

Promoting Justice in the Immigration System

Legal Access for Unaccompanied Children

PROJECT SUMMARY • JULY 2009

Who are unaccompanied children?

Federal law defines unaccompanied alien children as persons under the age of 18, with no lawful immigration status in the United States, and without a parent or legal guardian in the country who is able to provide care and physical custody. Unaccompanied children are placed in Office of Refugee Resettlement (ORR) custody when they are apprehended for allegedly violating U.S. immigration law. Many of these children are apprehended while trying to cross the U.S. border. In recent years, increasing numbers have been taken into custody inside the country due to their involvement in the juvenile justice system or contact with local law enforcement or immigration enforcement.

Once the Department of Homeland Security has determined that a person is indeed an unaccompanied child, it has three to five days to transfer him or her to ORR. Between April 2006 and March 2008, ORR admitted 13,706 children into its custody. Several forms of legal relief from removal may be available for unaccompanied children, including asylum, special immigrant juvenile status, visas for victims of crime or trafficking, and family-based immigration visas.

The Vera Institute of Justice has worked with the federal Office of Refugee Resettlement (ORR) and nonprofit legal service providers to administer the Unaccompanied Children Pro Bono Pilot Project (UCPBP) since 2005. This innovative program provides legal information and pro bono legal representation to children who are facing deportation while in ORR custody. This summary highlights the UCPBP's key components and accomplishments.

CASE ILLUSTRATION: *After being abandoned by his mother as an infant, suffering years of severe physical abuse from uncaring relatives, and living in the streets, Manuel decided to flee his native El Salvador. At 15, he left, alone, on the dangerous journey to the United States, hoping to find safety and protection. Instead, he found himself in U.S. federal custody awaiting a hearing before an immigration judge who spoke a language Manuel did not understand, with no one to guide him through the complexities of the U.S. immigration system.*

Every year 7,000 children like Manuel are classified as “unaccompanied” and placed in the custody of the Office of Refugee Resettlement (ORR) while they face immigration removal (deportation) proceedings. These children—under age 18—are classified as unaccompanied because they do not have a parent or guardian in the United States to care for them (see box at left). Under the Homeland Security Act of 2002, Congress instructed ORR to develop a plan to ensure that unaccompanied children receive timely appointment of legal counsel.

Promoting Justice in the Immigration System

WHAT IS THE UCPBP?

In 2005, ORR contracted with the Vera Institute of Justice to administer the Unaccompanied Children Pro Bono Project (UCPBP), a pilot project to develop and test pro bono models to meet the legal needs of unaccompanied children. ORR and Vera designed a program that subcontracts with nonprofit legal service providers that educate unaccompanied children about the legal process, screen their cases for potential relief or defenses from removal, and recruit and train volunteer attorneys to represent children in immigration court. UCPBP providers are not allowed to use government funds to provide direct representation—although many have other, albeit limited, funding for representing unaccompanied children in immigration court or before the U.S. Citizenship and Immigration Services. By 2009, UCPBP subcontractors were serving nearly 90 percent of children in ORR custody. Vera also subcontracted with other nonprofits to provide child advocate services for particularly vulnerable children and to seek pro bono counsel for children who are released from ORR custody to family members or other appropriate custodians. (For a description of UCPBP services, see box below.)

In its first three years of operations, the UCPBP served more than 14,000 children. These children, predominantly boys ages 13 to 17, came from 64 different countries. Although 89 percent reported speaking only Spanish, eight percent of the children spoke a total of 34 distinct indigenous languages, including Akateco, Mam, and Tzotzil.

Program services

The UCPBP provides these types of services:

