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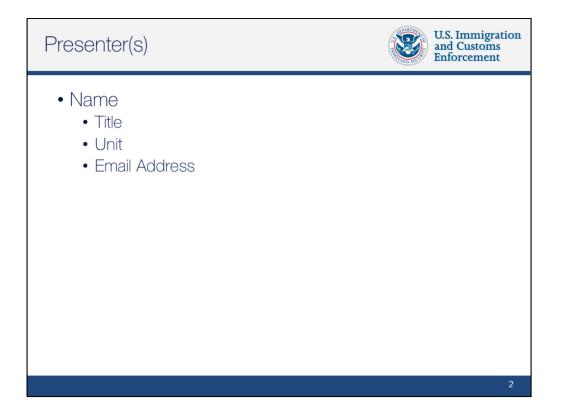
EXHIBIT A



U.S. Immigration and Customs Enforcement

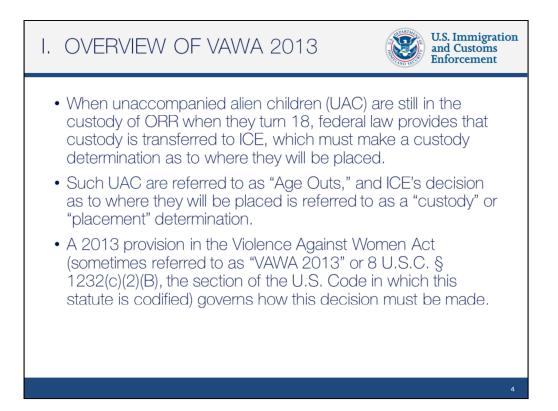
Age-Outs 8 U.S.C. § 1232(c)(2)(B)(VAWA 2013) Garcia-Ramirez v. ICE

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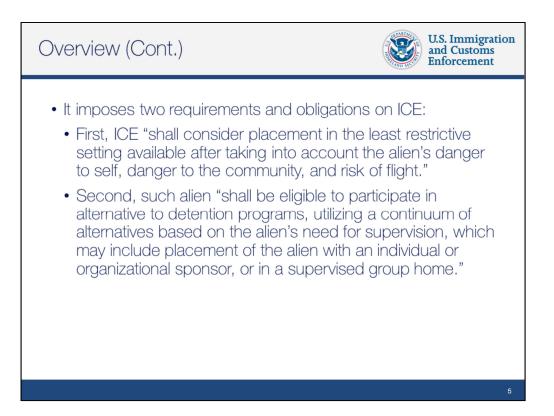


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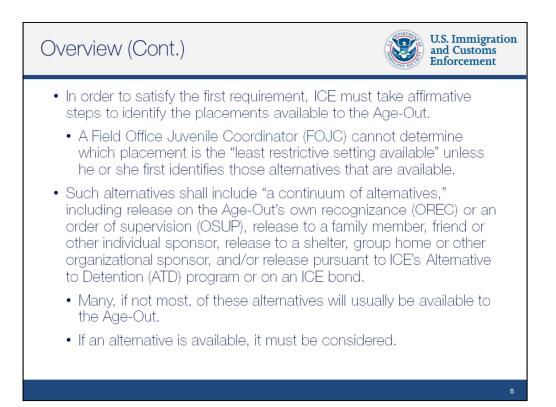




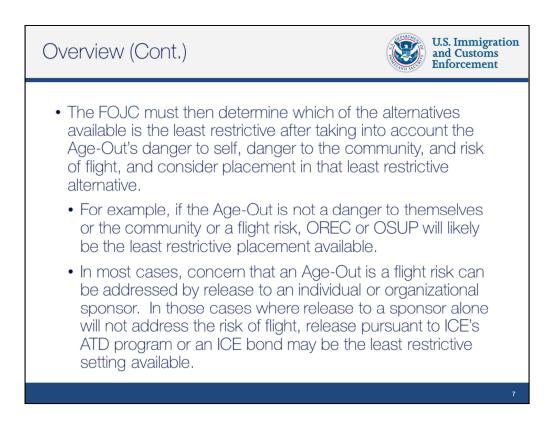
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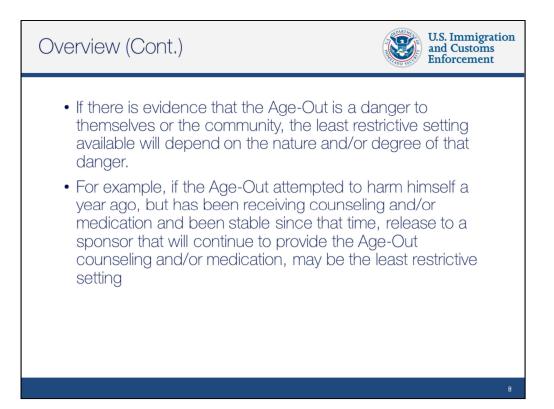
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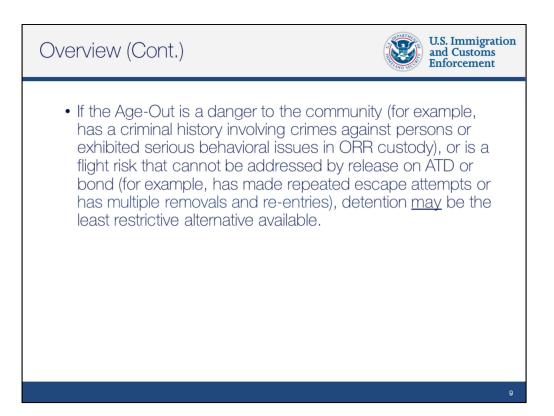
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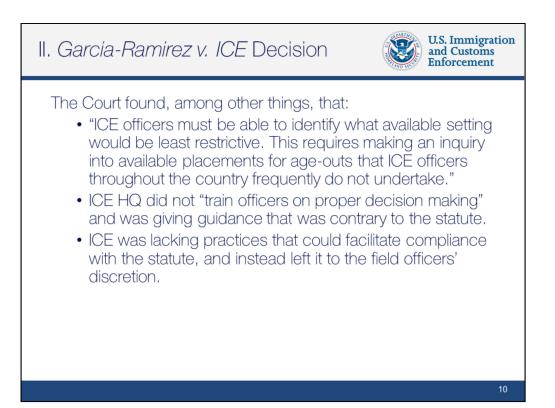
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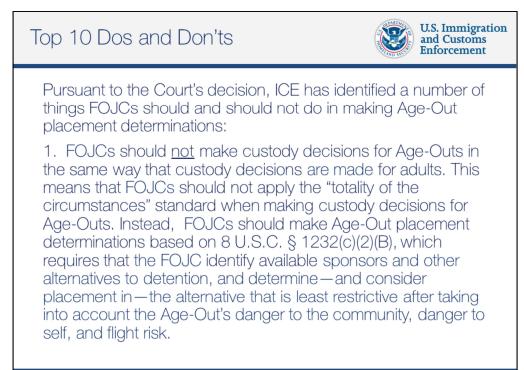
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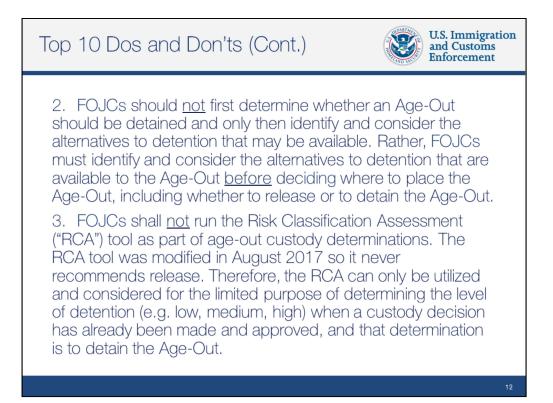
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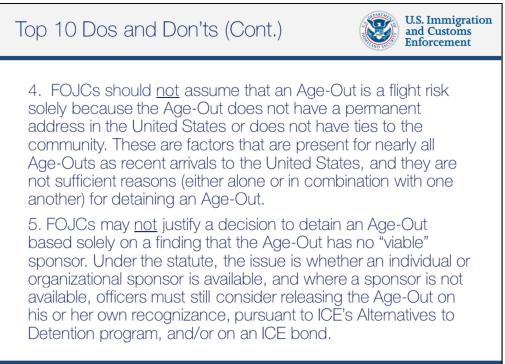


