



JUSTICE FOR JANE(s)

Abortion care for undocumented immigrant minors &
the best interests of the child

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- **Unaccompanied Immigrant Minor (UIM):** “those who are separated from both parents and not cared for by an adult who by law or custom has responsibility to do so” (UNHCR).
- **Unaccompanied Alien Child (UAC):** “children who lack lawful immigration status in the United States, who are under the age of 18, and who either are without a parent or legal guardian in United States or without a parent or legal guardian in the United States who is available to provide care and physical custody” (ORR).

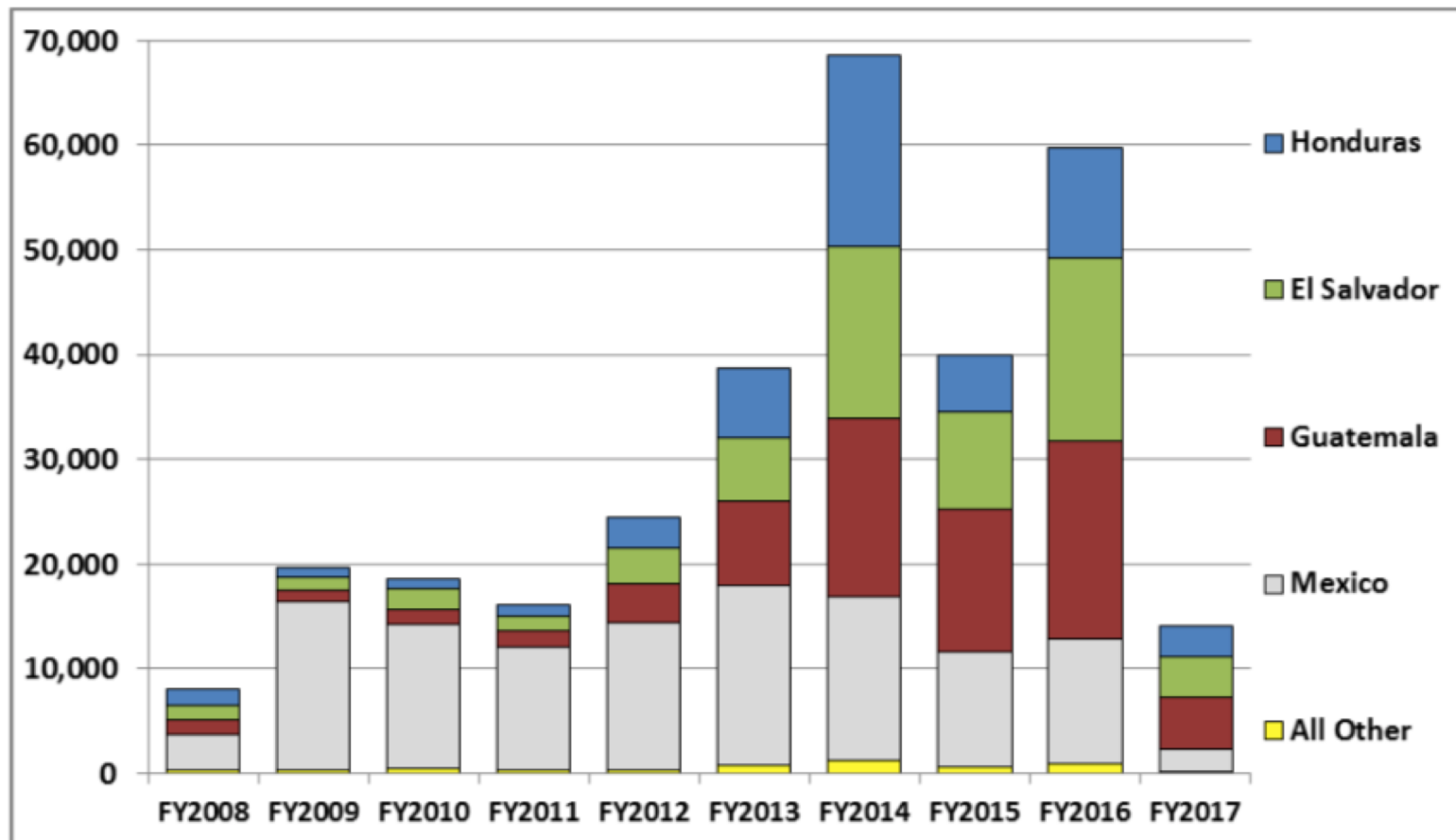
Garza v. Hargan: the case of Jane Doe



AP Photo/J. Scott Applewhite

Apprehension

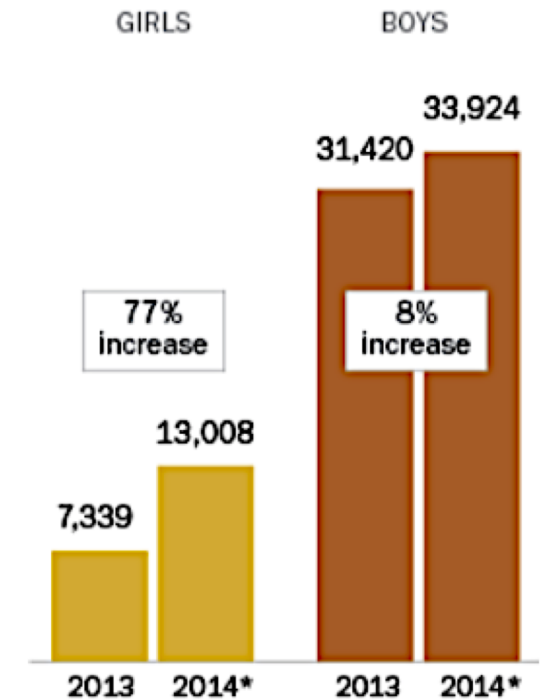
Figure I. UIM Apprehensions at the Southwest Border by Country of Origin



Sources: For FY2008-FY2013: U.S. Department of Homeland Security, United States Border Patrol, *Juvenile and Adult Apprehensions—Fiscal Year 2013*. For FY2014-FY2017, Customs and Border Protection, "Southwest Border Unaccompanied Alien Children," <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children>.

Notes: FY2017 data include data on only the first two months of the fiscal year.

