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Spotlight On: National Immigrant Justice Center

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Spotlight On:
National Immigrant Justice Center
By: Katie Curtis

I. CURRENT ISSUES IN THE IMMIGRATION SYSTEM RELATING TO CHILDREN

On average, there are approximately 10,000 immigrants every year in the United States that are in need of legal counsel and representation. Thousands of these immigrants are unaccompanied children that are detained in the Chicago area as part of immigration proceedings. Children seek refuge in the United States for various reasons, such as to escape gangs, wars, violence, abuse, or to reunite with their families. The major problem that unaccompanied children face once they are in the United States include verbal, sexual, and physical abuse inflicted by the United States Customs and Border Protection, the border enforcement agency of the United States Department of Homeland Security. Such abuse has been happening for years, and despite being aware of its prevalence, the Department of Homeland Security has not taken necessary action to address the issue.

The maltreatment of unaccompanied immigrant children by the Department of Homeland Security is the immigration system's greatest problem and one that needs immediate reformation. In fact, previous legislation has recognized the severity of the maltreatment of immigrant children and addressed this issue. The Flores Settlement Agreement was the first settlement to create guidelines on how children should be treated in immigration detention centers. The Flores Settlement Agreement was established in 1985 when the American Civil Liberties Union, along with four minors that had immigrated to the United States, filed a class action suit against the Immigration and Naturalization Service to challenge the protocols of the detention, treatment, and release of unaccompanied immigrant children. The Agreement created the following three requirements that are now imposed on immigration authorities:

1. The government is required to release children from immigration detention without unnecessary delay to, in order of preference, parents, other relatives, or licensed programs willing to accept custody.
2. If a suitable placement is not immediately available, the government is obligated to place children in the 'least restrictive' setting appropriate to their age and any special needs.
3. The government must implement standards relating to the care and treatment of children in immigration detention.

II. THE IMMIGRANT CHILDREN'S PROTECTION PROJECT

To address these issues and aid immigrant children, the National Immigrant Justice Center, a non-governmental organization that provides legal services to unaccompanied children, developed the Immigrant Children's Protection Project to help the thousands of unaccompanied immigrant children in the United States. The National Immigrant Justice Center has offices in Chicago, Indiana, and Washington D.C. In these offices, legal services are provided through public education, impact litigation, and policy reform. The project was developed by partners of the nation's leading law firms who had significant experience in providing pro bono legal services to

children. Due to the resources provided by the National Immigrant Justice Center and the experience of the attorneys working on the project, significant advancements have been made in federal impact litigation and advocacy, setting positive precedents for children seeking human rights protections in the United States.

The National Immigrant Justice System created this project after gathering information from hundreds of intake interviews that took place with unaccompanied immigrant children held in the Chicago area. During these interviews, volunteers at the National Immigrant Justice Center analyzed the motives for immigrant children's migration to the United States, the kind of treatment the children received when they arrived in the United States, and the general experiences that these children had in the United States immigration system. The National Immigrant Justice System realized, upon apprehension, which initiates the process of detainment, that the Department of Homeland Security would subject a majority of these children to poor treatment. For example, the children would be held in extreme temperatures, shackled, experienced verbal, sexual, and physical abuse, and were deprived of access to beds, food, and water. Furthermore, the Department of Homeland Security agents would systematically deny necessary medical care to these children.

For unaccompanied immigrant children to have any chance of success in the United States' immigration system, it is necessary for them to have access to legal representation. It is almost impossible for a child to go through this process alone and succeed. The Immigrant Children's Protection Project offers resources to immigrant children that help address the four main challenges these children face in the immigration system.

First, as a general matter, immigrant children do not have a right to court-appointed counsel. Thus, such children are left with the option of retaining an attorney or appearing in court without legal representation. The Immigrant Children's Protection Project provides pro bono counsel for immigrant children to provide assistance throughout the immigration proceedings.

