

Janet Beck Nov. 18, 2016

1. In focusing on the placement or detention of displaced children in Texas, what are the most critical issues you see regarding differential treatment of different categories of children?

Unaccompanied children are treated very differently from children who arrive with a parent. The former are sent to shelters (managed by groups such as Catholic Charities), under the auspices of the U.S. Dept. of Health and Human Services Office of Refugee Resettlement and released to family members or family friends; the latter are detained. Both groups are placed in removal/deportation proceedings where they may apply for asylum or apply for permanent resident status based on an approved Special Immigrant Juvenile petition. Some may have another legal remedy.

2. What are the most critical issues you see in terms of current practice or policy responses to the holistic needs of displaced children in Texas?

In Texas, at the Dilley and Karnes detention facilities, women and children are detained. According to the Flores Settlement, children should not be detained. Detention facilities do not have the resources to help children deal with PTSD or other psychological reactions to the trauma they experienced in their home countries. In detention they are dependent on their detained parent who is also dealing with severe trauma in her home country and anxiety in response to the threat of deportation. Sometimes the anxiety of the parent are transmitted to the child who may somaticize. Medical care is less than adequate in these facilities. Mental health care is non-existent.

In contrast, unaccompanied minors in shelters are, frequently, seen by mental health professionals. Both groups have access to school classes.

Children, as well as adults, have a right to an attorney but at their own expense. Many of these children and their families cannot afford legal representation for a removal or other type of immigration case. So they appear *pro se*. Some are lucky enough to find an attorney through a non-profit or law school immigration clinic. A lawsuit was filed in the Ninth Circuit against the U.S. government arguing that these children had a right to representation by a Government or Government-appointed attorney (*J.E.F.M. v. Lynch*) but the court failed to find that children had this right.

3. What different understandings of 'best interests' do you see in your work? Is there a gap between intention and practice in terms of prioritizing the best interests of children in placement or detention settings?

There is no gap between intention and practice with regard to ICE. Their role is to deport undocumented individuals. It is, obviously, not in the best interest of the child to be sent back to the country where she or her parent was persecuted. In fact, this is one of the findings that

a juvenile or family court judge must make in Special Immigrant Juvenile (SIJ) cases (the other is that the child was abused, abandoned or neglected by one parent). With regard to detention, since the accompanied children in Texas are put in the "hielera" (freezer) and then the "perrera" (dog pound) before they arrive at the Dilley or Karnes detention center, they are, frequently, sick. At the hielera, they have a thin material that substitutes for a blanket in a very cold environment. It is in their best interest to avoid detention altogether or to be released rapidly with their parent.

Dilley and Karnes are operated by private companies but are operating under the auspices of US Dept. of Homeland Security Immigration and Customs Enforcement (USDHS-ICE). ICE has Detention Guidelines but many times they are not followed in practice by the detention facility.

4. What are the opportunities and barriers for the voices of children to be heard in placement or detention decisions that affect them?

The women at Karnes and Berks (Pennsylvania) detention center went on hunger strikes and thus their complaints about food, medical and other conditions were heard, ultimately, benefitting their children. In 2016 a detention guard at the Berks County Detention Center in Pennsylvania center was convicted of sexual assault of one of the women housed there.

Children are interviewed by pro bono attorneys but these individuals cannot see everyone. They are interviewed to determine whether they have their own claims for asylum apart from their parents. Children are interviewed separately, if old enough, by a US Citizenship and Immigration Service (USCIS) Asylum officer; otherwise their mothers speak for them. If the children are found not to have a significant possibility of establishing a basis for asylum by an Asylum officer, they can request review of the determination by an immigration judge. The USCIS Asylum Officers Training Manual has a special section on children's asylum claims and interviewing children.

Immigration judges will not allow children, accompanied by a parent, to bond out or be released on their own recognizance if the parent does not bond out. The minimum statutory bond amount is \$ 1,500.00. Some detainees are released on their own recognizance or on ankle bracelet and must report in to an ICE deportation officer or to their designee (ISAP).

5. Using a children's rights framework, what are the primary recommendations you would make to strengthen policy, practice, or research to improve the lives of children who have been displaced across borders and are experiencing placement or detention in Texas?

No detention of children. If they are detained, immediate release to a family member if unaccompanied or on their own recognizance.