The Gatekeeper: Watch on the INS

by Alisa Solomon

Kids in Captivity

Scared and Alone, Nearly 5000 Children Wind Up in INS Detention Each Year

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David "Jimmy" Singh was only 14 in July 2000 when his father paid a smuggler to take him from his village near New Delhi to a new life with his aunt and uncle in America. It took him about 16 hours to fly from Bombay to New York and a year and a half to reach his relatives in California. In between, he spent nearly two months in a guarded hotel room where he was sometimes handcuffed to the bed at night; three months in a shelter where he threw up every day from being forced to eat everything on his plate, including the meat, which had never been part of his Sikh diet; and a full year in a youth detention center, where he says he was bullied by the larger boys and belittled by the staff. His host for this ordeal was America's Immigration and Naturalization Service (INS), which nabbed the undocumented boy upon his arrival at JFK and detained him as his request for asylum crawled through the system.

While the post-9-11 roundup of Arab and Muslim immigrants has put INS detention in the spotlight in recent months, the plight of the nearly 5000 children locked up by the system each year remains one of America's ugliest secrets. Their average age is 15; the vast majority are boys. Senate subcommittee hearings on a proposed bill to take the responsibility for such children away from the INS are scheduled for Thursday.

According to INS spokesperson Karen Kraushaar, when minors enter the U.S. illegally—usually for the same reasons as adults, seeking democratic freedoms and opportunity, fleeing persecution or war—the government takes great pains to locate U.S. relatives and usually manages to turn kids over to them within three days. In the thousands of instances in which such efforts fail, though, the agency places children into custody in one of some 90 facilities around the country—usually campus-like shelters run by nonprofit agencies, but sometimes high-security prisons that incarcerate U.S.-citizen juvenile offenders. Meanwhile the immigration courts consider whether the child can stay in the country or must be deported. Typically, the process averages a little over a month, says Kraushaar, but it can drag on much longer if there's trouble finding a sponsor or the agency fears that the purported
"relatives" are really "snakeheads," smugglers who will sell the kids into indentured servitude or prostitution.

But the system often breaks down, immigrant advocates charge. More than a third of the detained youngsters wind up like Jimmy, languishing in untenable situations for months, and sometimes for more than a year. Many of these children, already lonely and fearful, are further isolated because there's nobody around who speaks their language. During most of his detention, Jimmy communicated in Punjabi only during the two five-minute phone calls he was allowed to make to his relatives each week. Worse, more than half the kids don't have attorneys, despite the labors of pro bono projects around the country, so they often go into hearings with little understanding of what is happening and no knowledge of their legal options. Those with counsel are often transferred to facilities far away from their lawyers.

In one of the most egregious cases currently, Alfredo López Sánchez, a 16-year-old Mayan from Guatemala, has been shuttled from one facility to another seven times over the last two months, sometimes with his ankles shackled and his wrists handcuffed to a chain around his waist. Alfredo arrived in June, seeking asylum from domestic abuse so severe that a psychologist has diagnosed him with post-traumatic stress disorder. He was placed in a 56-bed shelter in Miami popularly known as Boystown. Operated by Catholic Charities under contract with the INS (to the tune of $1.9 million a year), the residence looks like a low-rent boarding school. (Indeed, kids attend school there and begin each day reciting the Pledge of Allegiance.)

Claiming that Alfredo might be planning to run away, in November the INS transferred him to Monroe County Jail for "his own safety," though the jail's contract with the INS to hold immigrant detainees explicitly excludes juveniles. After Alfredo's attorney, Christina Kleiser of the Florida Immigrant Advocacy Center, complained, the INS moved him to a juvenile shelter in Leesport, Pennsylvania, 1200 miles away from one of the few interpreters of his rare native dialect, Southern Low Mam. In December, the INS transferred Alfredo back to Boystown for a day, then moved him to a Miami hotel, then back to the Monroe County Jail, which refused to house him, and then back to the hotel, where for about three weeks he sat in a guarded room all day in a weird sort of house arrest. In early January, the INS brought him back to Pennsylvania, then early this month back to another Miami hotel so he could attend a scheduled hearing there. It took a federal restraining order to keep him in Miami as his case goes forward.

Complaints about such seemingly arbitrary and pitiless actions on the part of the INS have been leveled for years by children's advocates, human rights groups, and internal government reports. A 1985 class-action suit, Flores v. Reno, challenged, among other things, the often lengthy terms and harsh conditions of minors' confinement; its settlement in 1997 after 12 circuitous years of appeals that went all the way to the Supreme Court established national guidelines, requiring, for instance, that children be detained in the least restrictive settings possible.

But a report this past September by the Office of the Inspector General found that the INS was placing too many kids in high-security juvenile
prisons, needlessly using restraints on them, and in other ways failing to live up to the 1997 settlement. While the report noted "significant progress," it found persistent problems that could have "serious consequences for the well-being of the juveniles." Of the 4136 unaccompanied minors held for more than 72 hours in fiscal year 2000, the report detailed, more than a third did at least some portion of their detention in "secure" facilities—that is, in prisons. Having committed no offense other than to seek refuge in the U.S., they were locked in behind bars and razor-wire fences, under the control of guards trained to take charge of criminals.

Now, as the INS considers an agency-wide structural overhaul, separating its service and enforcement branches, plans to completely revamp its juvenile department are on the table at last. In a speech in early February, INS commissioner James Ziglar asserted, "We need to do better protecting unaccompanied minors," a sentiment advocates regarded as sincere, if a massive understatement. Ziglar announced the creation of a special Office of Juvenile Affairs that will report directly to him instead of being housed in the division of detention and deportation.

