



IMMIGRANT MINORS TOOLKIT

Apprehended Minors' Right to Government Funded Lawyers

November 8, 2017

**Center for Human Rights and Constitutional Law
256 S. Occidental Blvd.
Los Angeles, CA 90057
Telephone: (213) 388-8693**

A Note from the Executive Director

The Center for Human Rights and Constitutional Law is a non-profit, public interest legal foundation dedicated to furthering and protecting the civil, constitutional, and human rights of immigrants, refugees, children, prisoners, and the poor. Since its incorporation in 1980, under the leadership of a board of directors comprising civil rights attorneys, community advocates and religious leaders, the Center has provided a range of legal services to vulnerable low-income victims of human and civil rights violations and technical support and training to hundreds of legal aid attorneys and paralegals in the areas of immigration law, constitutional law, and complex and class action litigation.

The Center has achieved major victories in numerous major cases in the courts of the United States and before international bodies that have directly benefited hundreds of thousands of disadvantaged persons.

This practice advisory is part of a *Immigrant Minors Tool Kit* produced by the Center for Human Rights and Constitutional Law including several practice advisories addressing deportation defense for minors, developments in the Flores v. Sessions class action litigation, the new policy of separating children from their parents and prosecuting a parent, pending legislation regarding immigrant children, etc. We will continue to develop these and additional practice advisories concerning immigrant children in 2018.

This practice advisory discusses recent developments regarding the representation of minors in immigration proceedings. Although there remains no right to counsel for immigrant children, there have been litigation and advocacy developments. The Flores v. Sessions certified class action, not discussed in this practice advisory, also remains pending and active in the US District Court for the Central District of California. The Flores case sets out the standards for the detention of accompanied and unaccompanied minors, and includes a presumption of release to available parents, relatives, friends of parents and non-secure licensed shelters. We will report separately about developments in the Flores litigation. We are also exploring advocacy and possible litigation regarding the recent policy of criminally prosecuting the parents of apprehended minors.

Manuals and practice advisories prepared by the Center are routinely reviewed for improvements and updates to reflect current policies and practices. This manual was researched and drafted by CHRCL Senior Staff Attorney Natalie Webb. Please feel free to email me at pschey@centerforhumanrights.org to suggest corrections, updates or edits to this practice advisory.

Peter Schey
President and Executive Director
Center for Human Rights and Constitutional Law

Table of Contents

I.	GENERAL RIGHT TO COUNSEL IN IMMIGRATION PROCEEDINGS ...	1
A.	THE RIGHT TO COUNSEL MOVEMENT.....	1
II.	LITIGATION.....	2
III.	RELEVANT STATUTES AND REGULATIONS.....	6
A.	TITLE 8 U.S.C. REGULATIONS.....	6
B.	TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2008 (TVPRA)	7
IV.	FUNDING BY VERA INSTITUTE OF JUSTICE TO REPRESENT UNACCOMPANIED MINORS.....	8
A.	DUCS ACCESS TO LEGAL AND CHILD ADVOCATE SERVICES PROJECT..	8
B.	LEGAL SIGNIFICANCE WHEN AN UNACCOMPANIED MINOR IS RELEASED FROM ORR TO THEIR GUARDIANS	9
C.	SAFETY AND FAIRNESS FOR EVERYONE (SAFE) CITIES	9
V.	ONE CALIFORNIA	10

///

CASES

Bridges v. Wixon, 326 U.S. 135 (1945) ----- 1
Flores v. Sessions, 862 F.3d 863 (9th Cir. 2017)----- 7
Franco-Gonzalez v. Holder, 2013 U.S. Dist. LEXIS 186258 (C.D. Cal. 2013)----- 3
Gideon v. Wainwright, 372 U.S. 335 (1963) ----- 1
J.E.F.M v. Lynch, 837 F.3d 1026 (9th Cir. 2016)----- 4, 5
Lin v. Ashcroft, 377 F.3d 1014 (9th Cir. 2004) ----- 2
Padilla v. Kentucky, 559 U.S. 356 (2010)----- 1

