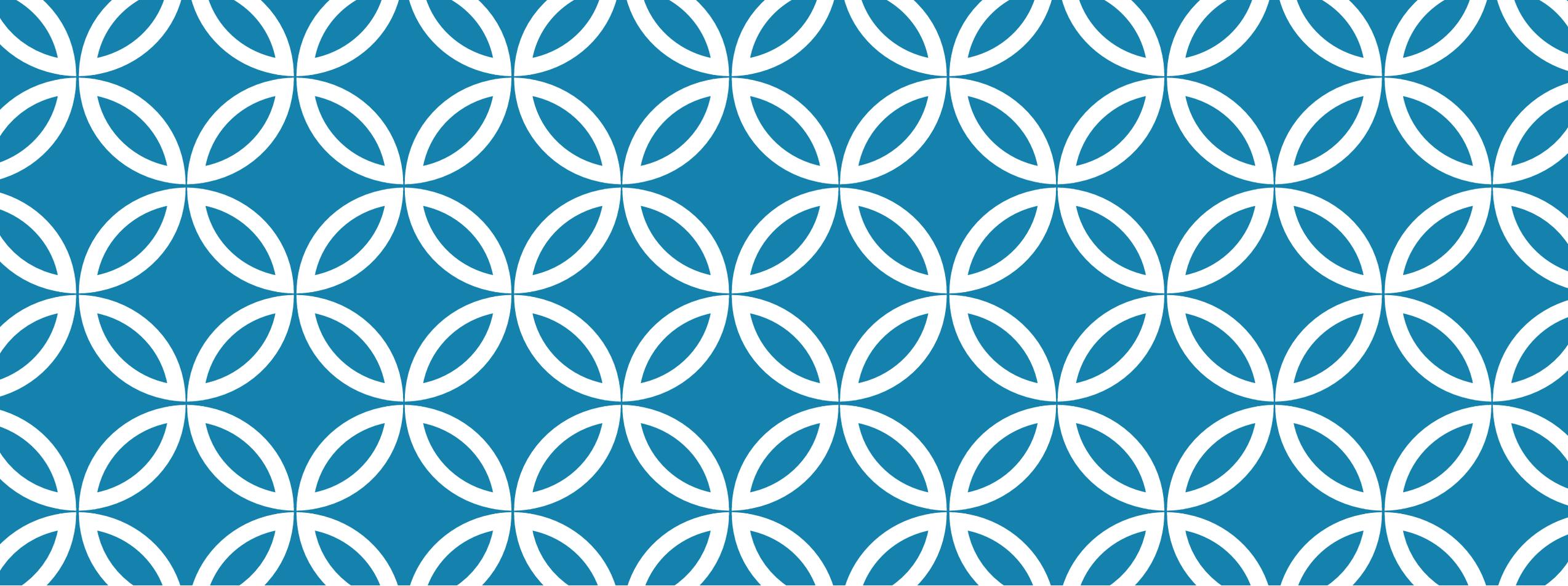
FILING OF NOTICE TO APPEAR

- Currently, ICE is waiting 60 days to file a child's notice to appear (NTA)



