

# Unaccompanied immigrant minors face major consequences

Web Posted: 09/04/2007 02:23 PM CDT

Hernán Rozemberg

San Antonio Express-News

LOS FRESNOS — Gustavo spent his last hours as a 17-year-old playing checkers with friends, followed by a hearty dinner: chicken enchiladas, rice, refried beans, salad, apple juice and a blueberry muffin.

At 5 the next morning, he was quietly awakened, told to get dressed and escorted to an office. He sat there for nearly eight hours before uniformed officers put him in an unmarked white van and sped off.

It was the worst birthday of his life.

After turning 18 overnight, the young Honduran was moved from a dormitory-style center for undocumented juveniles to an adult prison and the deportation fast track. He was locked up with older men, ate prison food, used communal showers and toilets and breathed an hour of fresh air daily.

With Congress at an impasse over immigration reform, the growing number of children who make it to the United States illegally will continue to play a sort of lottery. A combination of luck, lawyers and legal circumstances decide if they stay or go.

The two federal agencies responsible for migrant minors — one offering protection and the other charged with deporting them — retain a deep disdain for each other.

They're likely to keep shuffling these youngsters between them in a turf war reflecting the larger immigration debate — compassion vs. security, "let them stay" vs. "kick them out."

Gustavo, who'd hoped to be released to an uncle in Baltimore, didn't win the lottery. "I ran out of time," he sighed on his last night at the youth shelter in Los Fresnos, near Brownsville. "My uncle was doing the paperwork to get me to go with him, but they told me I had to leave."

He was deported in July and is back home tilling potato fields, hoping to enroll in school next year.

## Ad hoc system

An estimated 8,000 immigrant minors are caught trying to cross the U.S.-Mexico border on their own each year, many of them in search of parents who have been unable to return home.

The Rio Grande Valley, the 120-mile-wide southernmost stretch of the border, is their most popular entry point.

Texas has 15 youth detention centers and foster homes, most in the Valley, that make up almost two-thirds of the nation's total bed space.

They include an 80-bed shelter that opened in July in Harlingen and one with 28 beds in San Antonio that opened in June. More are on the way.

The immigration bill that died in Congress a few months ago would have set rules for the arrest, detention and release of unaccompanied immigrant minors.

Left in place is a vague policy that allows the government to delay action on their legal claims and run out the clock until it can deport them as adults, a class-action lawsuit has charged.

The government denies the charge, and the lawsuit is headed for trial.

No one who works with these children likes the system.

Border Patrol agents must serve as babysitters. Shelter workers feel torn between the law and their empathy for the kids. Deportation officers say their job is vexing and confusing. Immigration lawyers and judges are tired of seeing children clueless about their rights.

A 1997 court settlement in a lawsuit brought by migrant advocates gave minors the same right to a deportation hearing as adults. They would be held separately from adults in non-prison settings and, if possible, placed with relatives pending their hearings.

A decade later, the system still is a work in progress.

Responding to concerns of a conflict of interest within the Immigration and Naturalization Service, which acted as both their protector and prosecutor, Congress spun off the care of unaccompanied children to the Department of Health and Human Services when it folded the INS into the new Homeland Security Department in 2003.

Officials say both agencies cooperate smoothly, despite some wrinkles.

"We meet with them on a regular basis," said Gary Mead, second in charge of detention and deportation for U.S. Immigration and Customs Enforcement, who declined to provide a copy of its juvenile policy manual. "We don't have different missions. We're all committed to the safe, humane treatment of juveniles."

But numerous reports in and out of government describe clashing agencies.

"These tensions have resulted in legislation pitting government agencies with conflicting missions against each other, and generating confusion among advocates and government actors alike," the Congressional Research Service reported in March.

The government has yet to fully abide by its 1997 agreement, said the lawyer who led the case that produced it, Carlos Holguín of the Center for Human Rights in Los Angeles, who is working on the new lawsuit.

Just last week, the government settled another suit based on the 1997 pact, agreeing to make changes at a prison for detained families in Taylor.

"It's like turning around the Titanic. You have to stay on them for years before real change occurs," Holguín said.

### **The hard way**

Most detained unaccompanied minors are boys between 14 and 17 from Guatemala, Honduras and El Salvador. Mexican children outnumber them, but most are swiftly handed to Mexican social workers charged with reuniting them with relatives.