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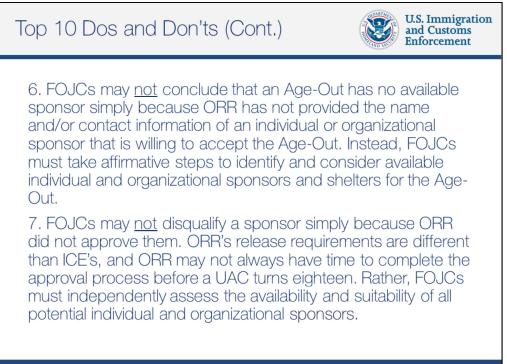


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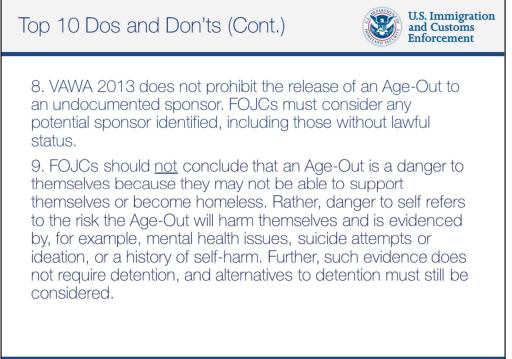




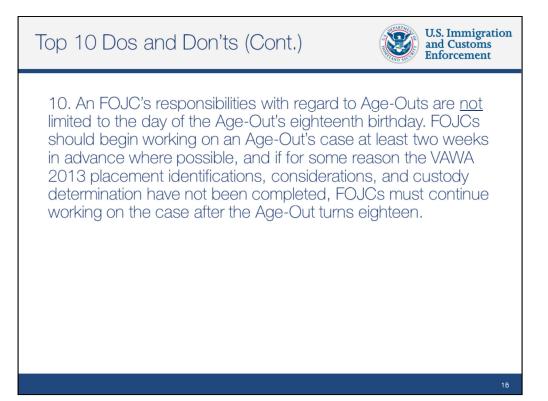
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III. How to Make a Custody Determination under VAWA 2013



Under VAWA 2013 and the Court's decision, officers must take the following steps in making Age-Out determinations:

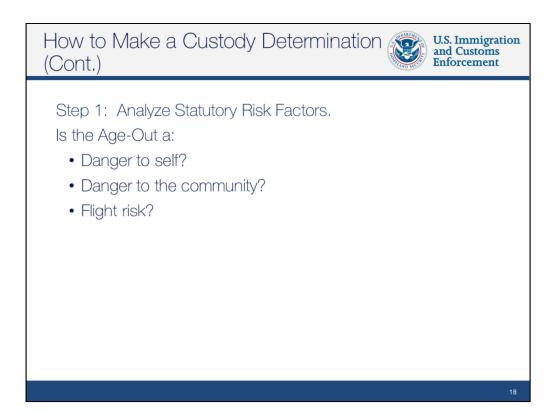
1. Identify, collect, and evaluate any available evidence of the statutory risk factors (danger to self, danger to the community, or risk of flight);

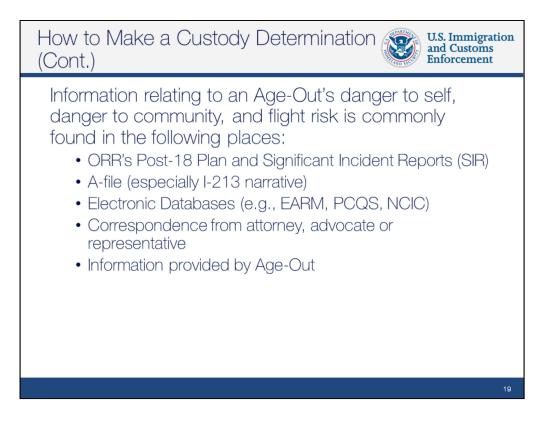
2. Identify available alternatives to detention, including release to individual or organizational sponsors or pursuant to ICE's ATD program or on an ICE bond; and

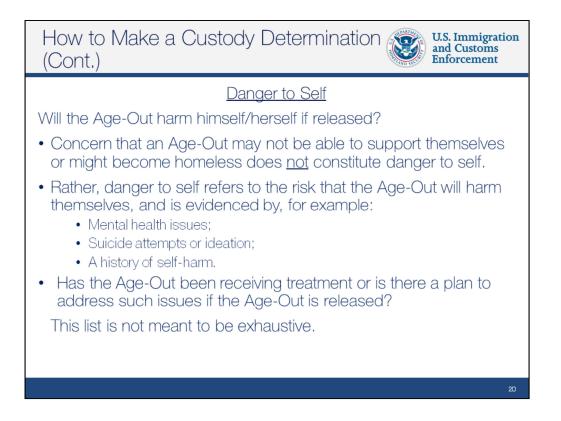
3. Consider the least restrictive alternative available after taking into account the three statutory risk factors.



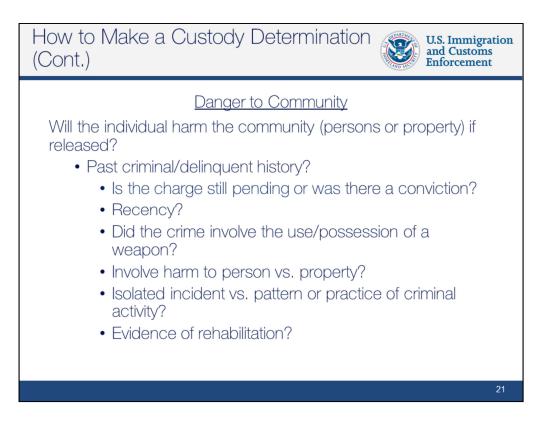
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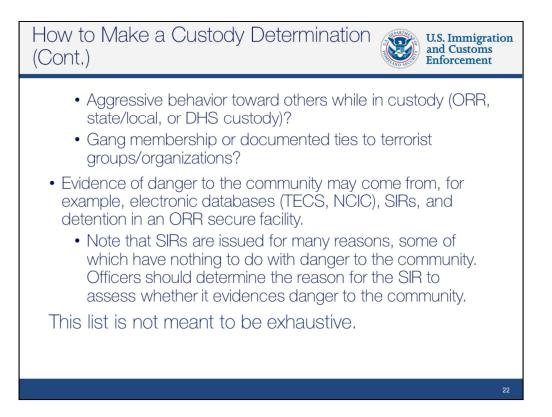