The bill scheduled for hearings Thursday, the Unaccompanied Minor Protection Act, introduced by California Democrat Diane Feinstein, is far tougher. First, it would guarantee children attorneys and guardians. What's more, it would place the care of these kids in a new office outside the INS, staffed by child welfare professionals. Indeed, some advocates wonder whether Ziglar's administrative reform is a preemptive dodge to keep undocumented children in the INS's control.

Supporters of the Feinstein legislation say it goes a long way toward resolving what they have long regarded as a damaging conflict of interest in the agency: "The INS is both prosecutor and protector," explains Wendy Young of the Women's Commission for Refugee Women and Children. "They have custody of the children and must serve their best interests; at the same time it is their job to deport them." The INS's Kraushaar rejects this logic: "We don't have an interest in any of the outcomes other than to make sure the juvenile enjoys the full consideration under the law and arrives in a timely fashion for his or her hearings."

Official policy, perhaps. But kids don't see it that way. Those who spoke to the Voice might have expressed appreciation for "one nice guard" or "a lady who helped me in the shelter," but all said they felt intimidated, punished, confused, and upset, or "treated like a criminal." And there's little claim of neutrality from INS employees in the field. A deportation officer in the mid-Atlantic region, speaking on condition of anonymity, expressed pride in being able to "help America keep liars who aren't supposed to be here out of the country." At JFK airport, the dentist who administers a controversial X-ray test to determine the age of those it doesn't believe to be under 18 regards himself as defending the border against "drug dealers, human traffickers, and terrorists." He relishes what he calls "the forensic chess game. People come in with false documents, and I have the dental X rays to checkmate them."

While some migrants may indeed come under false pretenses, they can also get caught up as pawns in a larger game. The supervisor of the juvenile division in Florida, for instance, brazenly told a judge at a
hearing in Alfredo’s case two weeks ago that he would not release the boy to any foster care programs because he was waiting for Alfredo’s brother, living illegally in the U.S., to come claim him and be put into deportation proceedings himself.

In a more alarming example, zealous INS officers recently deported 13-year-old Isau Flores-Portillo, a street kid from Honduras, even though his asylum appeal was still pending. Though the INS won’t comment on specific cases, attorneys for Isau believe he faced torture or even death back home. They cite the reputation of Central American police for clearing the streets of homeless kids by simply murdering them in a process known as limpieza social—social cleansing. According to a U.S. State Department human rights report, in 2000, "Honduran security forces were suspected of an estimated 200 extrajudicial killings, many involving persons under 18." The INS has moved to dismiss Isau’s asylum case because the applicant is no longer in the country.

Jimmy was luckier. During his 18 months in detention, his case was picked up by a special pro bono project at the tony D.C. firm Latham and Watkins, which has an attorney who speaks Punjabi. The lawyers managed to get affidavits from neighbors in his village who testified to the relentless abuse Jimmy suffered at the hands of his stepmother, and in December, his asylum request was granted. Not only is the INS appealing the decision, it wanted to keep Jimmy in detention during the appeals process. Attorneys won his release earlier this month.

From his new home in California, Jimmy said he would have run away from home no matter what, but, he added, "I would live on the streets in India rather than go through detention again." And that from a child who spent the bulk of his time in Berks County Youth Center in rural Pennsylvania, a low-security shelter without bars or barbed wire, where there are classes each day and soccer games. (Still, kids held there say they are threatened with being moved to the high-security prison wing down the road if they misbehave.)

But for an adolescent like Jimmy, such benefits were outweighed by the loneliness, boredom, and persistent nightmares. Only since arriving at his aunt and uncle's has he been enjoying what most teenagers take for granted: enough time in a shower to rinse off the soap, pouring himself a glass of juice when he feels thirsty, being allowed to take a pen and paper into his room.

After all, these are kids. The restrictions of detention present special emotional hardships for teenagers. In eastern Washington State, for instance, INS kids are held outside Spokane at Martin Hall, a maximum-security juvenile prison with strict rules that apply equally to the delinquent citizen kids and the INS detainees: No more than five sheets of paper and two family photos in a cell, the handbook asserts. When going to a meal or recreation, it instructs, "come out of your room, close your door, stand by your door facing forward with your hands behind your back until asked to step into the middle of the hallway. . . . Do not talk to anyone."

A Jamaican teen who didn’t want her name used spent a month and a half in the high-security wing at Berks. She reports she saw kids thrown and pinned to the ground by guards for the crime of lifting an arm. But
what was worse for her was suffering the acute adolescent embarrassment of having to dispose of sanitary napkins in full sight of the boys because there were no trashbins in the bathrooms. In Miami, FIAC attorneys wanted to give a donated Christmas present of a jigsaw puzzle and art set to Alfredo while he was confined to the hotel room with nothing to do and no one who spoke his language. According to the INS, such items are "contraband." Alfredo got no gifts.

The underlying trouble, says Chris Nugent, director of a pro bono immigrant project at the American Bar Association, is that the INS regards these kids "as detainees first and as children second. That's what needs to be reversed."

Yet sometimes the INS doesn't recognize them as juveniles at all. Adults have narrower avenues of relief and face more severe detention conditions than those under 18, so undocumented migrants have a good motive for trying to pass as a minor. The INS says that it must be especially vigilant to keep adults out of shelters that house children, so when people give birth dates that seem doubtful, they are sent for the X-rays that show wisdom teeth growth and whether the ulna and radius bones have fused in the wrist. Advocates say the tests are unreliable and given far too much weight over documents, psychiatric evaluations, and other evidence in cases against young people who genuinely need help.

According to Dr. Robert Trager, the dentist with offices at JFK and LaGuardia airports who has conducted some 1500 such tests for the INS, "[Undocumented travelers] try every trick in the book to get in here, and you've got to feel sorry for them, but I can't let personal feelings get in the way of science." In at least 90 cases out of 100, he finds the patient to be lying, and he claims the tests have an accuracy rate of more than 96 percent.