STATUTES

8 U.S.C. § 1229a(b)(4)(B)----- 6
8 U.S.C. § 1232(c)(5) ----- 6
8 U.S.C. § 1362 ----- 6

OTHER AUTHORITIES

Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)----- 7

I. General Right to Counsel in Immigration Proceedings

a. The Right to Counsel Movement

The right to counsel in immigration proceedings has a long and frustrated history, with many courts recognizing the seriousness of the issue yet never actually holding that there is a right to counsel. “Long before *Gideon*¹, the U.S. Supreme Court recognized that deportation may deprive an immigrant of ‘all that makes life worth living’ and that ‘meticulous care’ is required to ensure that the ‘depriv[ation] of liberty...meet the essential standards of fairness’². Yet one of the most essential guardians of fairness—a lawyer to represent immigrants in removal hearings against government prosecutors—is denied in nearly fifty percent of all cases... [t]hat denial persists even as the Court has recognized and reaffirmed repeatedly in the last dozen years that for noncitizens facing expulsion, deportation is often a far more severe consequence than a criminal sentence.”³

The importance of having counsel in immigration proceedings cannot be overstated. Studies consistently demonstrate that having a lawyer during removal proceedings enormously improves an immigrant’s ability to defend against deportation⁴. Not only are immigration advocates fighting for the right, the

¹ *Gideon v. Wainwright*, 372 U.S. 335 (1963), where the Supreme Court held criminal defendants have a right to counsel under the 6th amendment, (“The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.”)

² *Bridges v. Wixon*, 326 U.S. 135 (1945)

³ Lucas Guttentag, Ahilan Arulanantham, [Extending the Promise of Gideon: Immigration, Deportation, and the Right to Counsel](#), Human Rights Magazine, American Bar Association, Vol. 39, No. 4 (2013), available at https://www.americanbar.org/publications/human_rights_magazine_home/2013_vol_39/vol_30_no_4_gideon/extending_the_promise_of_gideon.html (citing to Executive Office Of Immigration Review, FY2011 Statistical Yearbook, at G.1 and *Padilla v. Kentucky*, 559 U.S. 356 (2010), and *INS v. St. Cyr*, 533 U.S. 289 (2001))

⁴ Teresa Witz, [Amid Immigration Crackdown, Cities Step in With Free Legal Aid](#), Huffington Post (November 11, 2017) (“Detained immigrants with legal representation were 10.5 times more likely to succeed in immigration court if they had a lawyer representing their case. And 91 percent of immigrants seeking asylum without a lawyer end up having their cases denied. With representation, asylum seekers have a five times greater chance of winning their case.”), available at https://www.huffingtonpost.com/entry/amid-immigration-crackdown-cities-step-in-with-free_us_5a046701e4b055de8d096af0; Ian Urbina, Catherine Rentz, [Immigrant Detainees and the Right to Counsel](#), New York Times (March 30, 2013) (“Without counsel, only 3 percent prevail in their asylum cases compared with 18 percent who have legal counsel”) available at <http://www.nytimes.com/2013/03/31/sunday-review/immigrant-detainees-and-the-right-to-counsel.html>; Lucas Guttentag, Ahilan Arulanantham, [Extending the Promise of Gideon: Immigration, Deportation, and the Right to Counsel](#), Human Rights Magazine, American Bar Association, Vol. 39, No. 4 (2013) (A recent study of New York immigration courts published in *Cardozo Law Review* showed that immigrants who are compelled to proceed without representation are five times more likely to lose their cases as those who have counsel”); Kenrya Rankin, [11 Cities to Provide Free Legal Defense for Immigrants During Deportation Hearings](#) (November 13, 2017) (“But a Vera Institute study...showed that when the New York Immigrant Family Unity Project...provided free attorneys to nearly every impoverished

National Association of Immigration Judges supports the idea from an efficiency standpoint “arguing that representation would speed processing times because properly counseled immigrants are less likely to pursue claims that have no legal basis or to appeal in cases with little chance of success”⁵. Likewise, “the American Bar Association has called for government-appointed attorneys to represent unaccompanied minors as well as people with mental health issues or mental disabilities in immigration court”⁶.