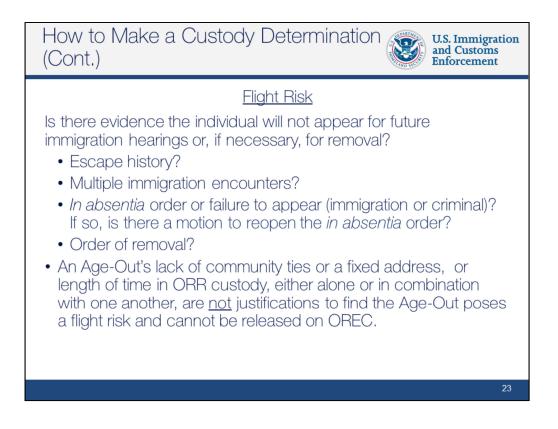




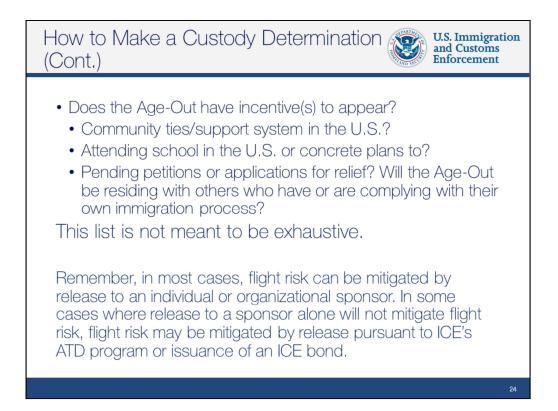
NOTE: Danger to self may be addressed by release to a sponsor or group home that has the capability to provide an adequate and appropriate treatment plan that could include counseling and/or medication; however, FOJCs are not trained to determine proper medical treatment and must rely on licensed professionals to determine the best course of treatment.

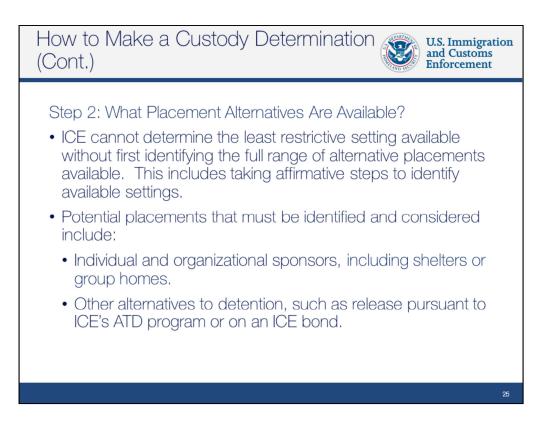


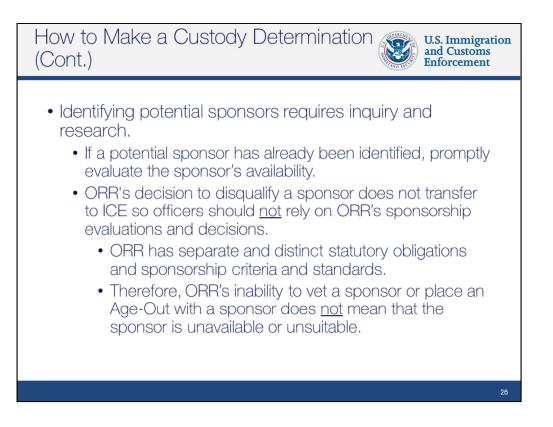




Note: While a pending motion to reopen does not invalidate a removal order unless and until the motion to reopen is granted, it may provide additional information (such as lack of notice) that is relevant to whether the failure to appear is evidence of flight risk. Please note that some motions to reopen are accompanied by automatic stays of removal while the motion is pending. If there are questions about motions to reopen in general or the specific reasons why an Age-Out is moving to reopen his or her case, please consult your local OPLA office.







How to Make a Custody Determination U.S. Immigration and Customs Enforcement (Cont.) If ORR does not provide a release recommendation or the name of a potential sponsor-or a sponsor identified by ORR is determined to not be available-the FOJC must make additional efforts to identify other available sponsors through the following efforts: • Review material in the Age-Out's file and on the Form I-213; Inquire with the Age-Out's attorney, advocate, or other representative; • Ask the Age-Out if she/he knows of any potential sponsor (if possible before the Age-Out's 18th birthday or during an in-person interview on the 18th birthday) and encourage the Age-Out to call potential sponsors themselves; and

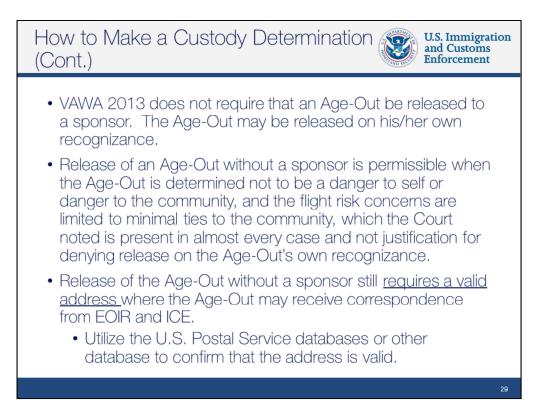
How to Make a Custody Determination (Cont.)

• Contact shelters, group homes, and organizational sponsors, including those listed on the National Age-Out Shelter List.

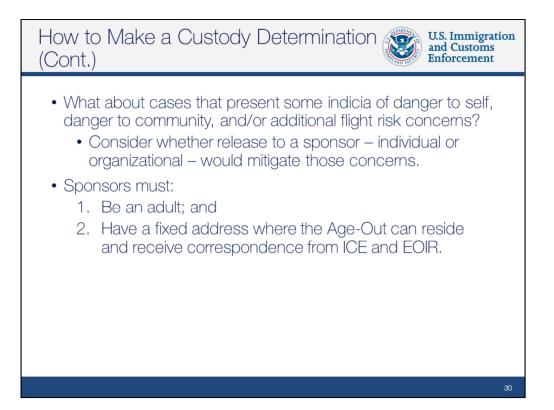
These efforts do not need to occur in any particular order; however, before an FOJC determines that no sponsor is available, the FOJC must exhaust all of these options and explain the efforts made in the AORW.