But Dr. Herbert Frommer, director of radiology at the New York University College of Dentistry, says that "Dr. Trager's position has no scientific validity." In an affidavit, Dr. Frommer cites a "wide variation in the age at which third molars erupt in the mouth" because of differences in "race, gender, and ethnic origin," among other factors. Orthopedists regard the wrist-bone test as equally imprecise. Still, these tests are the best scientific tools the INS has in its effort to piece together what Kraushaar calls the "mosaic" of a person's identity. "The INS is responsible for making sure we know exactly who is seeking entry to the U.S. and verifying their ID includes age," she explains. "What if a terrorist who was 19 said he was 16 and an orphan and the story didn't check out, but we released him and he went and blew up a building? Would it be his attorney that would take the fall? I don't think so."

Thus, Huai Chun Zheng—or "Danny"—has been sitting in an adult jail in Georgia for more than two years. The INS X rays pegged him as over 18, though he claims he was only 15 when he was apprehended at a port in Savannah after spending a week under the deck of a ship from China. He applied for asylum, and as his case inched along, he whiled away what should have been vital years "mostly just sitting in my room all day." Between his fear of being returned to China and the noise of the more than 20 men in his dorm, he barely sleeps, he said by phone through an interpreter last week.
His asylum petition has been denied, and Danny has been issued a final order of deportation, but he is still holding out hope that, somehow, the INS will release him to his cousins in New York and that he'll be able to fulfill his dream of going to school. His lawyer, Rhonda Brownstein of the Southern Poverty Law Center, managed to track down a notarized birth certificate for Danny, but the INS doubts its authenticity because it lacks fingerprints. "Do your birth certificates in America have fingerprints?" Danny wants to know. Yet even by the birth certificate's count, Danny turned 18 last month, so the law that would permit him to be released to relatives no longer applies. To date, China has not produced the travel documents needed for his deportation, so Danny sits in limbo, waiting—but he's not sure for what.

Mohamed Boukrage has no relatives to claim him. Orphaned at age 10 in his native Algeria when a car bomb blew up his parents and sister, he says he went to live with an aunt who threw him out, concerned that his father's reputation as a "traitor" for dealing with French businessmen would harm her own family's standing. So Mohamed stowed away on a boat to France, then made his way to Italy, where, for about four years, he picked up menial jobs and squatted in abandoned buildings. In October 2000 he joined some other workers on a boat he thought was going to Canada, but he was snagged by the INS when it docked in Newark. They took him right to Dr. Trager's office at the airport, where he was pronounced to be at least 18 years old; Mohamed says he was 16.

In May an immigration judge rejected Mohamed's asylum claim, saying that his story lacked convincing detail. His pro bono lawyer, Erin Corcoran of the Hebrew Immigrant Aid Society, appealed, noting that Mohamed was only eight or nine when his family was killed: How much detail could he be expected to remember? Corcoran's final request for reconsideration was denied in January.

All the while, he has been held in an adult INS detention center in Elizabeth, New Jersey, the fluorescent-lit former warehouse near Newark Airport, where he told his story from a cold visitor's room in late January. He passes the interminable time sitting in his dorm reading the Koran, he said. He gets an hour's exercise each day in an enclosed courtyard, so he has not been outdoors in almost a year and a half. Acne runs rampant over his dimpled cheeks.

Speaking through an interpreter, Mohamed said he'd like to learn English, but unlike the juvenile shelters, the adult detention centers don't offer any classes. His vocabulary is limited to the phrases he hears from guards: "Get in line." "Do what I tell you." "No talking."

When he is perceived to have broken a rule—like when he got into a fight he says started when a larger, older detainee made a sexual advance—he is sent to solitary confinement, where he is denied the meager communal privileges of exercise and prayer.

According to a psychiatric evaluation by Dr. Alice Kross Frankel, Mohamed is "suffering from both depression and traumatic stress reactions" that are exacerbated by his imprisonment and "altogether inappropriate placement." He was wetting his bed when he first arrived at Elizabeth. He still has nightmares. Dr. Frankel recommended
Mohamed’s prompt release to the nonprofit youth home Covenant House, which has agreed to take him in.

Meanwhile, Corcoran is racing against the clock to try to win the only relief left: “special immigrant juvenile status,” a sort of junior green card for youngsters who are abandoned, abused, or neglected. But even if the court finds this status, Mohamed has first to be recognized as a juvenile, so Latham and Watkins lawyers are preparing a federal suit claiming that the unreliable age determination test violates Mohamed’s due process. A hearing is likely later this week.

If they prevail, the INS will have to let Mohamed’s case be heard at family court, which has jurisdiction over who qualifies for this special status. But even if family court says yes, the INS has been known to take so long to process such claims that the young immigrants “age out”—that is, they turn 21 and become ineligible before they can secure the benefit. Mohamed isn’t thinking about these legalistic twists. But he is thinking about the future. “I’m still young and can be educated,” he said, expressing an interest in architecture. He added, “And I want a place to belong to.”

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This is the second of an ongoing series investigating the INS.

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Boy, 16, endures an odyssey through immigration lockups

BY AMY DRISCOLL
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A 16-year-old Guatemalan boy who speaks a rare Mayan language and suffers from post-traumatic stress disorder remained in legal limbo Thursday in a case that highlights the continuing debate over the treatment of unaccompanied minors by immigration officials.

Like hundreds of other children who enter the United States alone and illegally every year, Alfredo Lopez-Sanchez initially was sent to Boystown, an emergency shelter for immigrant children in southwest Miami-Dade County, after he crossed the border into Texas in July.

But Boystown officials say they learned that Lopez was planning an escape from the unsecured shelter, so they shipped him to the Monroe County Jail -- and that's where the debate begins.

Lawyers from the Florida Immigrant Advocacy Center, representing Lopez, say that over the next three months the boy was bounced from jail cell to hotel room to a youth shelter in Pennsylvania -- a total of seven transfers.

