

# Exhibit I



From: [REDACTED]  
 Sent: 3/31/2017 4:21:22 PM  
 To: [REDACTED] (ACF) [REDACTED]@acf.hhs.gov]  
 CC: [REDACTED]  
 Subject: Best Interests Recommendation for [REDACTED]  
 Attachments: 2017 02 02 [REDACTED]

Dear [REDACTED],

On February 10, 2017, ORR appointed the Young Center for Immigrant Children's Rights to serve as the Child Advocate for [REDACTED] (see attached appointment notice). As you know, our role as Child Advocate is similar to that of a best interests guardian *ad litem*: to identify and develop recommendations related to care, custody, release, legal representation, relief from removal and repatriation. Thank you for taking the time to speak with my yesterday regarding our concerns as to the disclosures of [REDACTED] judicial bypass documents and medical procedures. **We strongly recommend that it is in [REDACTED] best interests to keep her abortion confidential and not to be required to disclose the procedure to either her parents or her sponsor. This is consistent with both state and federal law. Following is a more detailed explanation of our recommendation.**

#### Arizona State Law on Confidentiality of Judicial Bypass

We are concerned that requiring [REDACTED] to disclose her abortion to her parents and/or sponsor is ~~are~~ in violation of the Arizona Consent Statute, which protects the confidentiality of the pregnant minor's identity and ability to obtain judicial bypass, the legal alternative to obtaining parental consent for an abortion in Arizona. Per A.R.S. § 36-2152, a pregnant unemancipated minor must either have the notarized and written consent of one parent, guardian, or conservator, OR the authorization of a superior court judge. Upon filing the petition or motion and holding an appropriate hearing, a minor must prove by clear and convincing evidence that she is mature and capable of giving informed consent to the proposed abortion without obtaining parental consent. In addition, A.R.S. § 36-2152(E) protects the confidentiality of these procedures. It even goes as far as allowing the minor to use a fictitious name when filing the petition for judicial bypass so as to protect the identity of the minor requesting this specific judicial order.

On [REDACTED], a [REDACTED] superior court judge found that there was clear and convincing evidence to show that [REDACTED] is mature and capable of making a decision to obtain an abortion, without obtaining permission from a parent or guardian. To require that [REDACTED] disclose her abortion to her parents and/or sponsor would directly violate Arizona state law, as a Superior Court Judge has already made a final determination that [REDACTED] is not required to disclose her pregnancy ~~nor~~ her abortion to her parents or guardian. It would also violate Arizona law by requiring the disclosure of what happened in confidential proceedings. **In accordance with Arizona state law, [REDACTED] medical procedure and judicial bypass court procedure should remain confidential.**

#### Federal Law Protecting [REDACTED] Right to Disclose Protected Health Information

Pursuant to federal law, [REDACTED] also has the authority to protect her health information as an individual. Generally, federal law provides parents and guardians the ability to act on behalf of an unemancipated minor to make health care decisions and obtain health care related information about the minor. 45 CFR 164.502(g)(3)(i). However, an exception

exists for unemancipated minors that have lawfully obtained health care services without the consent of a parent or guardian, and where a court provided consented to those services, as authorized by law. 45 CFR 164.502(g)(3)(i)(B).

fits squarely within the exception in this case. She is an unemancipated minor who lawfully obtained her abortion without the consent of her parents or guardian and was authorized to do so by the Court in accordance with state law. **According to federal law, must be treated as an "individual", meaning that she alone has the authority to disclose her medical procedure and she cannot be compelled to disclose her procedure to either her parents or her sponsor.**

**Fear of Harm to her Mother if she Discloses to her Sponsor or Parents**

fears that her father will retaliate against her mother in home country if he finds out that she was pregnant and had an abortion. She chose to pursue judicial bypass for fear that if her father found out, he would hurt her mother. does not want to inform her sponsor (an older brother) because he will likely share the information with their parents which would result in future retaliation against their mother.

**The Young Center will Assist in Accessing Medical Care Post-Release**

ORR may want to disclose her abortion to her parents and sponsor in order to ensure that she receive proper medical care post-release. In order to address this concern, with consent, the Young Center will assist her post-release in accessing any necessary medical care follow-up related to her procedure. has been open with her Child Advocate about her abortion so we believe she will provide consent.

**For all these reasons, we strongly recommend that pregnancy, judicial bypass proceeding, and medical procedure remain confidential in accordance with A.R.S. § 36-2152.** I would be happy to further discuss this during a staffing with you and the program staff so that we can work together to find solutions for your concerns. Please let me know if you have any questions or need additional information.

Sincerely,



[www.TheYoungCenter.org](http://www.TheYoungCenter.org)

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