Second, the immigration system is highly confusing and complex. A deportation proceeding against a child usually starts when the Department of Homeland Security immigration officials apprehend the child. An immigration official then transfers custody of the immigrant child to Office of Refugee Resettlement, which is an office in the Department of Health and Human Services. After the children are released from this office and sent to foster care, it is that child's responsibility to turn in paperwork to the court to inform them that the child has moved. Further, the child must file a motion to change venue if the new address is in a different jurisdiction than the one the child started in. If the child does not update the court of the new address, the child could be ordered deported in absentia for failing to appear in court. The Children's Protection Project's pro bono counsel ensures that the child complies with all such necessary procedural requirements.

Third, the Department of Homeland Security has not set out clear guidelines for prosecutorial discretion in relation to unaccompanied immigrant children. Accordingly, it would help unaccompanied immigrant children that have a strong tie to the United States to get relief if the guidelines for prosecutorial discretion were expanded. The Immigrant Children's Protection Project seeks to change current legislation on prosecutorial discretion.

Finally, there are very few legally binding regulations to protect children in the custody of the Department of Homeland Security. Similarly, there is very little oversight to guarantee that unaccompanied immigrant children are appropriately cared for and humanely treated while in the care of the Department of Homeland Security. The Immigrant Children's Protection Project also seeks to change the aforementioned issues.

In addition, the Immigrant Children's Protection Project also delivers "Know Your Rights" presentations to familiarize the children with their rights in the immigration court system. Topics included in these presentations include: encounters with law enforcement, immigration raids, immigration enforcement at health care facilities, immigration enforcement at workplaces, participating in demonstrations, national origin discrimination and other various immigration enforcement. Such presentations help the immigrant children understand their options. The mission of the project also includes the following: helping pro bono immigration attorneys to further their understanding of the realities of immigrant children as to why they flee to the United States and to use such information in an effort to reform the immigration system to ensure basic human and due process rights for these children.

III. GOALS OF THE IMMIGRANT CHILDREN'S PROTECTION PROJECT

One of the goals of the Immigrant Children's Protection Project is to provide legal services to unaccompanied children in Chicago's shelters. Further, the project's workers visit these shelters on a weekly basis to interview the children and conduct legal assessments to collect data as to what the child may need from an immigration attorney. After the interviews and the facts are collected, the information is entered into a client database, where case summaries, legal immigration documents and other such materials are prepared. The children are contacted continuously throughout the case preparation process for follow-ups. Eventually, an attorney from the Immigrant Children's Protection Project will attend a hearing before the Executive Office for Immigration Review for the child. This process aims to help the children receive adequate legal aid.

The Immigrant Children's Protection Project's second goal is to establish legislation and federal law to govern the rights of child immigrants and guide the treatment of unaccompanied immigrant children who enter the United States. The National Immigrant Justice Center has suggested that the best way to accomplish this goal is to exert pressure on Congress to enter the Flores Settlement Agreement and completely recreate the immigration system presently utilized by the United States. Currently, with the use of detention centers for holding unaccompanied immigrant children, the immigration system resembles a criminal law model. The Immigrant Children's Protection Project's advocates that such an approach be completely eliminated and that children not be treated as criminals. Further, the Center recommends that the Department of Homeland Security needs to partner with non-governmental organizations, such as the National Immigrant Justice Center, to implement legal regulations and oversight mechanisms to ensure that these children are treated properly by officers while detained in order to achieve this goal.

IV. CONCLUSION

Thanks to the National Immigrant Justice Center's research, policy-makers are able to monitor current policies, expose violations of human and constitutional rights, and present new recommendations to the White House, Members of Congress, the Department of Justice, and the Department of Homeland Security. One such specific recommendation proposed by the National Immigrant Justice Center is to promulgate a provision specifically allowing parents to safely reunite with their unaccompanied children. This means the immigrant children would not have to go through this potentially traumatizing and remarkably difficult process alone. Although this is just the beginning, the Immigrant Children's Protection Project's mission of providing legal services and resources to unaccompanied immigrant children and its drive to reform the immigration process as a whole is a significant step in the right direction.

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