



TYLA Partners with ProBAR to Represent Unaccompanied Children

BY KEVIN PRIESTNER

Driving past the bedraggled palm trees and the faded brick wall, one would have little sense of what the wall contains. On a given day, the I.E.S. shelter in Los Fresnos, a small town between Brownsville and Harlingen, houses up to 160 children, mostly from Central America, who were detained at the South Texas border.

The children arrive at the border unaccompanied by parents. After spending a night or two at a border patrol station (where they are fingerprinted, photographed, interviewed, and read their rights), they are transferred to a shelter, operated by a government contractor such as I.E.S., to await removal proceedings. The children have no right to appointed counsel, nor do they receive a guardian ad litem. They must represent themselves in immigration court in a language they don't understand.

Each week, representatives of ProBAR, the South Texas Pro Bono Asylum Representation Project, travel to the shelters to deliver "Know Your Rights" presentations and screen the detainees for potential asylum cases. ProBAR may represent some of the detainees; they may coordinate volunteers to represent others.

ProBAR is a joint project of the State Bar of Texas, the American Bar Association, and the American Immigration Lawyers Association. It was created in 1989 to provide pro bono legal representation to detainees seeking political asylum.

"ProBAR has a different feel than a regular nonprofit because of its national support," says ProBAR Director Meredith Linsky. "On the other hand, we have to adapt to the changing nature of the border. A year ago, we were seeing mostly



ProBAR Director Meredith Linsky, ProBAR Children's Pro Bono Coordinator Diane Eason, TYLA President Karin Crump, and ProBAR Children's Attorney Marlon Valledares at a training session in Austin.

children from Honduras. Today, it's El Salvador. Tomorrow, it might be Guatemala. As priorities change on the border, the nationality of the kids we see changes. We respond to the needs of the population we are serving."

In 2000, Linsky's first year as director, ProBAR developed an Immigrant Children's Assistance Project. Last year, it secured funding for a full-time children's pro bono coordinator.

Yet even the addition of a full-time staff member doesn't keep pace with the increase in the number of detentions. In 2005, U.S. Customs and Border Protection detained nearly 8,000 unaccompanied children, 25 percent of them in the Rio Grande Valley. In 1997, by comparison, the government detained 2,400 unaccompanied children. Boys outnumber girls by a 3-to-1 ratio. A quarter of the children are younger than 14.

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To help meet the legal needs of unaccompanied children, the Texas Young Lawyers Association (TYLA) is partnering with ProBAR to train young lawyers to represent detainees. ProBAR staff select detainees who have strong cases for asylum, then advise young lawyer volunteers who agree to take the cases. Because of the time demands of handling an asylum case — Linsky estimates that it can take 100-150 hours — TYLA is seeking to divide the work between lawyers in the Rio Grande Valley and those in other parts of the state. For example, two members of the TYLA Board of Directors, Patsy Yung of Dallas and Frank Wood of Brownsville, are teaming up to help a Honduran boy, whose mother died and whose father is in prison, apply for a Special Immigrant Juvenile Visa, one of several forms of relief available to detained children. The local counsel may meet with the child and attend court hearings; the non-local volunteer may help prepare forms and reports.

“It’s never easy to win an asylum case,” Linsky says. “Never, never, never. But in the past year, we have won 12 to 15 cases, people who otherwise would have been unable to access the reports and expert witnesses they needed.”

On a Tuesday in late July, Diane Eason, ProBAR’s children’s pro bono coordinator, and Marlon Valledares, ProBAR’s children’s attorney, speak to a group of 15 recent detainees at the

Los Fresnos shelter. The children are outfitted in brightly colored polo shirts, and wear white tube socks (marked with identifying numbers) and rubber sandals.

I.E.S. makes available to ProBAR a portable classroom that consists of a main room bookended by two smaller rooms. A few years ago — in a move Linsky applauds — responsibility for the care of detainees was shifted from the former Immigration and Naturalization Service to the Department of Health and Human Services and its Office of Refugee Resettlement, which contracts with I.E.S. At various times, detainees are involved with four major federal bureaucracies: the Department of Homeland Security, the Department of Justice, the Department of State, and the Department of Health and Human Services.