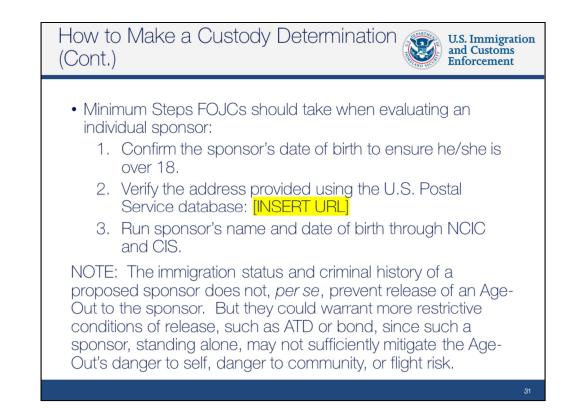


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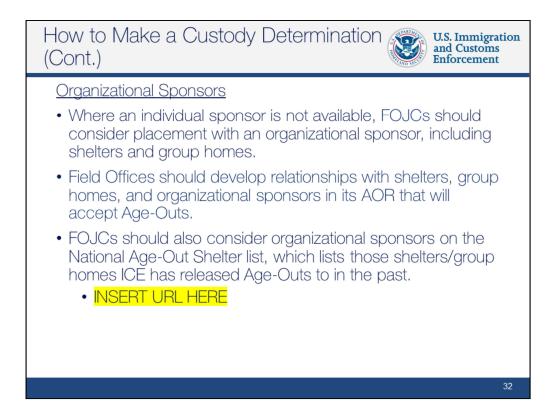
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Running sponsors through these two databases is simple and provides near instantaneous results and allows you to more fully evaluate whether releasing the Age-Out to this person is appropriate or would sufficiently mitigate flight risk or danger concerns. Does the proposed sponsor have immigration and/or criminal history that involves violence, flight from law enforcement, or fraud? While positive answers to these questions do not automatically disqualify the sponsor, it is pertinent information to consider.

If there is sufficient justification to reject release to a proposed sponsor, document the steps you took to evaluate the sponsor and the reasons for rejection, and begin looking at other sources of information for alternative release options (A-file, attorney/advocate, ORR, Age-Out).



You don't need to contact 5 shelters if the first one you contact can accept this age out.

How to Make a Custody Determination (Cont.)

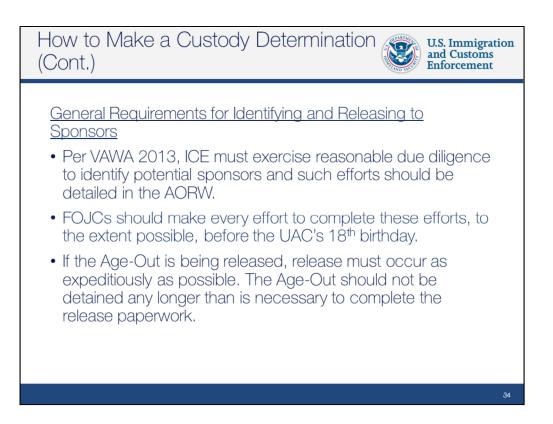


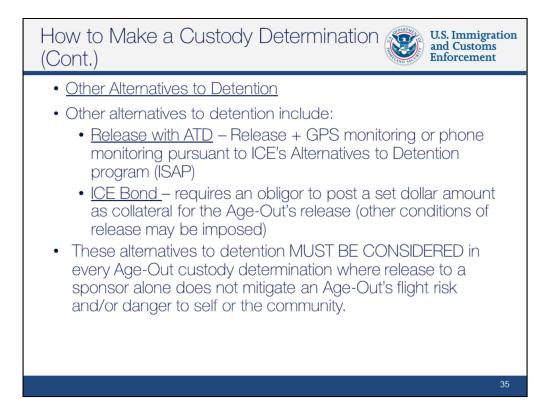
- Promptly contact a minimum of five (5) shelters* from the National Age-Out Shelter List or that the FOJC otherwise identifies to determine if they will accept the Age-Out. FOJCs are not constrained to contacting or releasing to the organizations on this list. FOJCs are encouraged to work collaboratively with other FOJCs within and across AORs and with JFRIMU to share information about available organizational sponsors. FOJC must document all efforts made to identify available sponsors.
- Organizational sponsors outside a field office's AOR are perfectly acceptable and should be considered available if closer release options are not. However, the shelter and the Age-Out are responsible for coordinating transportation from the ORR facility to the sponsor.

*If an available sponsor is identified before contacting 5 shelters, the FOJC does not need to continue contacting additional shelters.

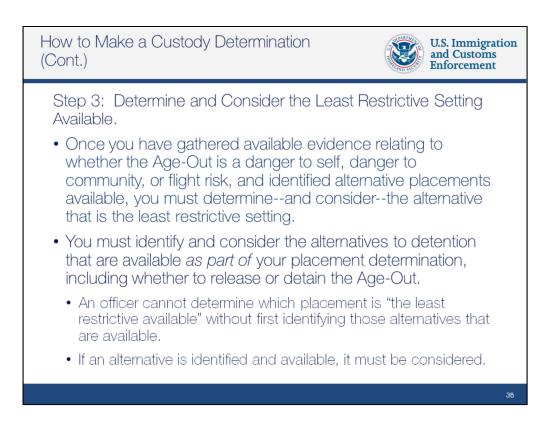
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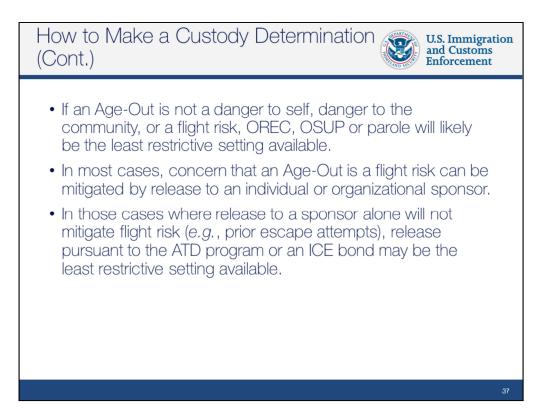
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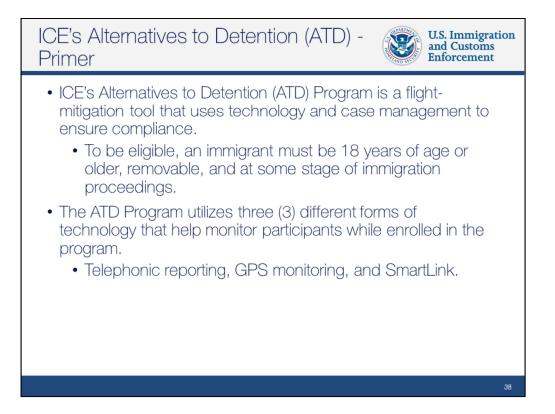


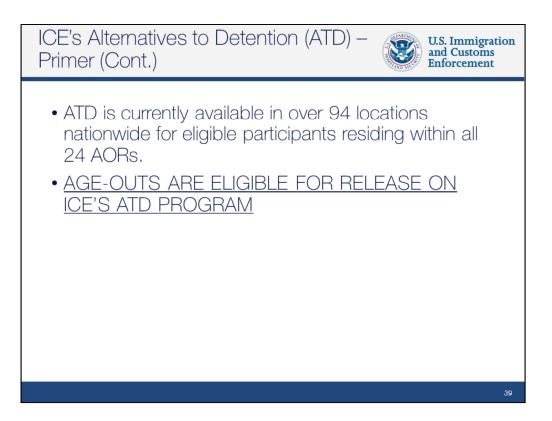


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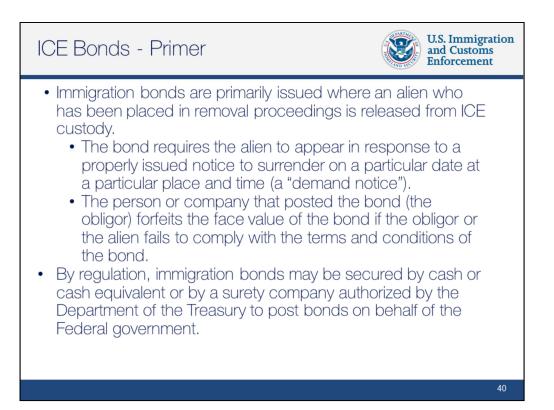