- > **KNOW YOUR RIGHTS (KYR) ORIENTATIONS:** These presentations by legal staff inform children about immigration court proceedings and immigration detention and removal. They also teach children about their rights at each stage of the process. KYR orientations seek to empower children to participate meaningfully in their legal cases and relieve their anxiety.
- > **LEGAL SCREENINGS:** Legal screenings are one-on-one meetings that generally follow the KYR orientation and answer questions about children's individual situations and determine whether—and if so, what kind of—relief may be available. UCPBP subcontractors are required to give at least one individual screening to each child, though most providers conduct follow-up meetings with many of the children.
- > **COURT PREPARATION:** In addition to the initial KYR orientation and screening, many providers meet with children in groups or individually to prepare them for their first immigration court hearing. Some providers conduct these specialized orientations in the courtroom itself to increase children's understanding of the process and foster realistic expectations.
- > **PRO BONO LEGAL REPRESENTATION:** Subcontractors recruit, screen, train, and mentor pro bono volunteer attorneys for the children.
- > **CHILD ADVOCATE SERVICES:** These are provided to children who will most benefit from having trained, independent volunteers who will advocate for their best interests.
- > **OTHER SERVICES:** Services such as psychotherapeutic or social services are sometimes provided, particularly to assist the legal case.

ACCOMPLISHMENTS

As part of its oversight responsibility, the Vera Institute collected information about the program's performance and conducted interviews with program participants. This monitoring and evaluation identified the following successes:

> **INCREASED UNDERSTANDING AMONG UNACCOMPANIED CHILDREN OF THE LEGAL PROCESS:** Children served by the UCPBP receive Know Your Rights (KYR) orientations (most often in groups) and legal screenings from subcontractor legal staff, usually before their first hearing in immigration court. The KYR orientations provide the children with key information about their cases and the immigration court process. ***"The presentation helped a lot," said one child. "She [the attorney] explained very well and I understood everything. And here I am now, waiting to submit my [relief] application in court."***

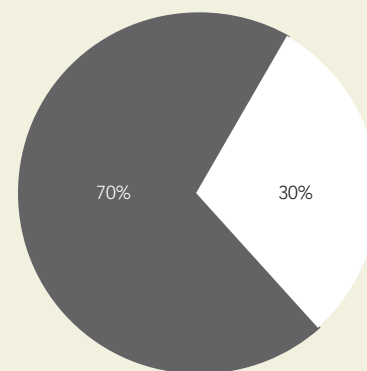
The information provided through the KYR orientations prevented some children from pursuing less desirable outcomes in their cases. Before the first presentation with the lawyers, one boy explained, ***"I was going to ask for voluntary departure. But I found out that the lawyers could help us [pursue something else]. I explained my case to the attorneys, and they helped me to stay here."***

> **MORE PRO BONO REPRESENTATION FOR UNACCOMPANIED CHILDREN:** The UCPBP has been successful in obtaining legal representation for many children while they were in ORR custody. Forty-three percent of children who entered the program during its second year received representation. Of those whose cases concluded while they were in custody, 70 percent received representation (see box at right). Most of this representation came from staff members at subcontracted organizations, using non-governmental funds. As subcontractors became more experienced in their pro bono recruitment, the relative number of private volunteer attorneys handling cases increased, with about 13 percent of representation coming from volunteers at the end of the pilot project.

> **ACCESS TO CHILD ADVOCATE SERVICES FOR VULNERABLE CHILDREN:** The UCPBP subcontracted with the Immigrant Child Advocacy Project (ICAP) in Chicago to develop a model for child advocacy services for particularly vulnerable unaccompanied children, such as very young children and children with disabilities. Throughout the project, more than 250 children were assigned child advocates who provided courts and attorneys with critical information about the children's best interests and helped the children make decisions about who should represent them. Approximately 10 percent of those served by ICAP were 12 years old or younger.

Many advocates continued to provide services to children after they were released from custody to sponsors in the United States or returned to their home country; this ensured that those children had someone to turn to if they felt threatened or unsafe. Recognizing that child advocate services might not be necessary for all unaccompanied children, ICAP established and refined intake criteria to identify children who would particularly benefit from the services of a child advocate.