They say officials from the Immigration and Naturalization Service shunted the boy from place to place without regard for his deteriorating mental condition and his need for an interpreter to comprehend his situation.

"I was very sad, and I was crying, and I was thinking that Boystown was better than the small space I was in," the boy said in federal court in Miami on Thursday, describing through an interpreter the days he spent in the Monroe County Jail.
The final stop: Berks County Youth Center in Leesport, Pa., more than 1,200 miles from the attorney who has been representing him and the interpreter who has translated English to Mam, the Mayan language Lopez speaks.

An INS official said Lopez was moved to the Pennsylvania shelter because it is surrounded by woods and the boy would have to walk for miles to escape, while Boystown is in a more suburban area, close to major roads.

Lopez, who looks younger than his age, has told his lawyers he has a mentally ill mother and an abusive father who killed his little sister in front of him. He lived in a rural town in Guatemala, he said, with no TV. He attended school "off and on" for three years and understands a few words of Spanish.

In court Thursday, he described how he learned about one of his transfers: "I went to a court hearing, and I was told I was going somewhere else."

Lopez wasn't returned to South Florida until immigration lawyer JoNei Newman filed a complaint asking for a federal injunction against the INS to force the agency to place the boy within easy reach of his lawyer and interpreter.

Allen Hausman, a lawyer for the Justice Department's office of immigration litigation, said the government has a responsibility to protect Lopez. If he escaped and was harmed, it would be the responsibility of the government, he said.

"For a person of this age and appearance and size, there are people in our community who might offer a hand of friendship and then exploit this youth," Hausman said.

U.S. District Judge Federico Moreno, seeking to find middle ground, suggested that Lopez's lawyers file a petition asking the INS to move the boy back to South Florida until his asylum claim can be heard.

The judge also asked to hear from the acting INS district director for Florida, John Bulger, when the hearing resumes Feb. 15. He issued a temporary injunction against the INS that allows the boy to stay in South Florida until the hearing.

"He's not going anywhere," Moreno said. "There's no point in flying him back and forth."

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Detained Nigerian Girl, 8, Finds Home With a Cousin

By ERIC SCHMITT

WASHINGTON, Aug. 9 — An 8-year-old Nigerian girl who has been detained for 15 months in a Miami shelter was released tonight to live with a cousin in Hartford, United States immigration officials said.

The release ended a legal limbo for the girl, nicknamed Fega, whose lawyers say was abandoned by her parents after she arrived in the United States alone with false papers in May 2000.

Immigration officials had failed to find her mother, who was believed to be living in the New York area at the time, and her father had told caseworkers in Florida that he did not want her sent back.

The girl’s case was described in a front-page article in The New York Times on June 24.

Shortly after that article was published, United States immigration officials sent a deportation officer to London, where the father had moved. In that meeting, the father said he had not severed ties with his daughter, and officials began working with him to find a temporary guardian in the United States.

Immigration officials in Florida and Washington enlisted the aid of 20 agencies, Nigerian community leaders in Miami and the Nigerian consulate in Atlanta to help unite Fega with her cousin. Officials asked that the cousin, a married woman with children, not be identified, but said she had very strong qualifications for taking custody of the child: She is an investigator with the Connecticut children’s services department.

"Fega is the happiest child in the whole wide world right now," Francisco Brizuela, an administrator who oversees the shelter, said in a telephone interview. He said shelter officials threw a farewell party for Fega today.

Fega’s release was assured today when her father, back in Nigeria, met with the acting United States consul general in Lagos. American officials said the father produced documents proving Fega was his daughter, and then signed a statement authorizing his cousin to take custody of the girl until her immigration status could be resolved.

"This is wonderful news," said Christina M. Kleiser, a lawyer for the Florida Immigrant Advocacy Center, which has represented Fega.

Ms. Kleiser has been seeking asylum for the girl on the grounds that her parents abandoned her. A hearing is scheduled in Miami for Aug. 21, but Ms. Kleiser said she would now consult with Fega’s cousin to determine what steps to take next.

For the last 15 months, Fega has been living in a squat, mustard-colored building that serves as an
emergency shelter for unaccompanied immigrant children who have slipped into the country illegally by crossing borders or landing at airports with false papers.

The 32-bed shelter, called Boystown, which is run by the Catholic Charities of the Archdiocese of Miami under contract to the immigration service, ranks near the top for quality of care at such shelters, immigrant advocates say.

Still, the average stay at the shelter is 16 days. Since Fega arrived, more than 400 youngsters have come and gone. She has been at the shelter so long that she has learned some Spanish, Creole, Chinese and English from the children who have passed her by.
Case of Detained Nigerian Girl Takes U.S. Agency to London

By ERIC SCHMITT

WASHINGTON, June 25 — United States immigration officials dispatched a deportation officer to London over the weekend to interview a man they believe is the father of an 8-year-old Nigerian girl who has been detained for more than 13 months in a Miami shelter for unaccompanied immigrant children.

The Florida Immigrant Advocacy Center, an independent group, is seeking asylum for the girl, nicknamed Fega, on the ground that her parents abandoned her after she arrived in the United States alone with false papers in May 2000. Immigration officials have failed to find her mother, and her father had told caseworkers in Florida that he did not want her sent back. The girl's case was described on Sunday in a front-page article in The New York Times.

But in an interview with an immigration officer on Saturday, the father said he never severed his ties to his daughter and asked that her maternal aunt be given temporary custody until the girl's immigration status could be resolved, a senior immigration official said today.

"He was asked point-blank if he had ever abandoned his rights to the child, and he said he never had," said David J. Venturella, a senior deportation official with the Immigration and Naturalization Service. "He said his intent was to get his child to the U.S., a better country with better opportunities, and that he would join her at some time."