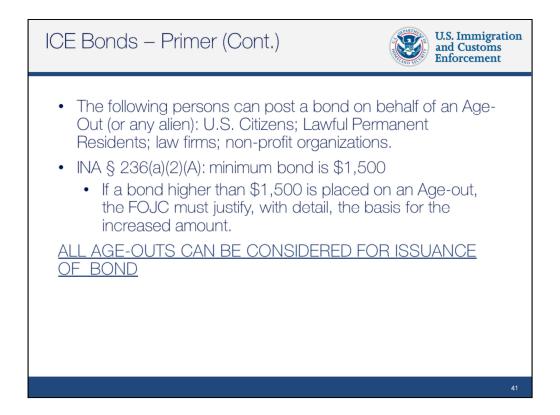






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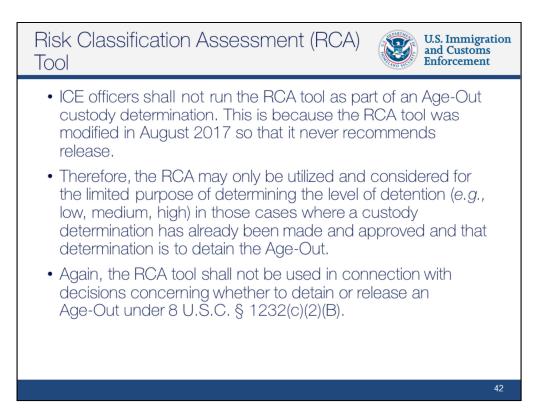


The issuance of a bond is intended to mitigate flight risk only. See Matter of Urena, 25 I&N Dec. 140, 141 (BIA 2009)("Immigration Judge should only set a bond if he first determines that the alien does not present a danger to the community.")

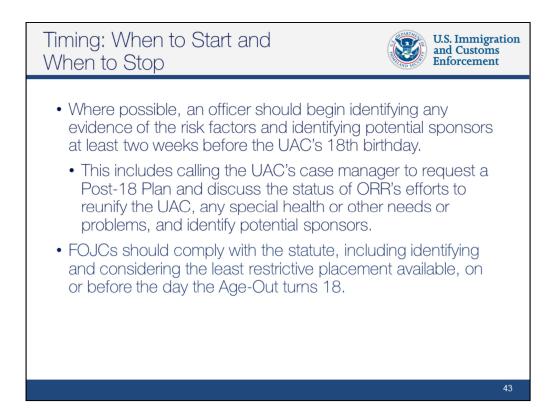
Factors to consider when deciding whether to set a bond and the bond amount include, but are not limited to:

"(1) whether the immigrant has a fixed address in the United States; (2) the immigrant's length of residence in the United States; (3) the immigrant's family ties in the United States, (4) the immigrant's employment history, (5) the immigrant's record of appearance in court, (6) the immigrant's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses, (7) the immigrant's history of immigration violations; (8) any attempts by the immigrant to flee prosecution or otherwise escape from authorities; and (9) the immigrant's manner of entry to the United States." See Matter of Guerra, 24 I&N Dec. 37, 40 (BIA 2006).

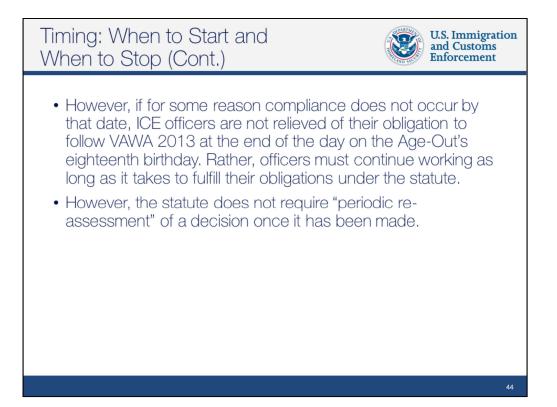
Consult with your local OPLA office to find out if jurisdiction-specific case law or settlement agreements require or prohibit you from considering additional factors.



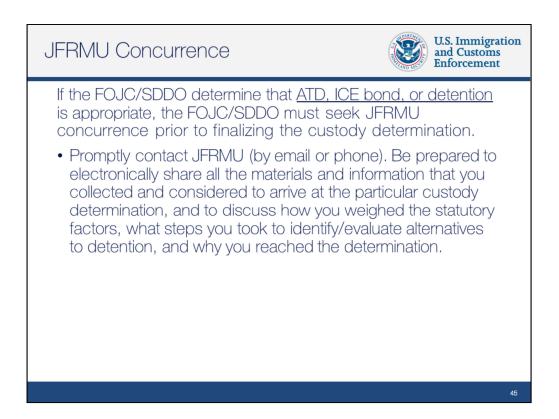
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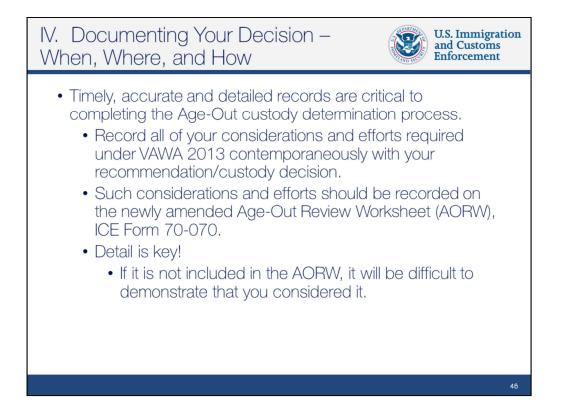
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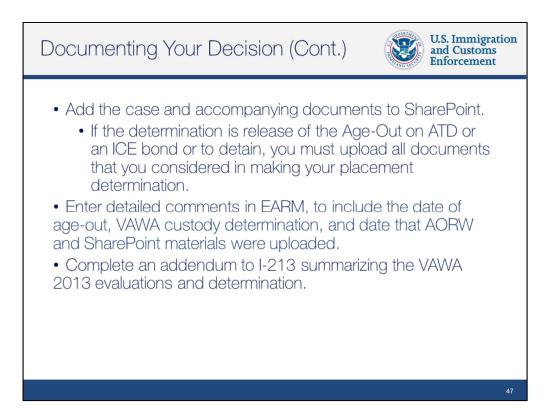