DETAINED UNACCOMPANIED CHILDREN AND OTHER STAKEHOLDERS

Legal Service Providers
Child Advocates
State Court

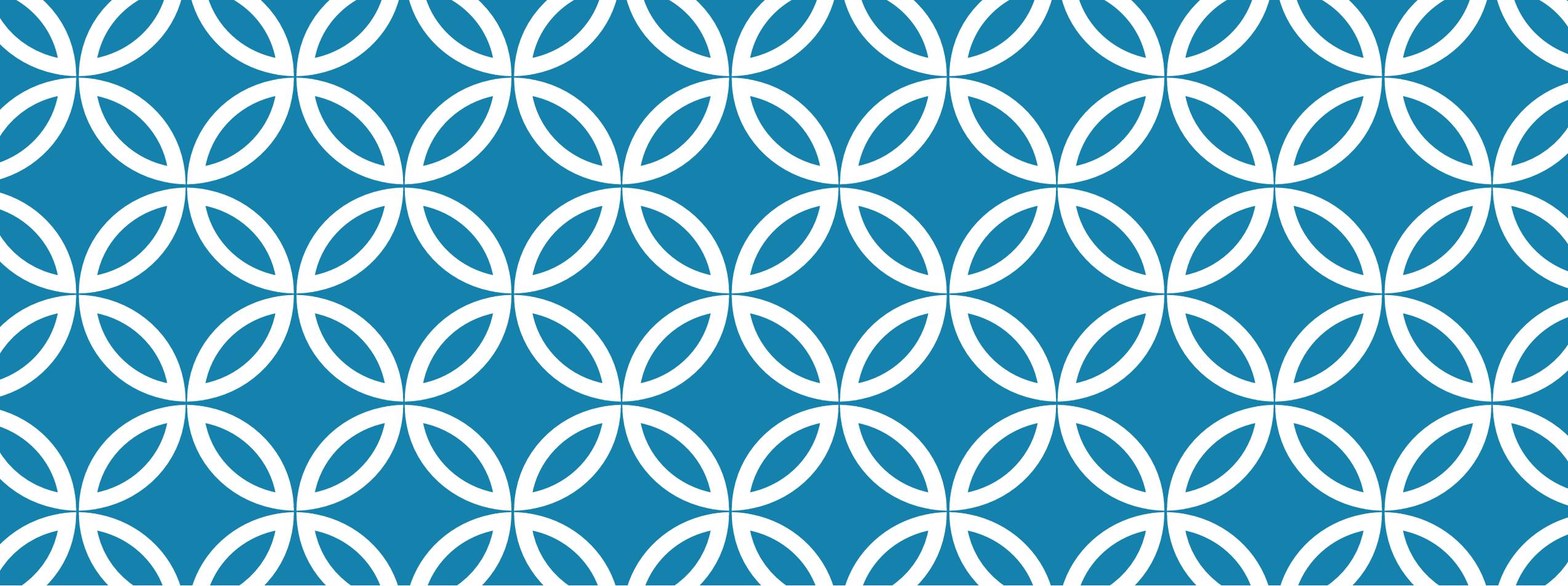


LEGAL SERVICE PROVIDERS



PROVISION OF LEGAL SERVICES WHILE DETAINED

- **Know Your Rights Presentations** (“charlas”) – provided by attorneys and paralegals informing children about the court process and their rights during that process
- **Legal Screenings** – meetings with individual children to assess what legal relief child may be eligible for
- **Direct Representation Services** – Children receive direct representation under certain circumstances (voluntary departure; local release; other limited circumstances)
- **Court preparation and Assistance** – Typically group meetings before court to prepare children for their first immigration court appearance. Attorneys will also act as friend of court to update the court about the child’s case and communicate the child’s desires to the court.
- **Pro Bono Legal Representation** – Recruitment, training, matching, and mentoring of pro bono counsel to children’s cases



CHILD ADVOCATES |

ROLE OF THE CHILD ADVOCATE

To identify and advocate for the child's best interests under federal, state, international law

- ❖ Regular visits
- ❖ Develop relationship of trust
- ❖ Learn the child's story
- ❖ Gather information from other sources
- ❖ Accompaniment
- ❖ Develop best interests recommendation



YOUNG CENTER INDEPENDENT CHILD ADVOCATES

- ❖ Child advocates appointed by HHS (ORR) pursuant to TVPRA 235(c)(6)
- ❖ Child Advocates assigned to individual child; supervised by attorneys and social workers with experience in immigration and child welfare law
- ❖ Staff gather information from child and stakeholders and advocate orally and in writing (best interests recommendations, or BIRs)
- ❖ All advocacy, orally and in writing, is done by Young Center staff – attorneys and social workers

WHERE BEST INTERESTS ADVOCACY HAS GREATEST IMPACT

- ❖ Fear of return but no identified relief
- ❖ Where expressed interests may conflict with safety
- ❖ Where child may lack capacity to make certain decisions or express an opinion
- ❖ Advocacy on placement and release
- ❖ NOTE: Child Advocate is not the child's or the attorney's social worker, nor a post-release service provider

YOUNG CENTER CHILD ADVOCATE PARADIGM FOR ASSESSING BEST INTERESTS

CHILD'S WISHES

The Child Advocate should always advocate for the child's wishes unless there is a clear risk to the child's safety.