If the father submits paperwork needed to transfer custody of his daughter, it could bring Fega an important step closer to finding a home, either with him in Nigeria, her aunt in New York City or a foster care family somewhere else.

Immigration officials were hard-pressed today to explain why it took them 13 months to intervene in Fega's case, which until now they had left to shelter workers, even though the case was supposedly a high priority for the immigration service here and in Miami, as well as the United States Embassy in Nigeria. The average stay for immigrant children at the Miami shelter is 16 days.

Mr. Venturella said caseworkers at the shelter, Boystown, had been conducting most of the investigation until a reporter for The New York Times inquired about the girl last Wednesday after visiting the shelter.

Senior officials at I.N.S. headquarters hastily arranged a conference call with their counterparts in Miami to evaluate the girl's status and "bring some closure" to the case, Mr. Venturella said.

A deportation officer in Miami who was returning another immigrant to London volunteered to try to contact the father, whom immigration officials learned was living in England illegally.

Fega's father told the deportation officer that he had tried to give the custody-transfer documents to the United States Embassy in London, but was turned away because he did not have an appointment.

"Apparently, there was a disconnect there," Mr. Venturella said.

Christina M. Kleiser, Fega's lawyer, said she welcomed the news that the child might be transferred to her aunt's custody, but said she would urge that a juvenile court judge review the case to determine the girl's best long-term interests.

The immigration service and Ms. Kleiser said that they had considered Fega's aunt as a temporary home before but that the aunt was unable to provide enough supporting documents from the girl's father. Immigration officials also said the aunt and her family had expressed ambivalence about sponsoring their niece, fearing that they could not shield her from deportation.

In any event, officials involved in the case as well as independent experts said today that keeping Fega in the 32-bed temporary shelter was not the answer.

"It's very hard on a child's sense of trust and safety in the world to not have a home to live in," said Kate Porteefield, a child psychologist with the Bellevue-New York University program for survivors of torture, who works with child refugees: "Children need to feel they have a home, and detention is not home."
I.N.S. Both Jailer and Parent
To a Child Without a Nation

By ERIC SCHMITT

MIAMI, June 18 — For more than 13 months, an 8-year-old Nigerian girl with pig tails and a thousand-watt smile has been held in custody here by immigration officials, abandoned by relatives after she arrived alone in the United States and now trapped in a legal limbo.

The girl, nicknamed Fega, celebrates the rites of childhood in a squat, mustard-colored building that serves as an emergency shelter for unaccompanied immigrant children who have slipped into the country illegally by crossing borders or landing at airports with false papers.

In October, shelter officials surprised Fega with a special cake on her birthday. Last week, she graduated from a kindergarten class taught here. And almost every night for more than a year, someone has read her a bedtime story.

She has no family to speak of. She gets no mail or phone calls. Her friendships with children here are fleeting. Since Fega arrived 406 days ago, almost 350 youngsters have come and gone, most reuniting with relatives. The average stay is 18 days.

But Fega is still here, watching all this like a windswept island in a swirling sea, wondering when her turn will come. Time seems to be taking a toll on the child, who has been here so long that shelter officials say she has learned some Spanish, Creole, Chinese and English from the children that pass her by.

"She used to ask me, "When am I leaving?" " said Christina M. Kleiser, a lawyer with the Florida Immigrant Advocacy Center who represents Fega and visits her on Wednesdays.

"She doesn't ask me that anymore."

For months, the Immigration and Naturalization Service has sought a relative, here or abroad, to take in the girl, whose father no longer wants her and whose mother has vanished, fearing deportation if she steps from the shadows to claim her.

Fega's plight is hardly unique among the thousands of unaccompanied children, infants to teenagers, detained annually by the immigration agency, which assumes complete control over their lives as it seeks to deport them for entering the country illegally.

Over the last year, immigrant advocates say, a 7-year-old girl from Indin was detained for eight months in a shelter near San Diego. A 16-year-old boy from China spent more...

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Fega, a Nigerian girl detained at a Miami immigration shelter, ate breakfast recently with the help of Yamine Manigat, a house parent.
I.N.S. Is Jailer and Parent To 8-Year-Old Nigerian Abandoned in the U.S.

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I.N.S. is jailer and parent to 8-year-old Nigerian, An abandoned girl, named Fega, has celebrated the rites of childhood in a squat, mustard-colored building in Miami that serves as the I.N.S.'s emergency shelter for unaccompanied illegal immigrant children.

She arrived by herself at Kennedy International Airport in New York on May 8 last year aboard a Lufthansa Flight from Nigeria via Frankfurt. Immigration inspectors quickly determined her passport and visa were fake. When no one claimed

When Father is Uncle Sam, see a conflict of interest.

her, inspectors whisked Fega away to airport detention. Hours later, a woman arrived at the airport claiming to be Fega’s mother but disappeared when she discovered the girl was gone. The next day, the immigration agency received a letter signed by the purported mother stating: “Sorry I cannot come to meet you. As I have no job in the country I am afraid to come. Please return any child to my family in Nigeria.”

But a man in Nigeria who says he is Fega’s father has told work- ers that he does not want the child back. So far, in May 9th a year ago Fega’s life began at the tented shelter here called Boystown, which is run by the Catholic Charities of the Archdiocese of Miami under contract to the Immigrant and Naturalization Service. Fega was sent here from New York because authorities believed it was the best setting for her and there was space available.

As shelters go, Boystown ranks near the top, immigrant advocates say. The government pays $157 a day for each child. There are two dormitories, called cottages by the shelter officials, one for boys and another for girls and all children under 10. The buildings are light and airy, with small bedrooms flanking a living room. There are no bars on the windows, and doors are unlocked, yet the shelter prides itself on having only a small number of runaways each year.