Although there remains no right to counsel for immigrant children, there have been promising litigation and advocacy developments in California, including 9th Circuit litigation, the State sponsored One California program, which expanded in 2017 to provide “deportation defense for both legal residents and undocumented immigrants”⁷, as well as Vera Institute’s new Safety and Fairness for Everyone (SAFE) Cities program. These developments are discussed below.

II. Litigation

Lin v. Ashcroft, 377 F.3d 1014 (9th Cir. 2004)

This case from 13 years ago continues to provide useful language that is invoked by immigration advocates today. The case involved the ineffective assistance of counsel for an immigrant child in a removal proceeding. Not only did the court find that the child’s counsel had been ineffective, thus prejudicing the child and violating their 5th amendment due process rights, the court went further and held, “[a]bsent a minor's knowing, intelligent, and voluntary waiver of the right to counsel, the [immigrant judge] may have to take an affirmative role in securing representation by competent counsel”⁸.

immigrant appearing at the Varick Street Immigration Court...the case success rate jumped from 4 percent to an estimated 48 percent), available at <https://www.colorlines.com/articles/11-cities-provide-free-legal-defense-immigrants-during-deportation-hearings>

⁵ Ian Urbina, Catherine Rentz, Immigrant Detainees and the Right to Counsel, New York Times (March 30, 2013), available at <http://www.nytimes.com/2013/03/31/sunday-review/immigrant-detainees-and-the-right-to-counsel.html>; See also “Studies indicating that I.C.E. currently pays roughly \$2 billion per year just to detain immigrants and that 80 percent of that cost could be saved by releasing immigrants but tracking them using ankle bracelets. ‘The savings here could easily be used to offset the price of providing counsel for most immigrants being processed by I.C.E.’”

⁶ Teresa Wiltz, Amid Immigration Crackdown, Cities Step in With Free Legal Aid, Huffington Post (November 9, 2017), available at https://www.huffingtonpost.com/entry/amid-immigration-crackdown-cities-step-in-with-free_us_5a046701e4b055de8d096af0

⁷ Katy Murphy, California budget deal includes deportation defense funds for undocumented immigrants, The Mercury News (June 16, 2017), available at <http://www.mercurynews.com/2017/06/16/california-budget-deal-includes-deportation-defense-for-undocumented-immigrants/>

⁸ Lin v. Ashcroft, 377 F.3d 1014, 1034 (9th Cir. 2004)

Franco-Gonzalez v. Holder, 2013 U.S. Dist. LEXIS 186258 (C.D. Cal. 2013)

Nine years later, in 2013, the California Central District Court issued “the first opinion recognizing the right to appointed counsel in immigration proceedings for a group of immigrants”.⁹ The plaintiffs in this class action were immigrants with “serious mental disorders or defects that render[ed] them incompetent to represent themselves in detention or removal proceedings”¹⁰. The Court held that the “Plaintiffs are entitled to the reasonable accommodation of appointment of a Qualified Representative to assist them in their removal and detention proceedings under Section 504 of the Rehabilitation Act”¹¹.

The Court reviewed 8 C.F.R. § 1362 (discussed in Part III) and stated, “these statutes cannot reasonably be interpreted to forbid the appointment of a Qualified Representative to individuals who otherwise lack meaningful access to their rights in immigration proceedings as a result of mental incompetency. Thus, the proposed accommodation would not contravene any existing statutory prohibition”¹². Furthermore, the Court concluded that providing a qualified representative in such a case was “just as reasonable as and no more burdensome than EOIR's requirement that interpreters be provided to those who cannot understand English”¹³.