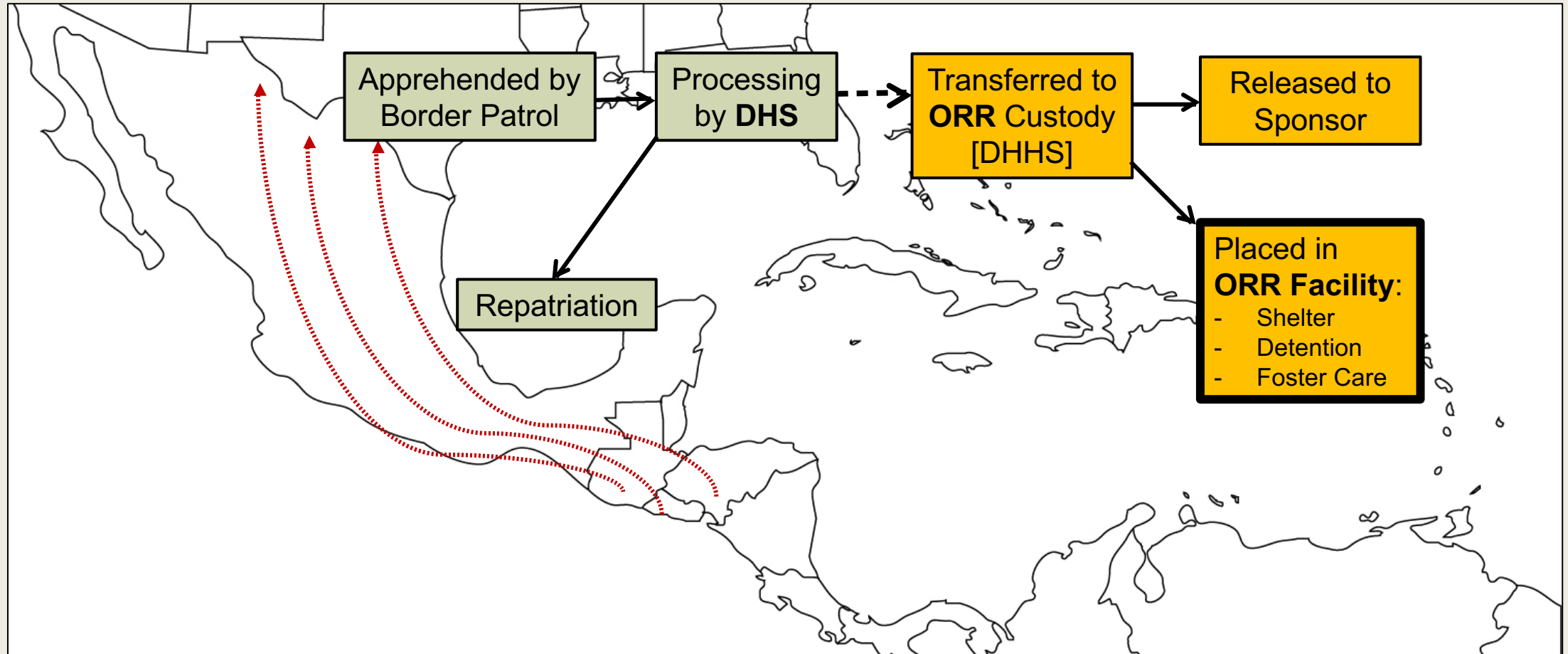
Figure II. Apprehensions by Gender



Note: Fiscal Year 2013 is Oct. 1, 2012 - Sept. 30, 2013. *Fiscal Year 2014 data is Oct. 1, 2013 - May 31, 2014. Source: Pew Research Center analysis of U.S. Customs and Border Protection, Enforcement Integrated Database records

Detention & Placement

Figure III. Flow of Central American UIMs Through the U.S. Immigration System



Adapted from: Byrne, O and Miller, E. "The Flow of Unaccompanied Children Through the Immigration System: A Resource for Practitioners, Policy Makers, and Researchers," Vera Institute of Justice, March 2012.

Office of Refugee Resettlement (ORR)

“grantees should not be supporting abortion services...”

(Llyod, Exhibit C, 2017).

“often these girls start to regret abortion, and if this comes up, we need to connect her with resources for psychological and / or religious counseling” (Llyod, Exhibit D, 2017).



Drew Angerer/Getty

E. Scott Lloyd, ORR Director

Best Interests of the Child

United Nations Convention on the Rights of the Child (CRC), 1989

Article 3. The best interests of the child shall be a primary consideration in all actions affecting children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies (UNHCR, 2008).

Homeland Security Act (HSA) of 2002

“As mandated by law, ORR places an unaccompanied alien child in the least restrictive setting, that is in the best interests of the child” (ORR, 2017).

