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Attorneys Jump In to Help Children in Immigration Court

Tania Karas, New York Law Journal

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Alberth, a shy 10-year-old who made his way alone from his native El Salvador to the United States, appeared last week in a tiny Manhattan courtroom thousands of miles from his homeland.

Apprehended at the southwestern border, the dark-haired, freckled boy was sent to New York to be reunited with his mother. Alberth was one of 36 children appearing at Immigration Court as part of a "rocket docket" to expedite deportations of the tens of thousands of Central American children who have entered the United States illegally in the past year.

Immigration Judge Virna Wright asked Alberth through a Spanish-language interpreter whether he was enrolled to start school. And was he excited?

Alberth only nodded.

Wright then turned to the boy's mother, who was seated beside him, and asked if they had an attorney.

"Not yet," she said.

"These are proceedings to decide whether Alberth has the right to stay in the United States," Wright advised her. "He does have the right to an attorney, but unfortunately we cannot provide you with one."

She ordered him back on Oct. 26, giving him two months to find a lawyer.

Not enough time, say many legal advocates, nor are there enough attorneys available. They say they worry that expedited proceedings will leave many children, most of whom do not speak English, to navigate a complicated immigration system on their own.

"To require a 10-year-old to defend himself in an adversarial proceeding with very high stakes is a violation of due process. That is in danger of happening in New York," said Eve Stotland, director of legal services at The Door, a nonprofit that helps homeless and immigrant youth.

The Door, along with four other legal services providers—the Legal Aid Society, Catholic Charities Community Services, the Safe Passage Project at New York Law School and the New York

chapter of the American Immigration Lawyers Association—has volunteered daily since Aug. 13 to guide the influx of children, along with their adult sponsors, through their first court appearances.

For years, the organizations have had a system in place and offer "Know Your Rights" trainings and screenings for immigrant juveniles who appear on regular dockets, of which there had been five monthly with up to 60 children each.

The groups try to match unrepresented minors with pro bono or low-cost attorneys. Sometimes they take cases themselves.

But those five providers have been operating at capacity and cannot represent the recent surge of children appearing on the "rocket docket." They are scrambling to find other nonprofits, private attorneys, bar associations and law firms throughout the state to take those cases long-term.

Typically it takes four to six months to come before a judge for an initial immigration appearance. But the Obama administration ordered in July that unaccompanied immigrant minors must appear in court for an initial hearing within 21 days of Immigration and Customs Enforcement filing a deportation order. Immigrant adults with dependent children must appear within 28 days.

The accelerated timetable is "excessive" and "arbitrary," said Cristina Romero, a staff attorney with Legal Aid's immigration law unit. "What's frightening is that these kids are just as eligible [for relief] as the kids we meet each month on the regular docket. They are fleeing desperate situations."

"If we weren't there to catch them," Romero added, "there are just so many kids who'd be deported."

