



UNCAGE & REUNITE FAMILIES COALITION

Arizona Department of Health Services
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The Uncage and Reunite Families Coalition (URFC) opposes Southwest Key's request to relicense two of its immigrant youth facilities. We have been unable to confirm or deny rumors that ADHS has hastily granted the company's request. Such haste would be unacceptable. We ask the Arizona Department of Health Services (ADHS) to conduct its review of these applications in a public, transparent way. URFC also calls on the Arizona ADHS to initiate a public review of its regulations governing child residential behavioral health facilities to determine whether they address the special needs of detained immigrant children, and to conduct rulemaking or support legislation to correct inadequacies. Finally, we reassert our call for a citizens advisory commission to provide public and expert input and transparency regarding immigrant youth detention in Arizona.

Southwest Key surrendered the licenses of the two facilities less than eleven months ago as part of an October 2018 settlement to avoid threatened delicensing of all of its thirteen Arizona facilities. ADHS threatened delicensing when Southwest Key failed to comply with corrective action requirements following the disclosure of multiple incidents of physical and sexual abuse, neglect by employees including inadequate medical care, and failures to complete even

minimal screening of employees. In addition, as part of the settlement, ADHS imposed a ban on all new admissions to the company's Arizona facilities. That blanket ban, however, lasted only until February 2019. The brevity of these sanctions if the two facilities are relicensed raise a serious concern that the Department never intended to seriously discipline Southwest Key beyond a cosmetic slap on the wrist.

Southwest Key spokesman Neil Nowlin's recent characterization of its decision to unconditionally surrender its licenses as "temporary closings" clearly suggests that the company did not take the ADHS actions seriously. Granting relicensing after such a short time will undermine the credibility of any future ADHS actions affecting all operators.

Southwest Key's violations at all of its Arizona facilities were serious and sustained. The company had little choice but to surrender the licenses of the two facilities. The federal Office of Refugee Resettlement, not ADHS, directed the company to suspend operations at the Youngtown facility when surveillance video disclosed employee physical abuse of children. At Casa Phoenix, ADHS documented 1,292 incidents ranging from serious to significant during the year preceding the settlement. Neither facility should be reopened.

Any relicensing decision needs to be more transparent than previous ADHS interactions with Southwest Key. For example, the settlement discussion last year with Southwest Key was closed to the public. While the company may have had a right to privately negotiate with ADHS, the public interest in the incidents at Southwest Key warranted a public hearing before the settlement was ratified. Because there was no public meeting, the only documentation available was that

which the company chose to release. This year, we urge ADHS to make public all compliance and inspection reports and healthcare management consultant reports and recommendations, preferably before making a final relicensing decision.

The detention of refugee and other immigrant children by private contractors with the Department of Homeland Security and ORR is a controversial issue of public concern both nationally and in Arizona. The federal government has been secretive about such actions, as demonstrated by the recent opening of three new facilities nationally to detain separated and unaccompanied infants and teenaged mothers, including the Child Crisis Arizona facility in Mesa. ADHS and other Arizona agencies have been no more transparent. The opening of the Child Crisis detention center was first publicly disclosed by Reveal News, the Southwest Key relicensing request by the Arizona Mirror, and last year's disclosure of abuse problems was begun by Pro Publica and local media. Arizonans should not have to rely on a handful of investigative reporters to learn what ADHS and other agencies are doing regarding detained children.

At the time of the Southwest Key settlement, URFC publicly supported ADHS's assertive response while fearing that it would prove short-lived. The Department responded strongly only after Southwest Key arrogantly failed to comply with required corrective actions following an investigation of Southwest Key compliance that, we felt, failed to go far enough. The fact that ORR, not ADHS, discovered and disciplined abuse at the Youngtown facility in the immediate wake of ADHS's wholesale inspections seemed then and seems now to support our concerns.

URFC closely monitored the Southwest Key scandal as it emerged, including

ADHS's inspection of the company's facilities. We are convinced that the effectiveness of that initial investigation was limited by the standards of care under which child residential behavioral health facilities are licensed in Arizona. Although new legislation has increased ADHS's authority, it did not address the inadequacy of existing sanctions and licensing standards.

Unlike some states, Arizona classifies immigrant youth detention centers as child residential behavioral health facilities. The special circumstances of refugee and immigrant children who are unaccompanied or have been separated from family members, including those who arrive with a family member other than a parent or legal guardian and are therefore classified as "unaccompanied" by the federal government, are different from those who have exhibited serious behavioral problems. Treating the one the same as the other is suspect on its face.

Refugee and other immigrant children often suffer considerable trauma in their home countries and in the process of trying to reach the U.S. Many also experience significant physical stressors while making their journeys and in federal custody. Many do not speak English and may not even speak Spanish. Their cultural backgrounds are different. Separation from family members is inherently traumatic, especially sustained separation, and leads to developmental problems. Finally, ADHS and other Arizona agencies involved in licensing these facilities share a responsibility with ORR and facility operators to ensure that children's family members are identified and the children reunited with family as quickly as possible. Sadly, that often has not been the case in recent years.

Therefore, we urge ADHS in the strongest possible terms to immediately

initiate a public review of its regulations governing child residential behavioral health facilities and to conduct rulemaking or support legislation to ensure that the special needs of detained refugee children are met.

Failing that, we reassert our demand for an independent oversight and advisory commissions including government officials, experts in relevant fields and representatives of the concerned public to review and advise ADHS, CPS and the Legislature regarding the treatment of detained refugee and other immigrant minors in licensed facilities in Arizona. We regret that ADHS opposed legislation to establish such a commission last term. We call on ADHS to reconsider its position.

Current law, including the Flores Settlement, looks to state licensing authorities to ensure that children in private care facilities are treated humanely and that their needs are adequately met. We are informed that ADHS has met with Southwest Key and other private operators to try to ensure that minimal Flores Settlement standards are met notwithstanding shifting levels of federal funding. We applaud that proactive action by ADHS, and we now encourage you to be equally proactive and more transparent in addressing the concerns we have raised.

/s/ Myron L. Scott

Uncage and Reunite Families Coalition Legal, legislative and Advocacy
Committee