The Court went further and held that “Plaintiffs here seek only to meaningfully participate in their removal proceedings. The opportunity to ‘examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government’ is available to all individuals in immigration proceedings, but is beyond Plaintiffs' reach as a result of their mental incompetency... [t]hus, the provision of a Qualified Representative is merely the *means* by which Plaintiffs may exercise the same benefits as other non-disabled individuals, and not the benefit itself”¹⁴.

⁹ <https://www.aclusocal.org/en/cases/franco-v-holder>

¹⁰ Franco-Gonzalez v Holder, 2013 U.S. Dist. LEXIS 186258, 26 (C.D. Cal. 2013)

¹¹ *Id.* at 37

¹² *Id.* at 28 (citing to David P. Martin, Principal Deputy General Counsel from the Office of the General Counsel for DHS in support that the plain language of §1362 does not lend itself to the interpretation that it ‘prohibits the provision of counsel at government expense’)(citing Supp. Decl. of Marisol Orihuela ¶ 25, Ex. 310 [Doc. # 454]) (“[N]othing in [8 U.S.C. §§ 1229a(b)(4), 1362] or 5 U.S.C. § 3106 prohibits the use of discretionary federal funding for representation of aliens in immigration proceedings” and “[w]hether any particular expenditure would be permissible . . . depends on a fiscal law analysis of the specific proposed funding source”)

¹³ *Id.* at 32

¹⁴ *Id.* at 231(citing 8 U.S.C. § 1229a(b)(4)(B)) (“ In *Paulson*, the D.C. Circuit explained, “[w]here the plaintiffs identify an obstacle that impedes their access to a government program or benefit, they likely have established that they lack meaningful access to the program or benefit”)

Although this was a victory for immigration advocates, it stopped short of specifically requiring the right to an attorney. The court used 8 C.F.R. § 1292.1 and clarified that a qualified representative does not necessarily mean an attorney, it could also be “a law student or law graduate directly supervised by a retained attorney... or an accredited representative”¹⁵.

Still, this was a great step in the right direction and one that seemed to support the argument that unaccompanied minors, who arguably are likewise incompetent of representing themselves or even enter into binding contracts, should have the right to qualified representatives.

J.E.F.M v. Lynch, 837 F.3d 1026 (9th Cir. 2016)

In 2014, one year after the Franco-Gonzalez decision, The American Civil Liberties Union (ACLU), American Immigration Council (AIC), Northwest Immigrant Rights Project, Public Counsel, and K&L Gates LLP brought a class action on the right to counsel in immigration proceedings for minors. This time the plaintiffs were eight immigrant children in removal proceedings. In April 2015 the federal court denied the government's motion to dismiss the case and a year later, “on June 24, 2016, the court certified a class of indigent children under 18 in deportation proceedings in the 9th Circuit who could be eligible for asylum, relief under the Convention Against Torture, or have a colorable claim for citizenship”¹⁶.

However, when the government appealed before the Ninth Circuit Court of Appeals, “the court said it had no jurisdiction, because immigration law says immigration courts are the exclusive venue for review of the minors’ civil rights claims”¹⁷. Specifically, the court held:

¹⁵ Id. at 26 (“Defendants fail to address why the provision of these types of Qualified Representatives would not be feasible. Thus, given that the Government has already contemplated the possibility of certain non-attorneys providing assistance to immigrants in removal proceedings, it is reasonable that they do so to provide Sub-Class One members meaningful access to a fair and participatory process.”)