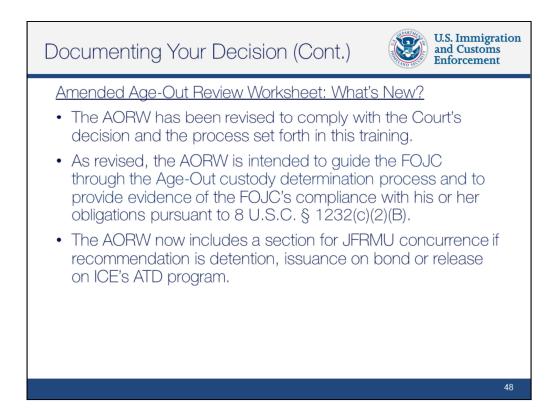
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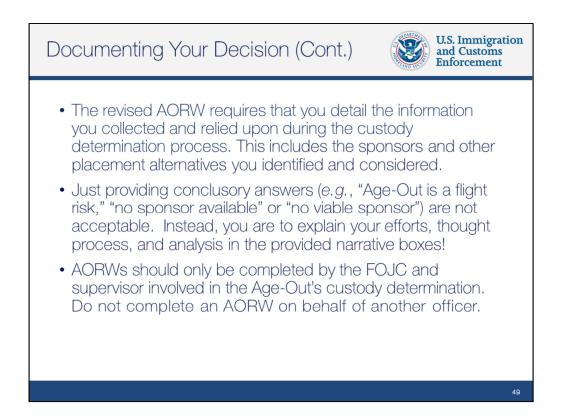
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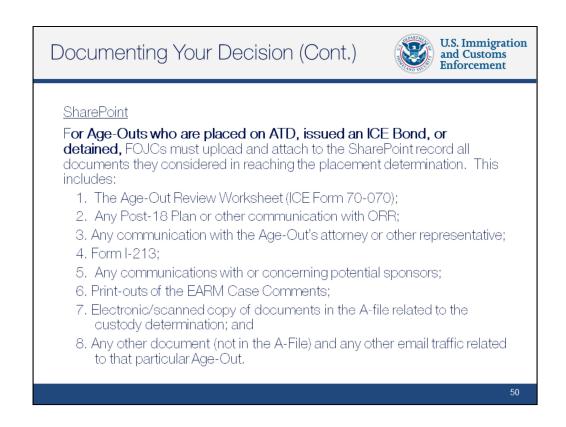




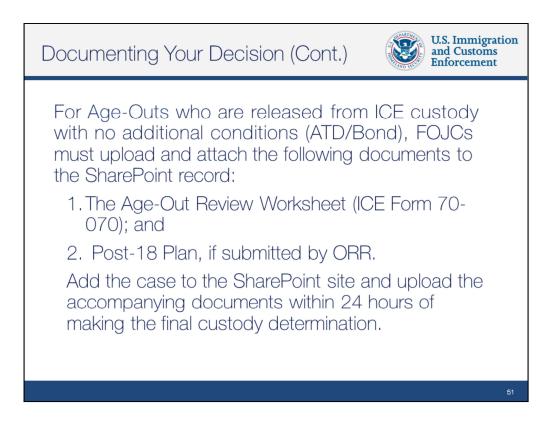
Trainer will need to walk through the new form line by line.



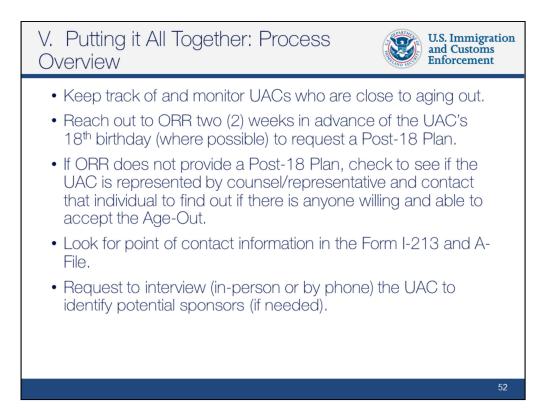
JFRMU: Comment to trainer to emphasize: "The process and efforts need to be well documented in order to prove that it was done."

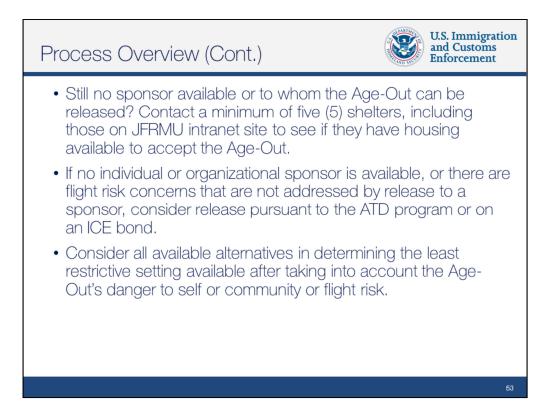


Don't have access? Contact JFRMU immediately for assistance.

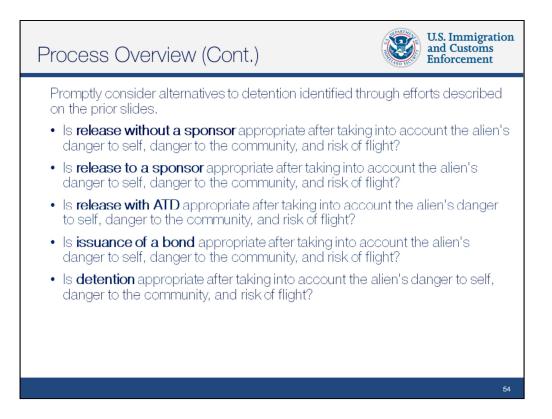


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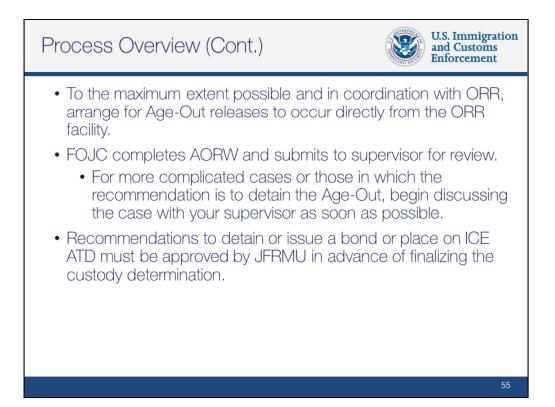




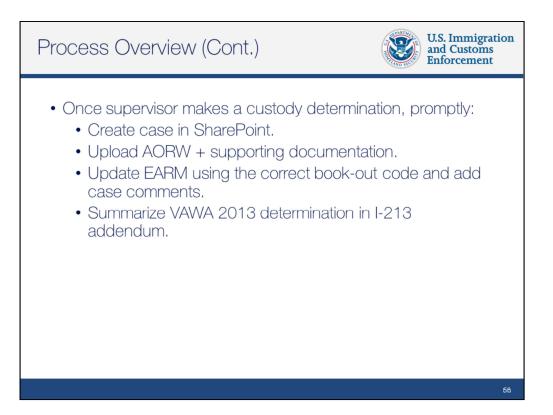
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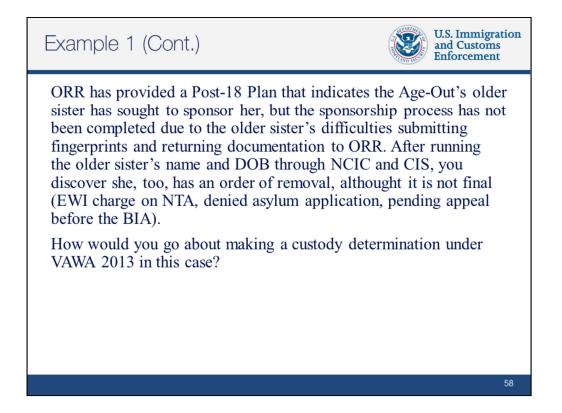


Example 1



The Age-Out is living in an ORR shelter. She came into custody following a collateral arrest where ICE officers discovered she had an *in absentia* order of removal from two years ago when the Age-Out was apprehended with her uncle and released with NTAs. Early on in her time in ORR, she ran away from the shelter but was located and returned to ORR within a matter of hours. Also during her time in ORR custody, she successfully filed a motion to reopen and rescind the *in absentia* order and, according to your local OPLA office, has retained counsel and has represented to the IJ that a UAC application for asylum will be submitted to USCIS within the coming days. The ORR case manager indicates there were some behavioral issues early on in her stay (around the time she ran away), but that she has been receiving counseling and ORR staff note a positive turnaround in her behavior.