The children receive fresh clothes and meals a day. They study. They are taught English and the three classes are subject to outside inspections. Army and Navy officers who specialize in teaching students who speak no English. Almost immediately, shelter workers said, Fega stood out among the other children. She was very smart. She was very smart. She is the only one to

said Francisco Brizuela, Boystown’s administrative director. “But she was very smart. She is the only one.”

Measure Aim At Violence Along Border

By ERIC SCHMITT

WASHINGTON, June 23 — The United States and Mexico have announced a major step in improving border security by agreeing to deploy 1,000 National Guard troops to the southern border. The move comes as the U.S. and Mexico are seeking to address the growing crisis of illegal immigration and drug trafficking along the border.

The deployment of National Guard troops will be a significant boost to the efforts of border security, and it is hoped that it will help to reduce the flow of illegal immigrants and drugs into the United States.

The announcement was made during a meeting between President Barack Obama and Mexican President Enrique Peña Nieto. The two leaders agreed to deploy the troops to the border in order to improve security and to help to reduce the number of illegal immigrants and drug traffickers crossing the border.

The deployment of National Guard troops will be a major milestone in the efforts to address the border crisis, and it is hoped that it will result in a significant reduction in the number of illegal immigrants and drug traffickers entering the United States.

The United States and Mexico have been working together to address the border crisis, and this deployment of National Guard troops is a significant step in the efforts to improve border security.

The deployment of National Guard troops is expected to be carried out in coordination with local law enforcement agencies and will be a key component of the U.S.-Mexico joint efforts to address the border crisis.

The announcement was welcomed by both the U.S. and Mexican governments, with officials expressing confidence that the deployment of National Guard troops will help to improve border security and reduce the flow of illegal immigrants and drugs into the United States.

The deployment of National Guard troops is expected to be carried out in coordination with local law enforcement agencies and will be a key component of the U.S.-Mexico joint efforts to address the border crisis.

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Access denied

Children in INS custody have no right to a lawyer; those who get one risk retaliation.

By Elizabeth Amor
National Law Journal Staff Reporter
A month ago, Miami lawyer Christina Kleiser was paged by a 15-year-old client, a Guatemalan boy seeking asylum in the United States because he fears political persecution.

She assumed he must be calling from an Immigration and Naturalization Service (INS) shelter just 45 minutes from her office, where he was being detained. But the boy told her he was calling from a facility 1,400 miles away in Chicago, where he'd been suddenly transferred.

He told her that another client she had represented for eight months, a Chinese girl who was the victim of smugglers, had been transferred, too.

"In the hands of the INS: One boy's story," says Ms. Kleiser, who makes a common complaint among lawyers for such children that the INS makes client access difficult and retaliates against lawyers who complain.

Still, her clients are among the lucky ones. At least they have a lawyer. Of the more than 4,600 people in INS custody [see "Children" page A16]..."
Counsel hard to come by for kids in INS custody

Under the age of 18, fewer than half have attorneys, even though they may not see adults in a jaillike setting.

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to NJ about her complaints about transfer of her children. INS officials have a lot of discretion over the transfer of children, and she was afraid of retaliation. She worried that her Guatemalan teen wouldn't be moved back to Miami as she requested. She also feared he might be moved to a juvenile jail, where the INS houses up to a third of the detained children, mixing her type of kids with those who have committed violent crimes. The INS, she thought, might even retaliate against her by punishing other kids she's representing.

"It's not that I'm afraid it will happen, but I'm afraid it will happen," Ms. Kleiser says. Her decision to speak out came after she discovered what she believed was evidence of retaliation simply for her advocacy in general.

That wasn't the INS' story. The morning after she heard from her Guatemalan child-client, Ms. Kleiser spoke to an INS deportation officer who told her the agency had to move the kids because of space problems. But, six days after her young client had been moved, Ms. Kleiser says, she found during a visit that only 19 of the shelter's 32 beds were filled.

INS denies retaliation

John Shewary, chief of staff for the INS in the Florida district, declined to talk about the specifics of any minor's case.

"The children's welfare and well-being is our foremost concern," he says, "and that includes their cases, their locations, and why we transfer them, if at all."

Mr. Pogash also denied any retaliation. "I think she probably read between the lines," he says. He said that Miami has recently been inundated with Colombian asylum seekers.

Ms. Kleiser is not alone in her allegations. Shiu-Ming Chee, a Los Angeles lawyer working with detained children, says she thinks the INS retaliates against her and her agency, the Catholic Legal Immigration Network. Ms. Chee says that after her office began to complain about detained children being mixed in with kids who have been convicted of crimes in juvenile jails, the INS began moving the children to a rural facility in central California, 180 miles north of her office—where no one speaks some of her clients' language, Mandarin. Consequently, she must rent a car and drive three hours each way to make group presentations to kids once a month.

Ms. Chee directs her office's objections to the mixing of adjudicated juveniles and children who had never committed a crime was not the only thing that prompted the sudden increase in the transfer of kids away from where there are lawyers.

"We think the retaliation is also just for making known the horrendous conditions in Los Angeles that the detained kids have to suffer through," she says. Her office has complained about the way INS children in juvenile jails are disciplined along with the adjudicated criminals and about the standard of mental health care.

Mr. Holguin says advocates have reported retaliation to him, something corroborated by Ms. Young's organization as well. Both say lawyers are afraid to make formal complaints.

"There is an inherent reluctance by advocates who work in this area to ruffle the INS feathers," says Mr. Holguin.

"There is a sense that if one makes trou-

Andrew Morton: Latham associate is pushing a bill to grant children in INS custody guardians and access to counsel.