¹⁶ All About the Federal Case Involving the Right to Counsel for Immigrant Children, National Coalition for a Civil Right to Counsel (June 24, 2016) available at http://civilrighttocounsel.org/major_developments/880; see also www.aclu.org/news/thousands-children-now-covered-lawsuit-over-lack-legal-representation-immigration-proceedings (“A federal court has granted class-action status to a lawsuit challenging the federal government's failure to provide children in immigration court with lawyers in their deportation hearings. Several thousand children are estimated to be members of the class. The class covers all children under 18 who are in immigration proceedings in the Ninth Circuit on or after June 24, 2016; lack counsel; are unable to afford legal representation; and are potentially eligible for asylum or are potentially able to make colorable claims to U.S. citizenship”)

¹⁷ www.abajournal.com/news/article/9th_circuit_rejects_bid_for_lawyers_for_child_immigrants_but_calls_for_a_ch

[t]his interlocutory appeal requires us to answer a single question: does a district court have jurisdiction over a claim that indigent minor immigrants without counsel have a right to government-appointed counsel in removal proceedings? Our answer to this jurisdictional query is no. We underscore that we address only the jurisdictional issue, not the merits of the claims. Congress has clearly provided that all claims—whether statutory or constitutional—that ‘aris[e] from’ immigration removal proceedings can only be brought through the petition for review process in the federal courts of appeals. 8 U.S.C. §§ 1252(a)(5) & (b)(9). Despite the gravity of their claims, the minors cannot bypass the immigration courts and proceed directly to district court. Instead, they must exhaust the administrative process before they can access the federal courts.”¹⁸

In the decision, the court purported that a pro se minor could reasonably raise a right to counsel claim in a petition for review (PFR). The court held the “following scenarios would be appropriate to bring up constitutional claims in a PFR: ‘For accompanied minors, a parent could make the claim or, for unaccompanied minors, a next friend could help them do so. Even better, the [Immigration Judge] and the government could acknowledge that absent a knowing and voluntary waiver, a minor proceeding without counsel has de facto requested a right to court-appointed counsel’”¹⁹. The court continued by stating, “[w]e recognize that a class remedy arguably might be more efficient than requiring each applicant to file a PFR, but that is not a ground for ignoring the jurisdictional statute”²⁰.

As is common throughout the history of the right to counsel movement in immigration proceedings, although the case was dismissed, the judges still made a point of demonstrating sympathy for the plaintiffs²¹. In the decision Judge McKeown concurs but states, “[t]hough these children may not have a Constitutional right to a lawyer, we have policy reasons and a moral obligation to ensure the presence of counsel.”²². Judge McKeown continued:

Eventually, an appeal asserting a right to government-funded counsel will find its way from the immigration courts to a Court of Appeals through the petition for review process. It would be both inappropriate and premature to

¹⁸ J.E.F.M v. Lynch, 837 F.3d 1026, 6 (9th Cir. 2016)

¹⁹ Id. at 1038

²⁰ Id.

²¹ Id. at 1041 (Judge Kleinfeld concurring: “I agree with my colleagues that a child (or for that matter, an adult) is unlikely to be able to protect all his rights in a deportation proceeding unless he has a lawyer.”)

²² Id. at 1040

comment on the legal merits of such a claim. But, no matter the ultimate outcome of such an appeal, Congress and the Executive should not simply wait for a judicial determination before taking up the "policy reasons and...moral obligation" to respond to the dilemma of the thousands of children left to serve as their own advocates in the immigration courts in the meantime. The stakes are too high."²³

III. Relevant Statutes and Regulations

a. Title 8 U.S.C. regulations

8 U.S.C. § 1362 – Right to Counsel

In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

8 U.S.C. § 1229a(b)(4)(B) – Removal proceedings

(4) Aliens rights in proceeding. In proceedings under this section, under regulations of the Attorney General--
(b) the alien shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government but these rights shall not entitle the alien to examine such national security information as the Government may proffer in opposition to the alien's admission to the United States or to an application by the alien for discretionary relief under this Act

8 U.S.C. § 1232(c)(5) – Enhancing efforts to combat the trafficking of children

(5) Access to counsel. The Secretary of Health and Human Services shall ensure, to the greatest extent practicable and consistent with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), that all unaccompanied alien children who are or have been in the custody of the Secretary or the Secretary of Homeland Security, and who are not described in subsection (a)(2)(A), have counsel to represent them in legal proceedings

²³ *Id.* at 1041

or matters and protect them from mistreatment, exploitation, and trafficking. To the greatest extent practicable, the Secretary of Health and Human Services shall make every effort to utilize the services of pro bono counsel who agree to provide representation to such children without charge.

b. Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)

The “Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires the secretary of Health and Human Services (HHS) to ‘ensure, to the greatest extent practicable...that all unaccompanied alien children who are or have been in the custody [of the federal government] ... have counsel to represent them in legal proceedings or matters’²⁴.