Valledares leads the “Know Your Rights” session. A native of El Salvador and a former teacher (he holds a master’s degree in Spanish literature from the University of Virginia and a law degree from the University of Texas), Valledares is an engaging and articulate speaker. After he finishes his rights presentation, which includes flashcards illustrating a judge and courtroom, he and Eason use the adjoining rooms for intake. They ask each detainee about their time in custody (Did you sleep on the floor? Did you receive hot meals?) and why they tried to enter the United States (Were you abused, neglected, or abandoned? Were you the victim of a crime? Are you afraid to return to your country of origin?). The children are attentive and inquisitive. They are also anxious.

Linsky says one of the hardest parts of representing detained children is earning their trust. By the time ProBAR meets with them, the children have had to tell their story to a number of officials. Many of the children have a difficult time grasping the concept of confidentiality. Their stories can be inconsistent, with some relaying what they think adults want to hear. Others are afraid to recount the abuses they’ve suffered, either out of shame or fear of retaliation.

One of the biggest differences between detained children and detained adults, Linsky says, is that children are much more fragile. “They’re vulnerable. They don’t have an adult’s defenses. We talk to them the day after they are detained. They don’t want to hear that everything they’ve just been through was a waste.” (To read an account of the travails unaccompanied children can find themselves subject to, see Sonia Nazario’s Pulitzer Prize-winning book, *Enrique’s Journey: The Story of a Boy’s Dangerous Odyssey to Reunite with his Mother.*)

While most of the unaccompanied children detained in South Texas are placed in a shelter until their court hearing, the youngest of the children are placed in foster care. The foster care facility also serves as the meeting place for detainees who are reunifying with family members until their court date.

The I.E.S. foster care facility in Harlingen presents a stark contrast to the Los Fresnos shelter. The foster care facility is

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located in an office park, near a Hampton Inn, in space previously occupied by a chiropractor's office and a fitness center. I.E.S.'s administrative offices occupy the chiropractor's side; the former fitness center serves as a day school for the children in foster care. The two-story main activity room has hardwood floors (it was once a racquetball court) and festive bulletin boards with the English words for the days of the week, the letters of the alphabet, and various eating utensils. Upcoming birthdays are posted, as are commendations for excellent work. Unlike the kids at the shelter, the foster care children wear blue jeans and running shoes. The boys have short-cropped hair; the girls have their hair pulled back in ponytails. Nametags pinned to the collars of their polo shirts make the foster care kids look like they're attending a convention.

Eason leads a "Know Your Rights" presentation for seven kids, six from El Salvador and one from Guatemala. During the intake session she conducts afterward, a pregnant 13-year-old reports that gang members raped her and threatened to kill her family members if she reported them. Shortly thereafter, two uncles were murdered.

"The laws don't reflect children's reasons for leaving," Linky says. "It's an extraordinary experience. We should treat it as extraordinary. Instead, we treat it as an everyday experience."

Eason said very few children are simply curious about the United States and decide to travel here. "The majority are trying to join their family or were sent to make money."

"Hope springs eternal," Linky says. "They have very strong faith. And what's the alternative? I can't tell you how many of them say, 'I have a sick family member.'"

Some detainees return voluntarily to their country of origin. Others are deported by court order. A small percentage apply for and receive asylum.

"It's challenging work," Linky says, "but these children continue to astound and inspire me with their bravery, their faith, and their joy in light of all they've suffered. At a minimum, they deserve our attention, our respect, and our representation. The reality is that we have two attorneys dedicated to several hundred kids at any given time. That's just not adequate. We need the help of pro bono attorneys to meet the minimum needs of these kids."

Upcoming Training Sessions

On July 14, TYLA held the first of several training sessions for the Unaccompanied Children's Project. The participants earned several hours of CLE credit while learning the nuts and bolts of immigration law and federal bureaucracy. At the conclusion of the training, most of the participants agreed to accept a children's asylum case.

TYLA's Unaccompanied Children's Project committee, led by board members Sylvia Cardona, Patrick Rodriguez, Frank

Wood, Patsy Yung, Amy Davis Benavides, and Mary Reveles, will conduct three more sessions. (A training took place in El Paso on Sept. 15.) If you are interested in attending a ProBAR training or volunteering to take a child's case, contact Sylvia Cardona at scardona@langleybanack.com. For more information, call the TYLA office at (800)204-2222, Ext. 1529.

Oct. 20 • 10 a.m. – 2 p.m.

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