When Carlos' parents left home in Guatemala four years ago, they took his brothers and sisters along, settling with other relatives in Houston.

But Carlos was 5, too little to make the journey. His parents sent for him in January, arranging for neighbors to find a trusted smuggler to get him to Houston.

The two crossed the Rio Grande on a raft, but after boarding a bus, they were caught by U.S. border agents, who arrested the smuggler and placed Carlos in foster care in Harlingen.

Children in that program, run by a private social service agency under government contract, spend several hours in a school setting resembling day care.

Carlos' parents could try to get custody of the boy pending his deportation hearing, but they're still in the country illegally and afraid they'll be arrested if they pick him up.

"I like it here, everything's so pretty," Carlos, 9, said between English and geography classes, maintaining a surprisingly stoic tone as he recalled his journey. "But I miss my parents so much. I hope I get to see them soon."

Most girls detained while traveling alone also are Central American. A higher proportion of girls are caught each year, and they now make up about a quarter of the total.

"They told me how risky it would be, that I could even die along the way," said Claudia, a 17-year-old Honduran who has been at the youth shelter in Los Fresnos for five months, pursuing an asylum claim. "But I knew it would be worth it."

Since they're more vulnerable, families usually arrange girls' travel through smuggling networks. Claudia had her \$5,500 smuggling fee paid by a cousin in Washington, with whom she was planning to stay.

Her trip was a monthlong ordeal that included a 32-hour nonstop ride through Mexico in a locked tractor-trailer into which she and a cousin were crammed with 170 people.

Not all smugglers are willing to take youngsters. Some demand more money for it. Some worry they might be too weak for the long journey.

"I'm getting all kinds of Central American kids, more than ever the last few years," said one *coyote*, or smuggler, nervously responding to questions outside his ramshackle house in a run-down neighborhood in Reynosa, the border city opposite McAllen.

"But *la migra* is cracking down a lot. I tell the kids it is getting really risky, but they still want to go," he said, speaking on condition of anonymity.

Working with connections in McAllen, he finds that most children are destined for Houston. While fees may range from \$800 to \$1,500 for adults, his bosses demand an additional \$300 or \$400 from parents sending for their kids — perhaps more, depending on their age.

Most of the older boys caught in the United States didn't use a smuggler. They set out from Central America on their own, sometimes with a buddy or relative, picking up traveling companions along the way.

Those who can afford it take buses. But most climb atop northbound Mexican freight trains, where armed gangs target them. Stories abound of bloody limbs and headless torsos along the tracks — remains of those who didn't latch on.

If they make it to Mexican border cities, like Reynosa or Matamoros, across from Brownsville, their relief after such a journey only compounds the shock and bitterness of getting caught by U.S. border agents.

### **Held in a holding tank**

**Their first stop is the Border Patrol's Fort Brown station in Brownsville, with large, open cells dubbed "holding tanks" with cement floors and benches. There are no mattresses, tables or showers. Meals are frozen sandwiches such as Hot Pockets — breakfast, lunch and dinner — handed out with water or juice cartons.**

**Edgar Cano, a veteran administrator there, said the agency has no budget to deal with "juvis," in agency parlance.**

**Agents do the best they can for the youngsters, he said. Some on "juvi watch" bring movies from home such as "Dumb and Dumber" and "Home Alone." Some might allow kids outside briefly to kick a soccer ball.**

**Cano denied a reporter and photographer access to the cells to see and interview detained minors. Appeals to higher-ups in Washington also were rejected.**

**The policy is to hold children no more than a day, but they typically stay several days and as long as two weeks, said two agents who spoke on condition of anonymity.**

Most of these children grew up in poverty, often without electricity or running water, and their faces beam when asked about the move from Border Patrol cells to the HHS youth shelters.

New clothes. Their own beds. Clean showers and bathrooms. Three meals a day. It's like summer camp or boarding school, with classroom hours part of a strict schedule, separate dorms for boys and girls, a cafeteria and outdoor playing fields.

But there are constant reminders that they're detained, including security cameras in hallways, gathering areas and outside. Exterior doors require security cards. Good behavior brings occasional excursions such as bowling, movies or museum visits.