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There is evidence of flight risk as she did run away from the shelter and has a prior failure to appear before the IJ. However, there are no other escape attempts and ORR indicates her behavioral issues have been addressed such that they have had no other SIRs/concerns of note. Also, the IJ granted the motion to reopen (officer may want to consider the reason why the IJ granted the MTR if that is available, as the reason might be because of lack of notice, in which case the Age-Out did not willfully fail to appear, but rather had an excuse). No danger to self or danger to community indicia identified. Age-Out also retained counsel and has represented to the court that an application for relief will be submitted soon, which is additional evidence suggesting that the Age-Out is making efforts to legalize her status and has a reason to appear for future proceedings/appointments.

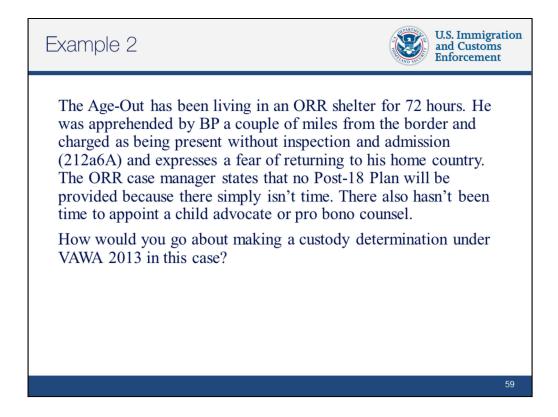
The least restrictive setting available is release; however, release on the Age-Out's own recognizance does not appear appropriate given the history of FTA/runaway, demonstrating that additional oversight is needed to ensure she appears as required in the future.

Release to the proposed sponsor is a possibility that should be evaluated next. Remember, the fact that the sister's sponsorship did not pan out with ORR does not matter. You must consider this sponsor under VAWA 2013, as she has been identified as available. There are some concerns with the proposed sponsor, however, as she is an EWI herself, with an ongoing case and a removal order, but that removal order is not yet final and there is no indication that she has failed to comply with any of her own conditions of release in the past.

Therefore, turning to a slightly more restrictive condition of release is release on ATD (GPS monitoring). Recommend release on ATD as appropriate since Age-Out failed to appear previously and tried running away, so having additional visibility into her whereabouts and whether she is where she says she will be is needed to mitigate risk of flight. Additionally, GPS monitoring may be deescalated upon proof of compliance. Contact ATD POC in the office to find out whether she can be enrolled based on the proposed release address. Bond is not an option because the proposed sponsor is an EWI and would not be able to post bond.

Contact JFRMU immediately to discuss the case and recommendation.

JFRMU would concur with the recommendation to release on ATD.



Promptly review I-213 A-file to see if there are any family or friends listed as living in the US.

Say the I-213 lists the name and phone number of the father (but no address) as the POC in the encounter details from BP. You call the number two days before the minor's 18th birthday but no one answers and the voicemailbox is not set up. What steps would you take next?

Request to interview the minor (over the phone or in person, depending on what the ORR facility/time permits).

Say ORR grants your request to interview the minor. Tell the UAC that you're trying to determine if he has any place to go once he turns 18 and ages out of ORR custody. Does he know of anyone with whom he can live? Tell him you tried calling his father (since the UAC previously told immigration officials that is who he intends to reunite with), but that no one answered. Is his father's phone number correct? Does the Age-Out know his father's address? Is there another number where his father can be reached? Or any one else he can live with?

Say the UAC confirms that he was planning on living with his father but also has

cousins in the US and provides the name and phone number for one of his cousins. What action(s) do you take?

Suggest the UAC try calling his father himself, as well as the cousins he identified, to obtain address information. In the mean time, you try to establish contact with the cousin but the cousin says he doesn't want to give his information to ICE and hangs up. What do you do next?

Place additional calls to the father to see if he answers. Begin calling organizational shelters to see if they have housing availability for the Age-Out.

Say the afternoon before the individual turns 18, the father finally calls you back (since the minor established contact with him on his own) and says he can take the UAC and provides an address. The address provided shows up as valid on the USPS website. Does the FOJC need to do anything else?

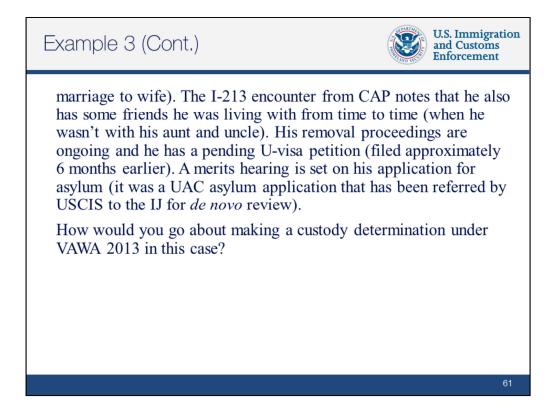
No. Recommend releasing the Age-Out on his own recognizance to the address provided by the father. There are no danger to self or danger to community concerns. Flight risk concerns (recent arrival) are insufficient to justify not releasing on OREC. Plus, the Age-Out expressed a fear of return, so he has potential avenues for relief from removal he may apply for, and he has an immediate relative and some extended family here in the US and the address checks out.

Example 3



The Age-Out has been living in an ORR secure facility. He was encountered by ICE through CAP following his arrest for sexual abuse of a minor under 14 and was transferred into the custody of ORR following the completion of his sentence. He also has prior arrests for possession of marijuana and driving while intoxicated. There are incident reports from both his time in criminal custody and ORR custody that indicate he has engaged in numerous fights with other detainees and staff, including one incident where the victim required hospitalization for a broken bone. The ORR case manager states that no Post-18 Plan will be provided and doesn't give a reason. The Age-Out has counsel who has submitted a request to release the Age-Out to his aunt and uncle, with whom he was living prior to his criminal arrest. There are no known issues with either the aunt (LPR) or uncle (seeking adjustment based on

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Note that the Age-Out is coming from an ORR secure facility, which is the most restrictive level of ORR custody. Flight risk? No clear evidence of flight risk, although it looks like he sometimes bounces between living with aunt/uncle and sometimes with friends. He does have a pending U-visa petition, but his sexual assault conviction may call into doubt his eligibility/require a waiver. He also filed an asylum application that was considered by USCIS but referred to EOIR for de novo review. Danger to self? No evidence of danger to self. There are danger to community concerns however: he has a sexual assault conviction that involved a victim under the age of 14, as well as a DUI arrest, both of which demonstrate the harmful behaviors he has engaged in while out of custody. While in criminal and ORR custody, there are multiple reports of the UAC engaging in assaultive behavior, including injuring another detainee such that the detainee needed to be hospitalized. No evidence of any rehabilitation or improvement while in custody.