CHILD'S SAFETY

The Child Advocate should always advocate for the child's safety.

FAMILY INTEGRITY

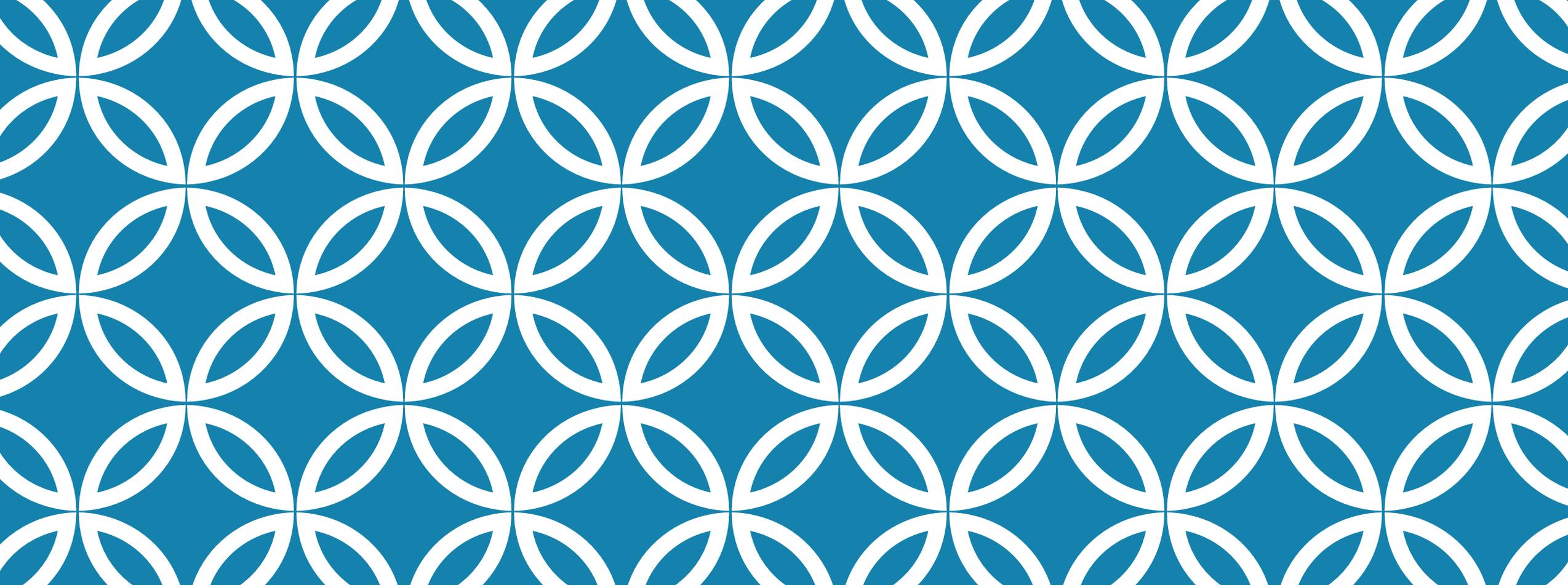
Child's right to be with parents, siblings, children.

LIBERTY

Child's right to be free from detention.