In Flores v. Sessions, the Court held “like the [Homeland Security Act], the TVPRA directs [the Office of Refugee Resettlement] to consult with other government actors, and also requires that the agency assist unaccompanied minors in navigating the general immigration system”²⁵. The court continued by holding:

In passing the TVPRA, Congress sought to improve the procedures governing the treatment of unaccompanied minors. The House Report for the Act states that it was intended to ‘require better care and custody of unaccompanied alien children to be provided by the Department of Health and Human Services’ and to ‘improve procedures for the placement of unaccompanied children in safe and secure settings’... The Act further sought to ‘assist children in complying with immigration orders’ and ‘in accessing pro bono representation.’... As Senator Dianne Feinstein stated during the debate over the passage of the TVPRA, the Act represents an ‘important step to protecting unaccompanied alien children, the most vulnerable immigrants,’ and to fulfilling our nation's ‘special obligation to ensure that these children are treated humanely and fairly.’ 154 Cong. Rec. S10886 (daily ed. Dec. 10, 2008)²⁶.

²⁴ Lucas Guttentag, Ahilan Arulanantham, Extending the Promise of Gideon: Immigration, Deportation, and the Right to Counsel, Human Rights Magazine, American Bar Association, Vol. 39, No. 4 (2013), available at https://www.americanbar.org/publications/human_rights_magazine_home/2013_vol_39/vol_30_no_4_gideon/extending_the_promise_of_gideon.html

²⁵ Flores v. Sessions, 862 F.3d 863, 871 (9th Cir. 2017)

²⁶ *Id.* at 880

IV. Funding by Vera Institute of Justice to Represent Unaccompanied Minors

a. DUCS Access to Legal and Child Advocate Services Project

Due to concerns about the lack of representation for unaccompanied minors, as well as the Homeland Security Act's directive that ORR develop a plan, "[i]n 2005, [ORR] contracted with the Vera Institute of Justice to develop a program that would improve access to legal services for unaccompanied children in federal custody"²⁷. The pilot program, entitled the Unaccompanied Children Program, "provide[d] access to legal services for people who are younger than 18, have no lawful immigration status, and have no parent or legal guardian in the United States available to provide care and custody. The program is funded by the Office of Refugee Resettlement (ORR), the agency within the U.S. Department of Health and Human Services responsible for these children after apprehension and referral by the U.S. Department of Homeland Security"²⁸.

Through the program, ORR and Vera subcontracts "with nonprofit legal services providers to educate children about the legal process, screen their cases for potential relief from removal, and recruit and train volunteer attorneys to represent children in immigration court. Subcontractors participating in the project [are] not allowed to use government funds to provide direct representation, although many had other (albeit limited) funding to represent unaccompanied children in immigration court or before the U.S. Citizenship and Immigration Services (USCIS)."²⁹

At the conclusion of the three-year pilot program, "HHS continued the pro bono representation and child advocate programs under a new name: the DUCS Access to Legal and Child Advocate Services Project (commonly referred to as the DUCS Legal Access Project)".³⁰ Today, "Vera coordinates the DUCS Legal Access Project, which serves approximately 7,000 children per year."³¹

²⁷Olga Byrne, Elise Miller, The Flow of Unaccompanied Children Through the Immigration System: A Resources for Practitioners, Policy Makers, and Researchers, Vera Institute of Justice (March 2012), available at <http://archive.vera.org/sites/default/files/resources/downloads/the-flow-of-unaccompanied-children-through-the-immigration-system.pdf> at page 5