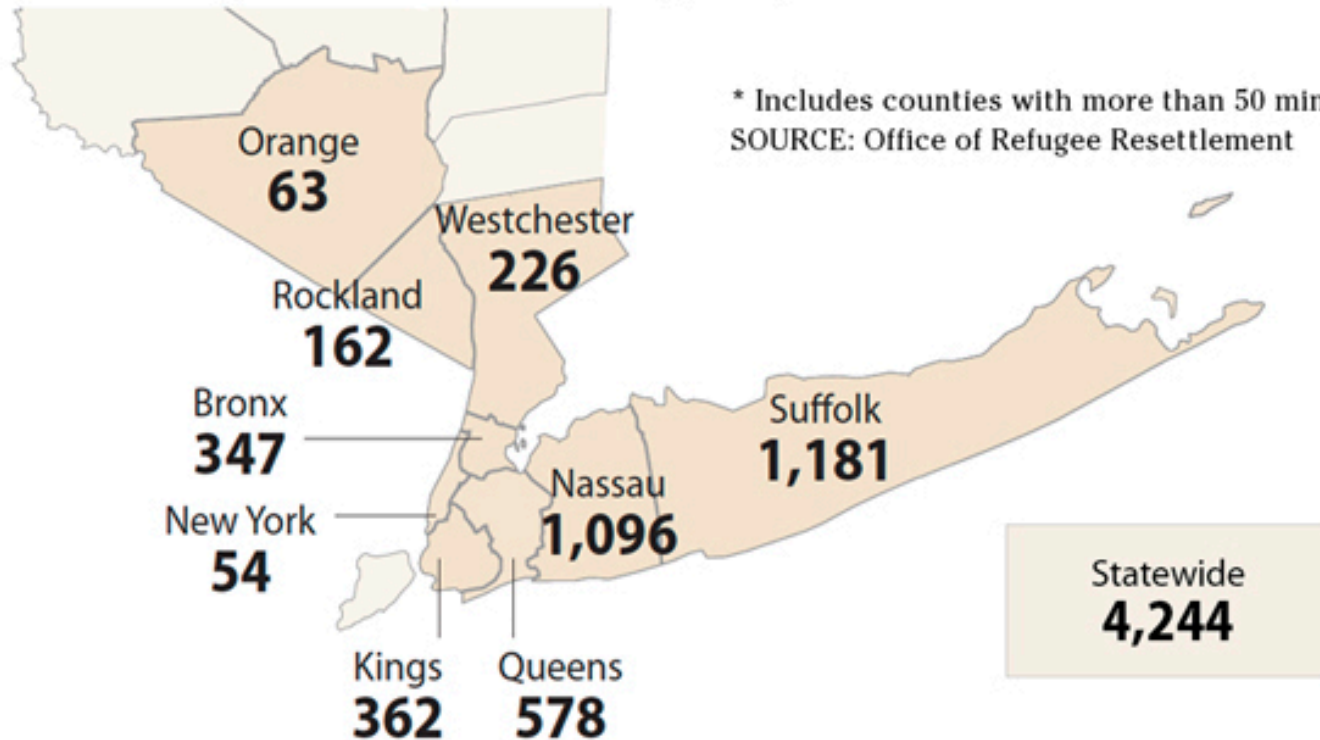
Some 63,000 unaccompanied minors have entered the United States illegally since October. Most come from Honduras, Guatemala and El Salvador. Typically, they are apprehended at the southwestern border and held in detention facilities for up to a week. The Office of Refugee Resettlement within the U.S. Department of Health and Human Services attempts to reunite them with sponsors, usually immediate or extended family, throughout the United States.

Volunteer lawyers said many of the children have suffered domestic abuse, gang violence, abject poverty and human trafficking in their native countries.

At least 4,200 have been sent to New York since January, according to ORR data. More than half are in Nassau and Suffolk counties. Those without family are sent to shelters, such as The Children's Village in Dobbs Ferry and Lincoln Hall Boys' Haven in Somers.

Unaccompanied Minors Released to Sponsors by County*

Jan. 1 Through July 31



No matter where they are living, almost all must appear at the 26 Federal Plaza immigration court in the coming weeks. Some travel by overnight bus to get there.

More than 500 have appeared since the surge docket started Aug. 13. Twelve have been ordered deported so far, all because they did not attend their hearings. As in Alberth's case, judges have "reset" or adjourned, nearly all cases until October or November.

Seven juvenile dockets were scheduled between Wednesday and Thursday: one regular docket each day, plus three surge dockets Wednesday and two Thursday.

'Los Remedios Legales'

Rocket docket sessions start at 9 a.m. with a "Know Your Rights" presentation in Spanish by Elvis Garcia Callejas, a case manager for Catholic Charities' unaccompanied minors program.

Children and their sponsors fill the court's 12th floor pro bono room. Some of the boys sport suits and ties, and some girls wear flowered dresses. A few teenage girls hold babies in their laps. They seek legal status for themselves and their own children.

Everyone clutches folders with their names and "alien number" scrawled across the front.

Adults take notes as Garcia Callejas writes a list of "los remedios legales" on a whiteboard. Based on their situations, the children may qualify for special immigrant juvenile status, asylum or visas for victims of serious crimes or trafficking.

"It's very important to come to court. Because if you don't, the judge can order your deportation,"

Garcia Callejas told his audience last week.

He speaks from experience. Nine years ago, Garcia Callejas himself entered the United States illegally at age 15 to escape an abusive father in Honduras. He obtained a visa and is now saving money for law school.

The judges first see children with attorneys, allowing the legal services groups time to screen those without. About 60 percent come in unrepresented.