DEVELOPMENT

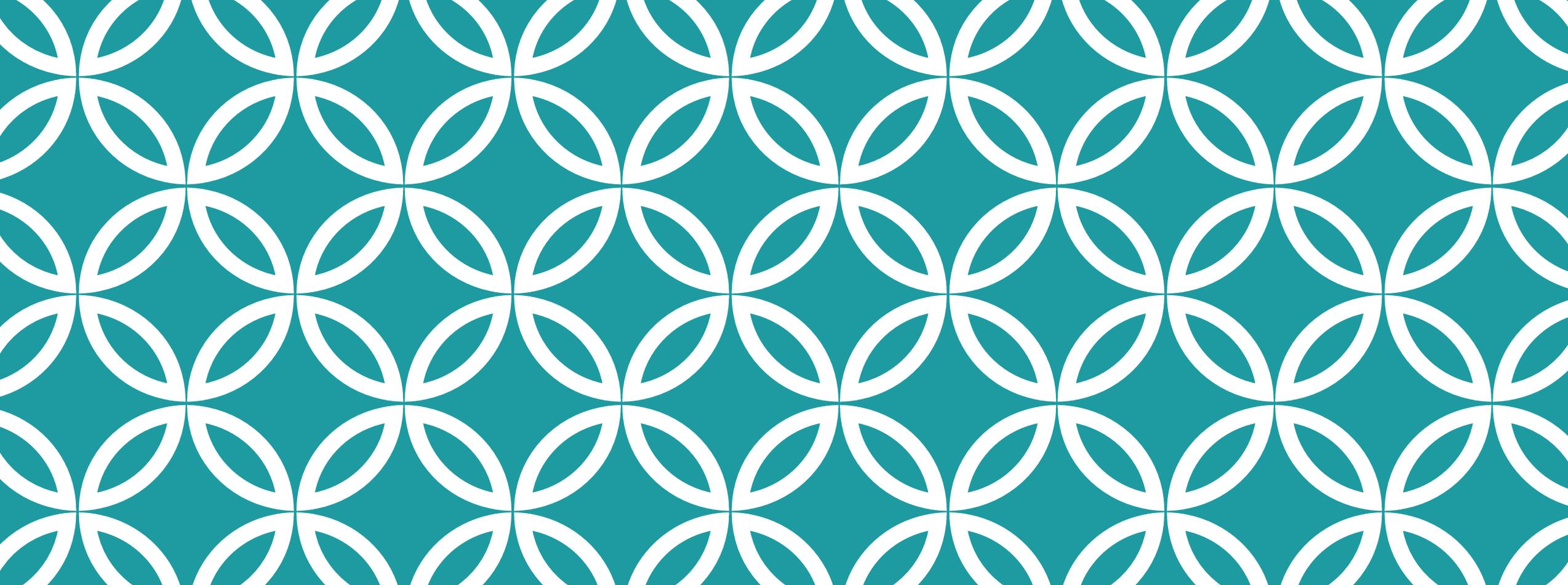
Child's right to food, shelter, education and medical care.



STATE COURT |

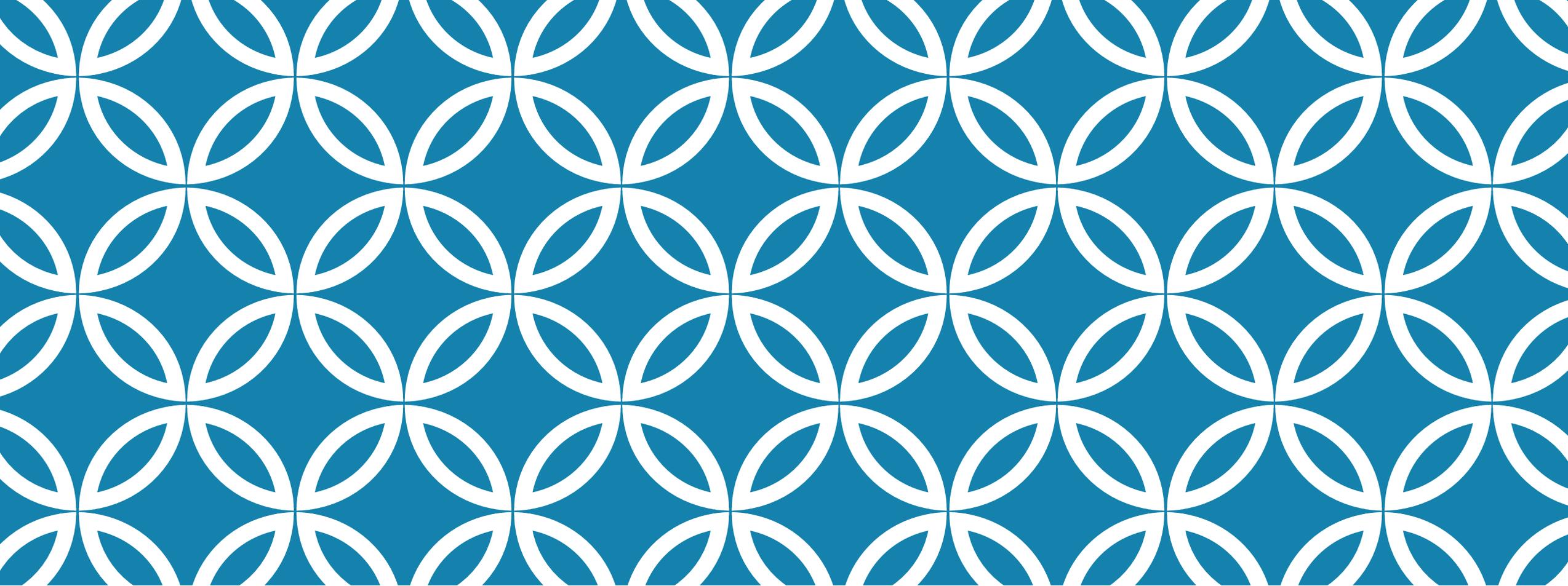
SPECIAL IMMIGRANT JUVENILE STATUS (SIJS)