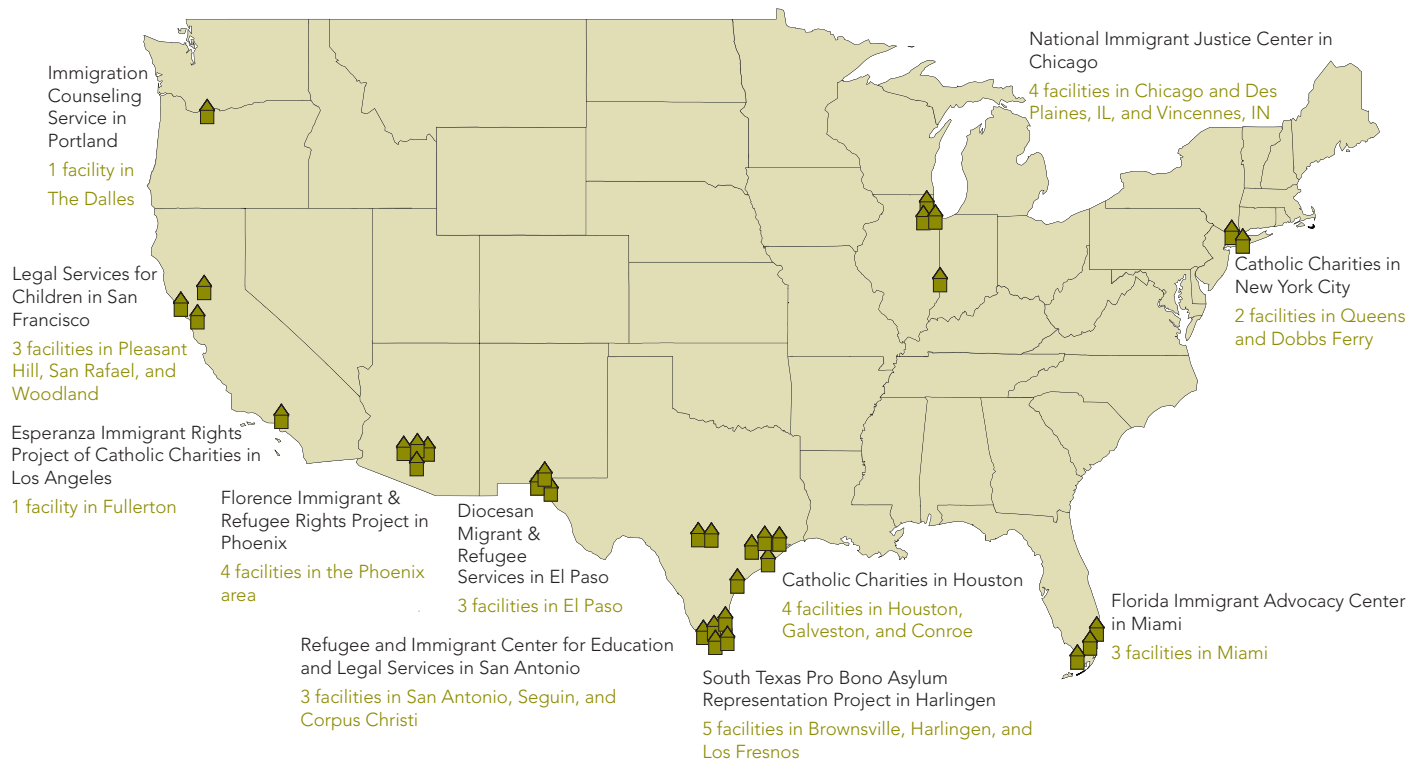
Unaccompanied children who received legal representation*



■ Represented
□ Not represented

*This figure represents the total number of children who received initial UCPBP services in the second year of the project and whose cases concluded while the child was in ORR custody. Of the 4,647 children who received initial UCPBP services during the second year, 1,626 had their cases concluded in detention. Of those 1,626 children, 1,135 (or 70 percent) received legal representation.

Unaccompanied Children Pro Bono Project sites and ORR facilities as of July 2009*



* A few of the UCPBP legal service subcontract organizations changed during the pilot project. ORR also changed facilities and added additional facility locations during the pilot project.

➤ For More Information...

The **Vera Institute of Justice** is an independent nonprofit organization that combines expertise in research, demonstration projects, and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety.

Vera's **Center on Immigration and Justice** collaborates with government, nonprofits, and communities to develop evidence-based justice solutions for systems affecting immigrants and their families and to address the challenges presented by the increasing convergence of the criminal justice and immigration systems.

For more information on this project or the Center on Immigration and Justice, please e-mail CJCoordinator@vera.org. To view other publications from the Center on Immigration and Justice, visit Vera's web site, www.vera.org/centers/center-immigration-justice.

The views expressed in this publication do not necessarily reflect the official policies of the U.S. Department of Health and Human Services.

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