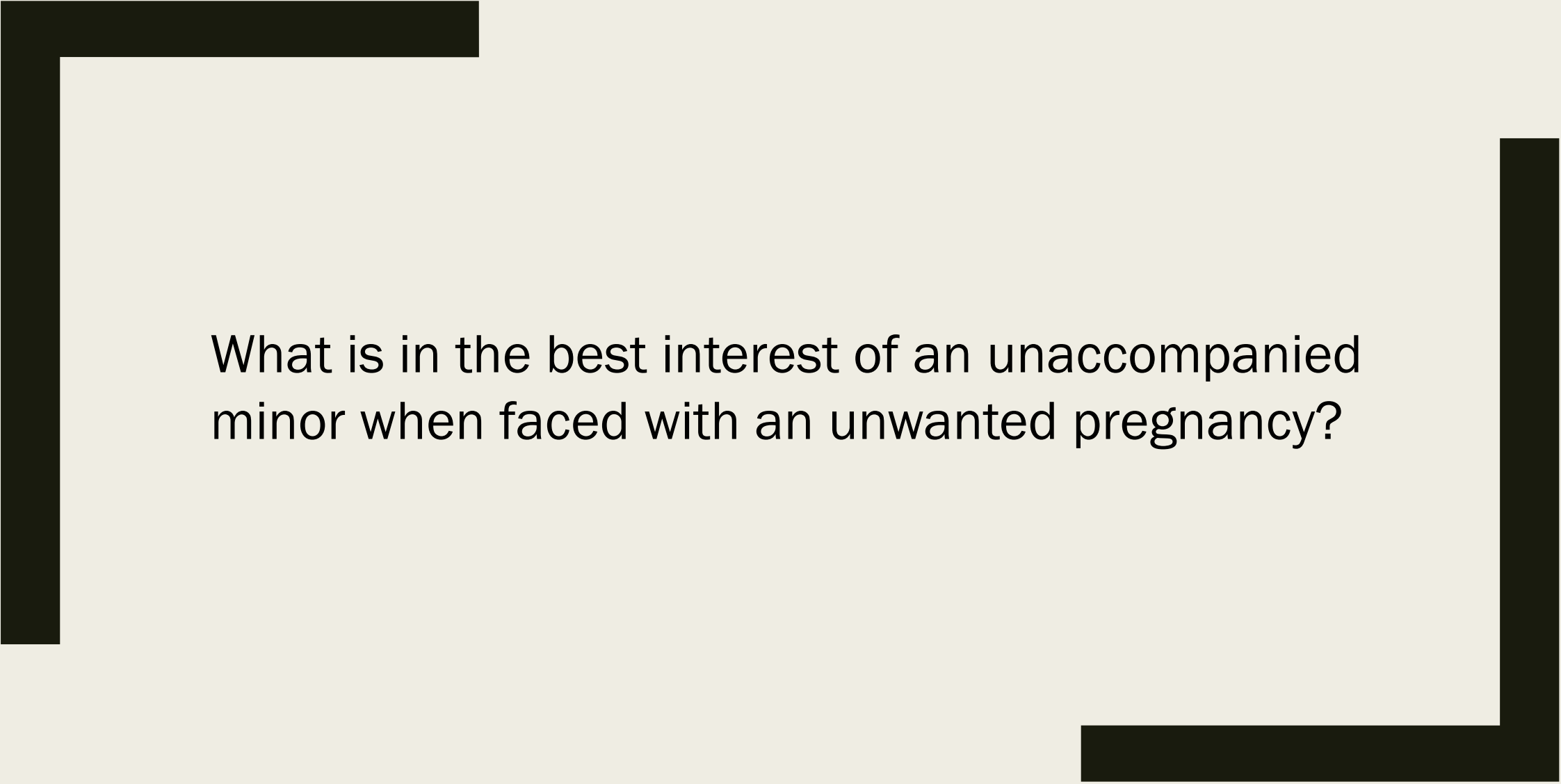
Best Interests Determination

FRAMEWORK FOR CONSIDERING THE BEST INTERESTS OF UNACCOMPANIED CHILDREN

“Safety and Well-being”

“Child’s Expressed Interests”

“Health”



What is in the best interest of an unaccompanied minor when faced with an unwanted pregnancy?

Methods

Review of relevant literature: PubMed, Web of Science, Contemporary Women's Issues, HeinOnline, and Google Scholar databases.

Criteria: articles published in English within the last 10 years, specific to unaccompanied children in the U.S. from Central America. Peer-reviewed research on health outcomes of abortion and adolescent childbirth.