- While detained, an unaccompanied child may appear in state court to obtain the predicate order for SIJS
- More likely to be involved in state court proceedings upon release



UNACCOMPANIED CHILDREN AND POST-RELEASE SERVICES

Post-release service providers
Legal Orientation for Custodians
(LOPC)
Post-Release Attorney Provision
ORR's 1-800 number



POST-RELEASE SERVICES



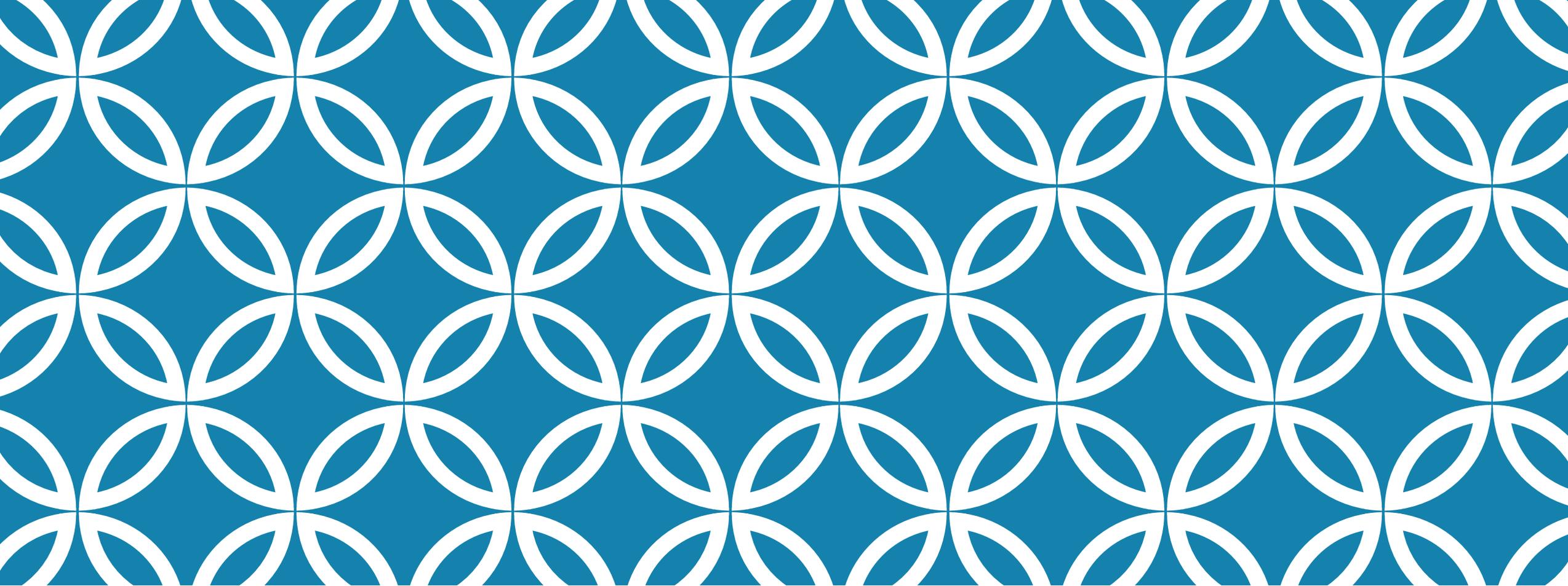
FOLLOW UP POST-RELEASE SERVICES

Children whose sponsor undergoes a home study may be provided with follow-up post-release services.