At intake, the questions are sensitive. Standardized forms inquire about the children's relationships with each parent. Have they ever been physically abused? Do they fear gangs? Sexual violence? One boy last week qualified for four different kinds of legal relief.

"Their stories are really astounding and unbelievable," said Maureen Schad, Chadbourne & Parke's pro bono attorney who has volunteered daily for intakes. "When a six-year-old is describing sexual abuse or witnessing a murder, it's very hard to say, 'I can't take one more case.' It's a constant struggle."

The firm is representing 25 minors facing removal proceedings and is taking additional referrals from Legal Aid and The Door.

The attorneys bring crayons and coloring books to keep children busy as they wait for their names to be called. But the children mostly ignore the art supplies.

"They are not interested," Stotland said. "They sit quietly and look at us. These are the most grown-up children I have ever encountered in my life."

The attorney volunteers, who number more than 20 daily, give families a list of potential legal services organizations that may have capacity to help. They make targeted referrals based on a list of lawyer availability that changes daily. Families are also given a packet of referrals for mental health and social services providers.

The volunteers then shepherd each child into courtrooms on the 14th floor to see a judge.

'At the Breaking Point'

Though the proceedings are well-organized, the legal service providers described an unsustainable system that benefits almost no one involved.

"Forcing them into proceedings within 21 days is clogging the immigration system. Everything is grinding to a halt," said Jojo Annobil, attorney-in-charge for the Legal Aid Society's Immigration Unit. "It's true, they're getting postponed, which is great. But we are at a breaking point with very scarce resources."

Claire Thomas, an adjunct professor at New York Law School who works part-time for Safe Passage, said she has devoted 80 hours per week to unaccompanied minors since April. The three-person organization works with about 300 pro bono attorneys to take cases from one of the regular juvenile dockets. Those children are Safe Passage's priority, Thomas said.

On Aug. 22, Safe Passage hosted a training to prepare even more attorneys, along with law students and language interpreters, to assist the surge docket minors.

"We need more funding to be able to take more cases or to train people to be able to take more cases," Thomas said. "It's heartwarming to see people respond to the call we put out for volunteers. What we need people doing is to actually take these cases."

Catholic Charities recently received a "substantial" grant from the Office of Refugee Resettlement to hire attorneys, paralegals and support staff, said Mario Russell, director of Catholic Charities' Immigrant and Refugee Services division. Catholic Charities focuses on children living in or just released from temporary shelters.

With the new hires, it expects to handle 300 to 600 such cases and host "Know Your Rights" trainings at 16 shelters in New York City, the Hudson Valley and Long Island.

"Our plan is to take as many of these as we can," Russell said. "Specifically we're looking to partner with nonprofits who have worked on these issues. We expect each case to take 12 to 36 months."

Pace Law School's Community Law Practice just launched Project Protect, which will train and supervise pro bono lawyers helping children in Westchester and the Hudson Valley obtain special immigrant juvenile status. The program, which is a partnership with Greenberg Traurig and the Westchester Hispanic Coalition, will host a training Sept. 17.

Columbia Law School's Immigrants' Rights Clinic has agreed to take up to 12 cases through referrals from the Legal Aid Society and Kids in Need of Defense.

The New York City Bar Association's nonprofit arm, the City Bar Justice Center, will take up to 10. The Nassau County Bar Association's immigration law committee is developing a training program for members interested in helping Long Island immigrants, including minors, avoid deportation.

About 50 to 100 unaccompanied minors will be represented by 25 recently named Immigration Justice Corps fellows, said Rachel Tiven, executive director of the program ([NYLJ, May 23](#)), an initiative of Judge Robert Katzmann of the U.S. Court of Appeals for the Second Circuit. The program, funded by the Robin Hood Foundation and JPB Foundation, assigns fellows to various legal services providers throughout New York to work exclusively on immigration cases.

Still, immigration attorneys say they fear there are not enough attorneys to go around and blame the federal government for the backlog.

"Unaccompanied minors are a symptom of a broken immigration system. It is broken for adults, broken for children, broken in every way," Tiven said. "Congress has failed to provide any orderly way to apply to stay in the U.S. That's why we have seen crisis after crisis, and it's only gotten worse."