Grey literature: government websites, legal documents, news articles, UN reports and human rights instruments.

Findings

Lack of research on unaccompanied minors and reproductive health



Goldberg, E. 80% of Central American Women, Girls are Raped Crossing into the U.S.
Huffington Post. Sept. 2014. www.huffingtonpost.com

Findings

Vulnerability of women and girls to sexual violence



John Moore/Getty Images

60-80% of unaccompanied girls sexually assaulted during their journey to the U.S.

(Stinchcomb & Hershberg, 2014).

Findings

Comparative safety of legal abortion and adolescent childbirth



Risk of death associated with childbirth is approximately 14 times higher than that with abortion

(Raymond & Grimes, 2012).

Credit: jasmom1 / Twenty20
Amiri, B. Jane Doe's Ordeal Illustrates the Trump Administration's Threat to All Women's Reproductive Rights. *ACLU Reproductive Freedom Project*. Oct. 2017. www.aclu.org

Findings

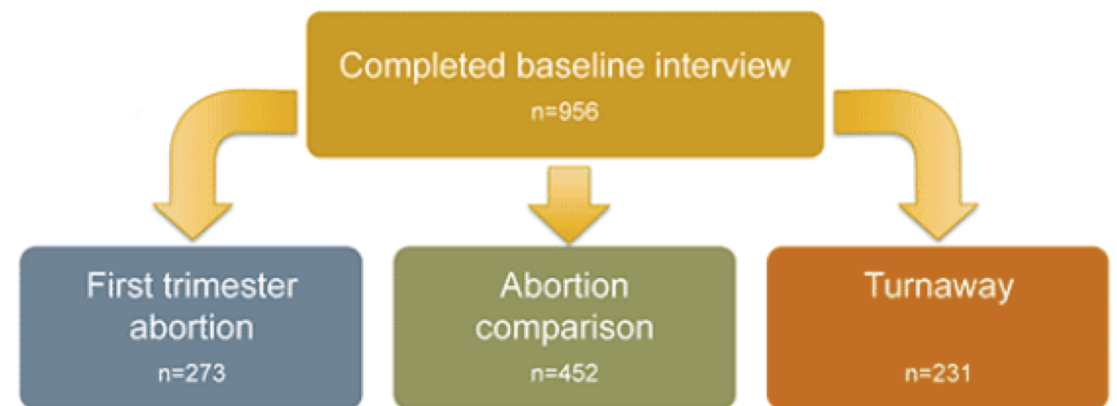
No credible evidence to associate abortion with psychological harm

American Psychological Association (APA) Task Force on Mental Health and Abortion (TFMHA) Report (1989-2008)

ANSIRH'S Turnaway Study

“no evidence to justify laws that require women seeking abortion to be forewarned about negative psychological responses”

(Biggs, Upadhyay, McCulloch & Foster, 2017)



Conclusions & Recommendations

ORR's abortion policy violates the best interests of UIMs

- Immediate revision of ORR's abortion policy
- Guidelines for conscientious objection by service-providers
- Universal standards for clinical screenings and care
- Greater transparency of government data and service provision
- More research on the reproductive health needs and experiences of UIMs

“My name is not Jane Doe, but I am a Jane Doe.

I’m a 17 year old girl that came to this country to make a better life for myself. My journey wasn’t easy, but I came here with hope in my heart to build a life I can be proud of. I dream about studying, becoming a nurse, and one day working with the elderly. When I was detained, I was placed in a shelter for children. It was there that I was told I was pregnant. I knew immediately what was best for me then, as I do now – that I’m not ready to be a parent...No one should be shamed for making the right decision for themselves. I would not tell any girl in my situation what they should do. That decision is hers and hers alone.

This is my life, my decision. I want a better future. I want justice.”

Statement from Jane Doe, via her guardian

<https://www.aclunc.org/news/after-month-obstruction-trump-administration-jane-doe-gets-her-abortion>



QUESTIONS?

References

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