That could change with Latham & Watkins' involvement, some observers say. In the meantime, the ABA has provided $40,000 in matching grants to state and local bar associations to help meet the legal needs of these children.
A CONFLICT OF INTEREST

A woman's struggle after the INS' role as captor, counselor of refugee children
BY AMY DRISCOLL
adriscol@herald.com

The 6-year-old girl sat alone in immigration court.
No lawyer. No guardian or family. A waif of a child,
wide-eyed and newly arrived from Nigeria, sitting in a
cramped courtroom at Miami’s Krome detention center,
where she had been summoned by the U.S. government.

The charge: illegally entering the country.

She slipped into the United States, immigration offi-
cials say, like thousands of other children each year who
cross borders or land in airports with false immigration
papers or none at all. Many are sent by impoverished rela-
tives seeking a better life for the children. Some, including
many Chinese children, are smuggled in to work in sweat-
shops. Others, like Mexican children, actually walk across
the border by themselves.

All find themselves under the iron jurisdiction of the
U.S. Immigration and Naturalization Service, which
assumes complete control of their lives as it seeks to
deport them. They are shuttled to shelters all over the
country, including one in South Florida called Boystown.

ADVISOR: Lawyer Christina Kleiser talks with a Boystown
resident. She tells the children: ‘I can help you.’
Number in U.S. custody keeps climbing, figures show

BOYSTOWN, FROM 1L

More than 4,600 unaccompanied minors who entered the country illegally last year were placed in detention, according to the INS, although refugee groups place the number even higher. The figure has steadily risen in recent years, boosted in part by an increase in organized smuggling of children.

Once detained, such children have the right to speak to an attorney — if they can afford to hire one or if they can locate one who will work for free. The result, advocates contend, is dozens of children deported every year without any representation in court.

Wendy Young, staff attorney for the New York-based Women’s Commission of Refugee Women and Children, says children should never be in court without a lawyer:

“In some cases, these are truly life-or-death decisions when a child is facing removal to his home country,” she said.

“To expect a child to go through that process without an attorney — well, the chances of winning are slim to none.”

She notes that the Elías Gonzalez case focused international scrutiny on U.S. policy toward unaccompanied refugee children.

“The Elías case has brought home that there are real defects in the system when it comes to the treatment of children,” Young said.

Her commission will issue a report this summer assessing conditions at two South Florida INS facilities: Boys town, where children are held, and the Krome detention center, where adult refugees are held.

The report, based on a visit in March, will cite overcrowding at Krome and inadequate legal representation and poor translation as problems at Boys town. More fundamentally, Young said, it also will address whether the INS should serve as both captor and counselor for unaccompanied minors.

“There is an inherent conflict of interest. INS is first and foremost a law enforcement agency, not a child welfare agency,” she said. “The same agency that is charged with caring for the child is seeking to remove the child from this country.”

To help these children, two Florida lawmakers have introduced bills in Congress that would provide each child with an independent advocate.

Nationally, 21 percent of juveniles detained are deported within days. INS spokeswoman Maria Elena Garcia said. And even those released to friends or relatives in the U.S. face proceedings that may result in deportation.

A recent nationwide study by a Georgetown University professor found that illegal immigrants are four to six times more likely to be granted U.S. asylum when they are represented by lawyers.

For now, the flight to stay in the United States becomes something of a David-and-Goliath contest for many children, pitting the small voice of a child against the might of the INS.

Enter Christina Kleiser, a lawyer for the Florida Immigrant Advocacy Center, who represents many of these children for free. Her clients come from all over the world. Often, Kleiser struggles across new clients when they are already in court, alone and unrepresented.

Like the Nigerian girl, Kleiser happened to be in court representing another child, a 15-year-old Guatemalan boy, when she saw the girl.

“She had this scared look, like she didn’t know what was happening,” Kleiser said.

The judge asked whether the child had a lawyer present. No one responded. The little girl sat there alone. The judge looked at Kleiser. Another new client.

The girl had been held at Boys town, the only INS facility in Florida for unaccompanied refugee children. Since 1960s as a shelter for Cuban children in Operation Pedro Pan, the secret exodus that brought thousands of unaccompanied Cuban children to the United States, the facility is now run by Catholic Charities under contract to the INS.

CAMPUS IN SOUTH DADE

Squat yellow buildings home for changing group of 32 boys, girls

On a campus in Southwest Miami-Dade County near West Kendall, the squat yellow buildings serve as temporary home to an ever-changing group of 32 boys and girls.

In the year that Kleiser has been working at Boys town, the rights of refugee children have become a political flash point. The number of unaccompanied minors in U.S. custody climbing: In 1997, there were 2,770 refugee children in INS custody. Last year, the number had jumped to 4,607, according to INS figures.

INS officials estimate only about 100 children a year go through immigration court without legal representation, although Kleiser and other advocates believe the number is much higher.

Garcia said the INS informs children of their legal rights in several ways. They are given a fact sheet listing their rights when they are first detained. Immigration judges double-check in court that children understand their rights.

And the INS relies heavily on the Florida Immigrant Advocacy Center, the nonprofit Miami-based organization that employs Kleiser.

“She are children and we want to be sure they are fully informed.” Garcia said.

But Florida lawmakers don’t think these steps are enough.

U.S. Sen. Bob Graham and Rep. Alcee Hastings, both Democrats, are proposing new laws that would give unaccompanied minors more access to the legal system, with child-welfare workers appointed to help the children navigate U.S. immigration laws.

Hastings said the proposed legislation would protect “the most vulnerable immigrants to our country.”

“If a child comes to this country without a parent or legal guardian, they could be swallowed almost without notice by the INS,” Hastings said. “This must not continue to happen.”

Hastings said he’s not optimistic about passing a law this year, but he and Graham plan a renewed attack in 2001.

Nationwide, legal representation for unaccompanied refugee children has become such a concern that the Executive Office for Immigration Review, part of the U.S. Justice Department, has launched a pilot program in Arizona that will ensure that all children in INS custody get a lawyer.

If successful, the program — if successful, the program — may be replicated around the country.