Provides child with additional assistance to connect them to appropriate resources in the community or to address other concerns, such as mental health needs.

Does not exceed 18th birthday

Typically post-release services last approximately 6 months unless government decides more is necessary



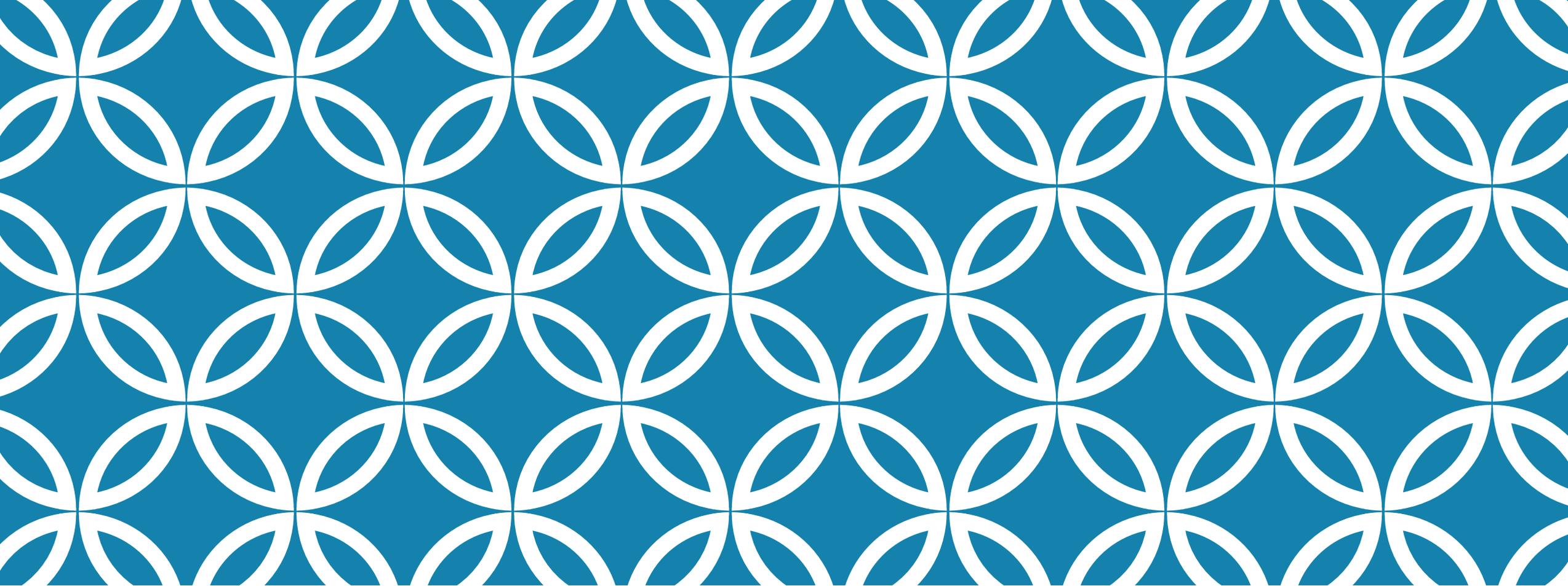
LEGAL ORIENTATION PROGRAM FOR CUSTODIANS (LOPC)



LOPC PROGRAM

Free program for sponsors administered by the Department of Justice which provides sponsors with the following information:

- How the immigration process works
- How to obtain social services and free or low cost legal services
- How to protect child from child abuse, exploitation and trafficking