ORR did not submit a Post-18 Plan, but that does not end the inquiry. The Age-Out's counsel submitted a request for release to his aunt/uncle upon turning 18. Because this placement option has been identified as available, it must be considered. Aunt has status and uncle is in the process of trying to obtain status.

The least restrictive setting would be release. However, that does not appear to be appropriate in this case given his criminal history that involves violence to others (children, detention staff, and other detainees) and a lack of regard for others safety for drinking and driving and putting others on the road at risk of harm. Release to

the identified sponsors also does not appear sufficient to mitigate these danger concerns because he was living, at least part time, with these same adults when he was engaging in dangerous and harmful behavior. Release on bond does not appear to be appropriate for the same reasons; bond is a means of mitigating flight risk, not danger, which are the main concerns with this Age-Out. Additionally, release on any form of ICE's ATD Program will not sufficiently mitigate the danger to the community this Age-Out poses. Even while in custody, he demonstrated his unwillingness to comply with rules as evidenced by his participation in multiple fights with staff and other detainees. He appears unlikely to comply with conditions of release on ATD. Therefore, recommend detention due to evidence of subject being an ongoing danger to others.

Immediately discuss with supervisor the recommendation and promptly reach out to JFRMU for concurrence.

Example 4



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The Age-Out has been living in an ORR shelter for 9 days. He was apprehended by BP a couple miles from the border and charged as being present without inspection and admission (212a6A) but did not express a fear of return. The ORR case manager states that no Post-18 Plan will be provided because there isn't time. You consult the A-file/I-213 and note that there is no POC information listed. The UAC doesn't have counsel or a representative as far as you are aware. You are able to interview the UAC a couple days before his 18th birthday and he states he has some friends in the U.S. but he is unable to provide contact information for any of them. He also states he came to the U.S. to live and work and promises he will show up to court if he is released. All records checks come back clean. The NTA was only just filed with EOIR and no hearing has been scheduled.

How would you go about making a custody determination under VAWA 2013 in this case?

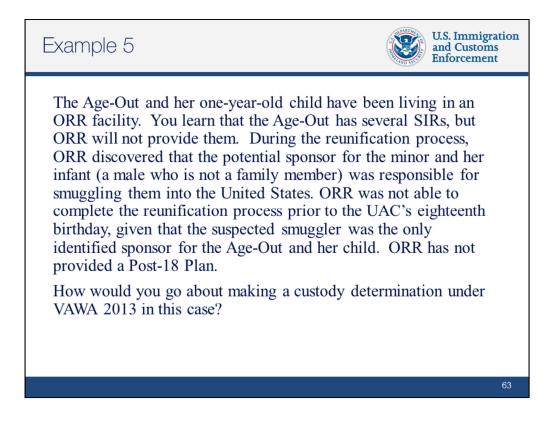
Remember: ICE cannot rely solely on sponsorship decisions by ORR or the absence of sponsor information from ORR as a reason to short-circuit the VAWA 2013 inquiry and detain.

In this scenario, FOJC already looked to the A-file/I-213 for potential sponsor information and there does not appear to be an attorney/advocate/representative involved in this case. The FOJC already interviewed the UAC to see if he has any family or friends to whom he can be released, but the UAC didn't provide any leads. During such interviews, the FOJC should encourage the UAC to expeditiously contact anyone he knows that may be willing to let him be released to them.

Turning to the three VAWA 2013 factors, there does not appear to be indicia of danger to self or danger to community. Some flight risk concerns given that he only just entered the US and does not appear to have any community ties and hasn't filed for relief from removal. However, those are flight risk concerns present in most Age-Out cases and can often be mitigated by releasing the Age-Out to a sponsor (individual or organizational).

If no individual sponsor can be found, promptly contact at least five shelters on the National Age-Out Shelter List or that the FOJC is otherwise aware of and see if they have any availability for housing. (Are you confined to shelters/group homes within your AOR? No!) If a shelter confirms that they have housing availability on the UAC's 18th birthday, recommend release to that shelter on the 18th birthday. Pass

along shelter's contact information/POC to ORR (and the UAC) for the shelter to coordinate travel upon release from ORR.



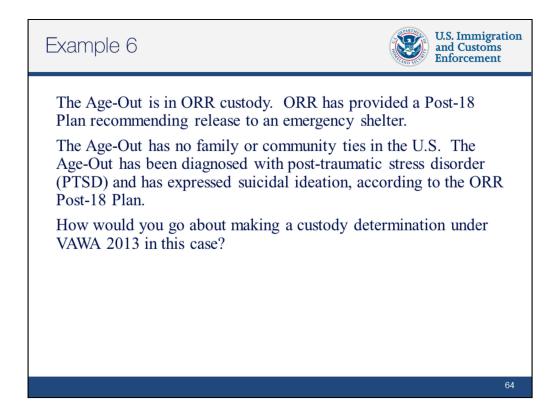
Remember: ICE cannot rely solely on sponsorship decisions by ORR or the absence of sponsor information from ORR as a reason to short-circuit the VAWA 2013 inquiry and detain.

In this scenario, there is sufficient negative information to reject the proposed sponsor. The FOJC should therefore look elsewhere for options that will allow the Age-Out and her infant to stay together. The FOJC should check the A-file/I-213 for additional potential sponsor information and should also confirm if the Age-Out has an attorney/advocate/representative. The FOJC should also interview the Age-Out to identify potential sponsors.

Turning to the three VAWA 2013 factors, there does not appear to be indicia of danger to self or danger to community. While there are SIRs, there is no indication that they contain negative information. Remember that SIRs are completed for a variety of reasons (e.g., health issues); do not assume that their existence supports a detention decision. Any flight risk concerns should be addressed by release to a sponsor.

If no sponsor can be found, promptly identify shelters, group homes, or other organizational sponsors that accept women with young children. (Are you confined to shelters/group homes within your AOR? No!) If a shelter confirms that they have housing availability on the UAC's 18th birthday, recommend release to that shelter. Pass along shelter's contact information/POC to ORR (and the UAC) for the shelter

to coordinate travel upon release from ORR.



Turning to the three VAWA 2013 factors, there does not appear to be indicia of danger to the community. While the Age-Out needs mental health care, that doesn't necessarily mean detention is appropriate. Consider how long along ago the Age-Out expressed suicidal ideations and/or whether there is evidence of improvement such that those concerns have been or are being addressed or no longer exist. Does the Post-18 Plan mention anything about the emergency shelter's plan to address the Age-Out's mental health issues? If the proposed emergency shelter confirms that they have housing availability and can handle/address the Age-Out's danger to self concerns on the UAC's 18th birthday, recommend release to that shelter. Pass along shelter's contact information/POC to ORR (and the UAC) for the shelter to coordinate travel upon release from ORR.

Finally, placement in a shelter should address any flight risk concerns but whether the shelter could address danger to self concerns (to the extent they still exist) will dictate whether release is appropriate to the proposed placement.

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