²⁸*Id.* at page 4

²⁹*Id.* at page 22

³⁰*Id.* at page 23

³¹*Id.*

b. Legal Significance When an Unaccompanied Minor is Released from ORR to their Guardians

One significant concern for advocates working with unaccompanied minors going through the DUCS project is that once placed with a guardian, the children will no longer be viewed as unaccompanied. This has important legal significance for children applying for asylum. “Advocates argue that the crucial date for determining whether the TVPRA protections are relevant is the date when the government initiates proceedings against a child, and that such protections should not be rescinded throughout the course of the proceedings. They maintain that children classified as unaccompanied should be allowed to apply for asylum with the Asylum Office, even if they wait until after their 18th birthday or after they reunify with a family member

The Asylum Office has rejected this position and in March 2009 the agency issued a policy that it will not accept applications from children living with their parents or legal guardians or from individuals who are older than 18, even if applicants were classified as unaccompanied children when placed into immigration proceedings”³².

Considering “at least 65 percent of children admitted to DUCS care are ultimately placed with a sponsor”³³ this has a profound impact on the child’s legal case and puts the child in a Catch 22 dilemma, where they lose TVPRA protections when reunited or placed with a guardian.

c. Safety and Fairness for Everyone (SAFE) Cities

In November 2017, the Vera Institute created a new program, Safety and Fairness for Everyone (SAFE) Cities focused on representing immigrants in removal proceedings. The program is a “multi-jurisdiction network dedicated to providing publicly-funded representation for people facing deportation... [u]nder the new SAFE Cities Network initiative, 11 jurisdictions are providing funding for trained legal service providers to represent immigrants facing deportation proceedings supplemented by a catalyst grant administered by Vera.”³⁴

³² *Id.* at page 8 (citing Joseph E. Langlois, Implementation of Statutory Change Providing USCIS with Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children, (Washington, DC: U.S. Citizenship and Immigration Services, March 2009)

³³ *Id.* at 17

³⁴ Vera Institute of Justice, SAFE Cities Network Launches: 11 Communities United to Provide Public Defense to Immigrants Facing Deportation (November 9, 2017), available at <https://www.vera.org/newsroom/press-releases/safe-cities-network-launches-11-communities-united-to-provide-public-defense-to-immigrants-facing-deportation>

The 11 jurisdictions include Atlanta, Austin, Baltimore, Chicago, Columbus (Ohio), Dane County (Wisconsin), Oakland and Alameda County (California), Prince George's County (Maryland), Sacramento, San Antonio and Santa Ana (California). These "municipalities will use a Vera Institute-issued grant to help provide funding for legal service workers. The organization will also help find and train workers, share best practices and analyze data to measure the impact of the network."³⁵

V. One California

In June 2017 California's "state lawmakers approved \$45 million in a state budget plan to expand legal services for immigrants, a response to the Trump administration's call to increase deportations"³⁶. The program, called One California, had initially been a \$30 million legal assistance program "to help thousands of immigrants apply for naturalization and former President Obama's deferred action programs. With the additional money, providers will now also be able to help immigrants fighting deportation or removal proceedings".³⁷

Additionally, the 2017 budget "preserves a separate \$3 million allotment for an unaccompanied minors program, which was created in 2014 to provide legal aid to an unprecedented number of children arriving alone at the U.S.-Mexico border from Central America."³⁸

///

³⁵ Kenrya Rankin, 11 Cities to Provide Free Legal Defense for Immigrants During Deportation Hearings (November 13, 2017), available at <https://www.colorlines.com/articles/11-cities-provide-free-legal-defense-immigrants-during-deportation-hearings>

³⁶ Jazmine Ulloa, Nearly \$50 million in the California state budget will go to expanded legal services for immigrants (June 15, 2017), available at <http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-nearly-50-million-in-the-california-1497576640-htmlstory.html>

³⁷ *Id.*

³⁸ *Id.*