POST-RELEASE ATTORNEY PROVISION



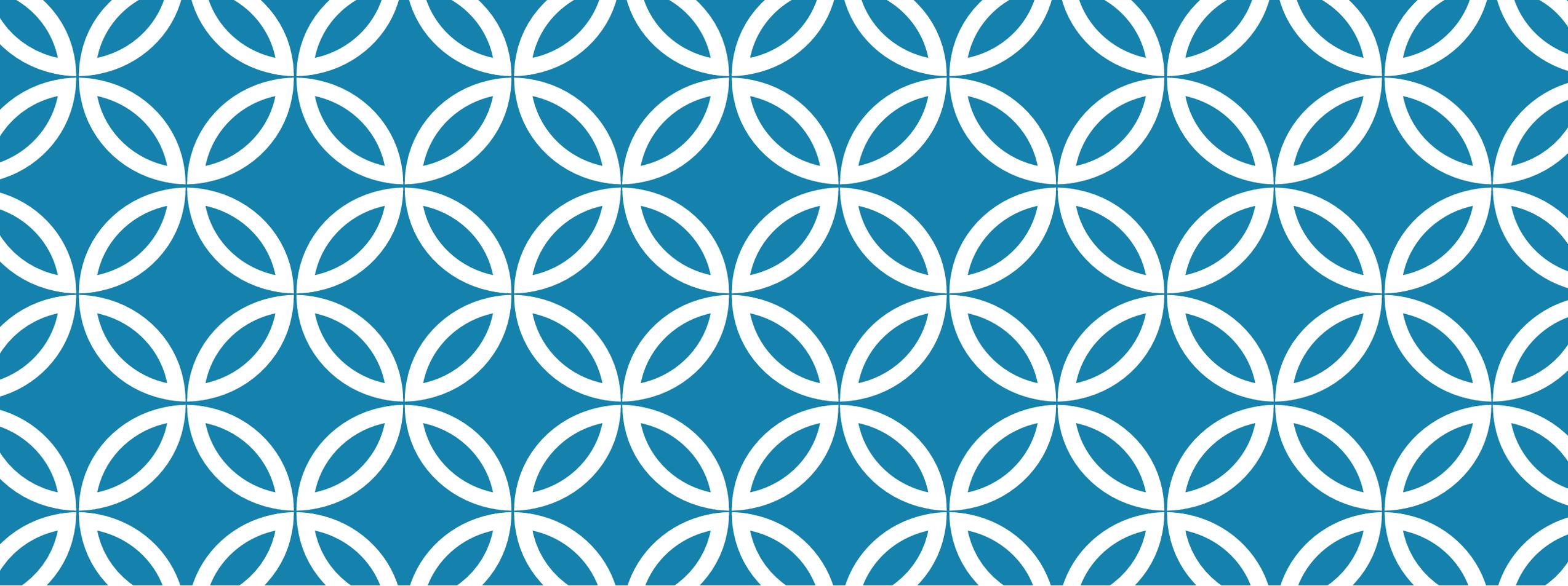


LEGAL SERVICES

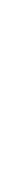
ORR-funded

Justice Americorps

Local non-profits

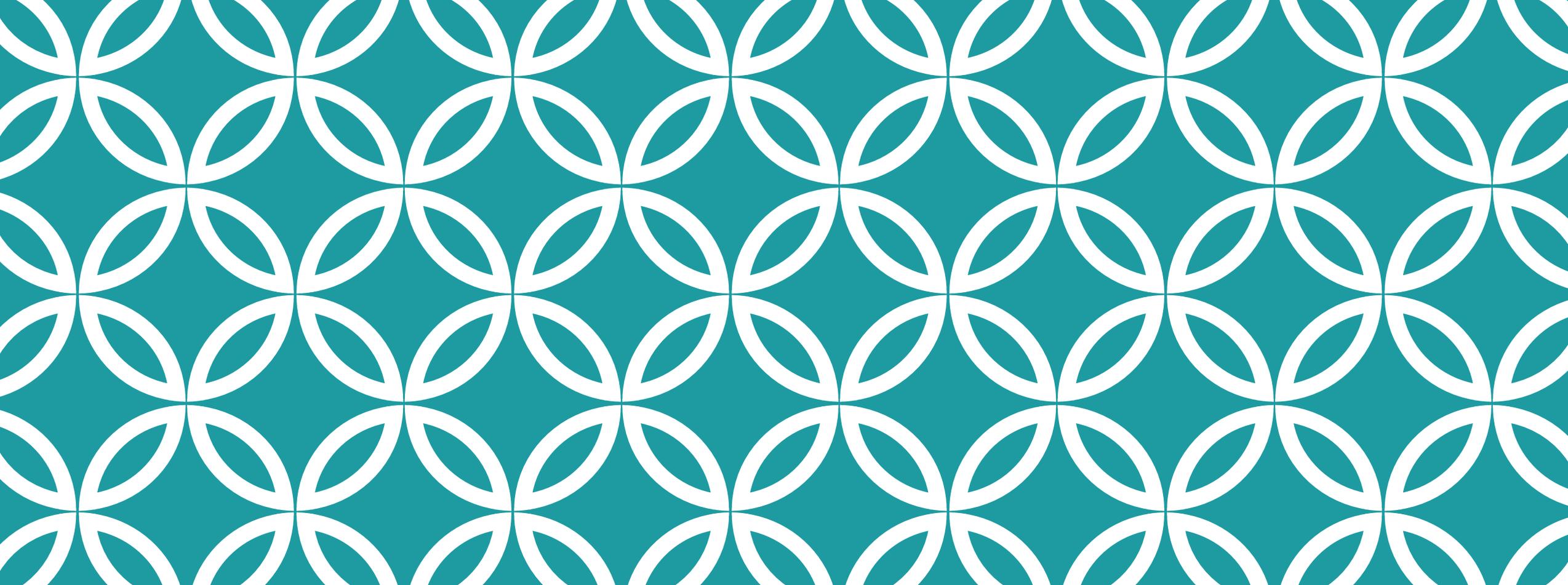


ORR NATIONAL CALL CENTER



ORR NATIONAL CALL CENTER

- 1-800 number for:
 - adults trying to locate their detained children
 - children seeking help with difficulties after release
 - sponsors seeking resources for the released child



REPATRIATION OF UNACCOMPANIED CHILDREN



REPATRIATION OF MEXICAN CHILDREN

- In 2014, 13,324 children and adolescents were repatriated from the U.S. to Mexico
- Several repatriation agreements ranging from binational agreements to local repatriation agreements (e.g. Brownsville-Matamoros)
- ORR or CBP informs Mexican consulate who then screens the child and provides travel documents
- Once consulate obtains custody of the child, consulate arranges for transfer to INM (migration), INM then transfers to the child welfare agency, DIF.
- If an adult is not available to pick the child up, the child will be placed in a DIF shelter along the border.
- Children under 12 are placed in state-run shelters; children over 13 are placed in privately-run shelters.

REPATRIATION OF GUATEMALAN CHILDREN

- Children who are repatriated from the U.S. arrive in Guatemala City.
- Generally returned with adults on ICE flights.
- Children are screened by child welfare officials at the airport.
- Families must travel to Guatemala City to pick up child and are also interviewed by officials.