The length of stay varies widely but the average is about 45 days.

Migrant advocates say the government fails to tell unaccompanied minors they can ask an immigration judge for a chance to stay in the country.

But even after learning their rights, many juveniles still pass — they're living with the guilt of failing to enter the country and many owe relatives thousands of dollars for smuggling fees. They're eager to go home, if for no other reason than to work off the debt.

As the family breadwinner after his father disappeared years ago, Carlos, 17, persuaded his mother to pay smugglers nearly \$5,000 to get him from Guatemala to Los Angeles.

It was the worst decision of his young life. Caught near Roma, Carlos was stuck in a youth shelter in Brownsville and waited months to be deported.

Half his smuggling fee had been paid, but it would take him years to work off the other half, and he had closed his fledgling welding business to make the trip.

"Why am I still here?" Carlos asked recently. "The immigration judge said I could go home. The people from the Guatemalan consulate said OK. My mother back home is getting desperate."

More than half the youngsters in HHS care eventually are released to relatives in the United States, the agency reports. Many then skip their immigration court hearings — prompting judges to automatically order them deported.

Minors lucky enough to have access to a lawyer can apply for asylum, arguing they'd risk danger or death if sent home.

The best prospects tend to be victims of domestic violence or political persecution, but unaccompanied minors more typically fear violent *maras*, or gangs, threats that are much harder to prove.

### **Luck and circumstance**

Juveniles also can try to prove they have been abused, neglected or abandoned, that they'd be left on the street if sent home. To obtain "special immigrant juvenile status," similar to becoming refugees, they have to convince ICE to let them go before a state court.

José, a 16-year-old from Honduras, has cleared this hurdle and is keeping his fingers crossed.

About a year ago, José decided he had nothing to lose, leaving his hometown of Comayagua for the United States with 2,000 lempiras — about \$105 — and the clothes on his back.

His father left the family when he was 5, his mother died in an accident and an older sister could no longer care for him, he said. He was fresh bait for street gangs marauding for recruits.

"There was no one for me at home. It wasn't even home anymore. I needed to escape," José said.

He walked through Guatemala and Mexico for two months, working odd jobs. He reached Laredo and kept going, with no destination.

A Border Patrol dog sniffed him out along the tracks in Cotulla and a destination was chosen for him — a youth shelter near San Antonio. José was there six months before his case was taken by the immigration law clinic at St. Mary's University.

His case would take months and he had no relatives in the country, so the government placed him in an HHS-contracted foster home. A spot was available in Rochdale, Mass.

For months, José has lived in the quaint New England town in a comfortable colonial fixer-upper amid big pine trees. He has his own room with a stereo and can ride his bike to a nearby lake where he can fish.

It took weeks for the introverted youth to open up. Now he speaks gleefully of his foster mother, Elizabeth Del Rio, a social worker from Puerto Rico, and of the two other undocumented minors placed in the same home.

One, a Guatemalan, has something in common with José. Losing both of his parents when he was 9 — his father a bystander hit during a shootout outside a bar, his mother during childbirth — Anisael was taken in by a neighbor but often entered Mexico illegally for odd jobs.

Turning 15 and seeing life at a dead end, Anisael jumped at a friend's offer to try to sneak into the United States. They made it through Mexico and all the way to Kansas City, where he was caught with other crossers. He and another minor were dispatched to a shelter in Chicago.

Anisael lived there for five months before being placed in Del Rio's home. He'll be provided with a lawyer to fight deportation, hoping, like José, to earn special immigrant juvenile status.

José, if he can stay, plans to learn English, finish high school and go to college to study law or engineering. His lawyer is taking his plea to a Massachusetts court

"I don't know what I'll do if I get sent back," said José, in a rare moment where his shy smile gave way to a frown and the gleam of tears.

"It's so peaceful out here," he added, leaning on a lawn chair as hamburgers and hot dogs sizzled in the new barbeque grill he helped assemble. "So safe."

*hrozemberg@express-news.net*

Online at:

[http://www.mysanantonio.com/news/metro/stories/MYSA090207.01A.Immigrant\\_kids.3a416eb.html](http://www.mysanantonio.com/news/metro/stories/MYSA090207.01A.Immigrant_kids.3a416eb.html)