- Kids in Need of Defense (KIND) – Guatemala Child Return and Reintegration Project (GCRRP)
 - Available to Guatemalan children under the age of 19 returning under order of removal or voluntary departure.
 - Services available (Mam, K'iche', Spanish):
 - Arrival assistance at repatriation center
 - Family reunification services
 - Psychosocial support
 - Skills and training support/educational support

REPATRIATION OF HONDURAN CHILDREN

- The repatriation process in Honduras is coordinated by the child welfare agency (DINAF)
- Most children arrive in one of three locations: 1) El Eden reception center in San Pedro Sula (most children repatriated from Mexico); 2) Ramon Villeda Morales International Airport; or 3) Toncontin International Airport
- Once DINAF receives notice that a child is repatriating, DINAF coordinates with the child's family to coordinate the child's release in Honduras.

REPATRIATION OF SALVADORAN CHILDREN

- Two different government agencies are in charge of overseeing repatriation in El Salvador – ISNA and CONNA.
- Salvadoran consulate is responsible for identifying and verifying the child's family before repatriation.
- Children are sent on commercial flights to Comalpa International Airport near San Salvador.
- Salvadoran government registers children upon arrival.
- Children with multiple returns are transferred to the care of ISNA which oversees the return to family.

QUESTIONS?

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