The full-time children’s attorney will be paid by a coalition of legal organizations and likely hand out a year or two.

The program also hopes to provide a child-welfare professional in each case, to make sure the best interests of the child are considered.

“The failure to address the needs of children has meant that many of them are churned through the process without anyone stopping to find out what’s in the best interest of the child,” said Chris Nugent, executive director of the Florida Immigrant Rights Project.

“Sometimes, that’s returning to their homeland, but sometimes it’s not.”
PASSING THE TIME: Two unaccompanied boys play catch with an immigration official at the Boystown gym in Southwest Miami-Dade County. At Boystown, all 32 beds are usually full. Administrators say they are considering increasing the number to 40.

ISON ABOUT AMERICA: Luisa Gonzalez teaches her Boystown class all about Memorial Day. The students are unaccompanied immigrant children, some of whom face the legal process alone.

HELPING HAND: Dalya Martinez, a house parent at Boystown, talks to a 6-year-old who has been at the facility for several weeks.

At Boystown, all 32 beds are usually full. Administrators say they are considering increasing the number to 40.

The children are given clothes, food and a bed to sleep in. They are taught English and a little American history as they wait for word on their immigration status.

The average age is 12, though the facility accepts children from toddlers to age 17. Their average stay is 16 days but many remain much longer, sometimes for months. Signs listing the house rules are written in Creole, Spanish, English and Chinese.

Access to legal services comes in the form of a sheet of paper printed with the names of groups that do pro bono work. The list is in English. They must rely on the INS to supply translators and social workers to help the children make the calls for legal assistance.

INS officials say there is no option except to enforce the law: "If Congress chooses to authorize the expenditure of funds for (attorneys), then we'd do so," said Russ Berge- ron, INS spokesman. "But it's not our decision to make."

Some children have relatives in this country who hire lawyers for them. But poor children are on their own. It is fully possible for a child to be deported before ever having talked with a lawyer, according to Cheryl Little, director of the Florida Immigrant Advocacy Center.

"No doubt some of these children are just falling through the cracks," she said.
"If we don’t stumble across them, chances are they are deported without ever having their day in court, without meaningful inquiry into their status."

LEGAL HELP
Lawyer starts program to explain rights to children

That’s what worries Kleiser the most. So she has begun regular children’s rights presentations at Boystown for all new arrivals.

“My name is Christina and I am a lawyer,” she tells a group of children gathered in a Boystown classroom.

Spanish-speakers are gathered on one side of the dimly lit room, Creole-speakers on the other. The Chinese children await in a separate classroom. As she speaks, her words are translated — in Spanish, she is “un abogado,” in Creole, “yon avoka.”

Not everyone is interested. Some look out the window. Others are cut-ups, offering obviously false responses to her questions.

“How many times have you been to court?” she asks a Guatemalan boy who has sat through her presentation before.

“Twelve times!” he says loudly, in Spanish, winning laughs from half the room.

Kleiser grins, pushing ahead. On the chalkboard, she draws a small sailboat with a stick figure on the deck.

“This is you,” she tells the children, pointing to the stick figure.

Then she draws a rough outline of the state of Florida, with a darkened circle at its tip, for Boystown.

“No matter where you come from, or how you got here, you can have a lawyer to help you with your immigration case,” she says. Across the room, Creole and Spanish versions of her words echo.

The children, sitting in chairs labeled “unaccompanied minors program” look dubious. One Haitian child sleeps, head on a desk.

Kleiser continues. “If you do not have a lawyer, I can help you. I can be your lawyer.”

She hands out her cards. Behind her, a poster with the Pledge of Allegiance proclaims: “... with liberty and justice for all.”

Kleiser’s drive to represent these children is fueled by her memory of another client’s case. It’s the case that haunts her, the one that pushed her to work through holiday weekends and late into the night.

That time, it was a Salvadoran boy, 17.

He was taken to Boystown and issued a notice to appear in immigration court. The government wanted to send him back to El Salvador.

He tried to file his own appeal. With the clock ticking, it was returned to him stamped “incomplete.” He had sent in blank forms, not knowing he must fill them out.

That’s when Kleiser got a call.

“I visited him, tried to give him hope and reassurance. I told him we would help him file an appeal,” she said.

But help had come too late. A few days later, overcome by fears of repatriation, he ran away from Boystown. He slipped into a shadow society of illegal aliens, consigned to a life without rights, without benefits.

“I don’t want that to happen again,” Kleiser says. “That’s my goal in life.”

Her attention returns to the 6-year-old girl from Nigeria. The girl’s mother is in the United States, but doesn’t want her child, Kleiser says.

So Kleiser has asked the INS to send the matter to juvenile court where the girl can be declared abused, abandoned or neglected. That would clear the way for a special juvenile visa and allow her to be placed in foster care.

Even if the girl’s case has a happy ending, Kleiser’s work is far from done.

“I just heard about a 1 1/2-year-old in INS custody,” she says, with a rueful laugh. “I told them I’d take the case, of course.”
THE LITTLEST REFUGEES

Just think how daunting, and confusing, going to court for a traffic ticket can get. Then imagine you are 6 years old, alone, in a strange country whose language you don’t understand and you are placed in front of an immigration judge who will determine the course of your life.

That exactly is the situation of the 6-year-old Nigerian girl detailed in yesterday’s report by Amy Driscoll in The Herald’s Focus section, A conflict of interest? Advocates decry INS’s role as captor, counselor of refugee children. It’s also a story repeated across America, where thousands of unaccompanied foreign children are sent or run to each year.

Their reasons for coming are many. Some flee war, disaster or abuse at home. Some are sent to work or are sold into slavery. They come from all over the world. Even by conservative INS figures, upwards of 4,600 of them landed in Immigration and Naturalization Service detention last year — some unconscionably put in facilities for criminal juveniles.

In one extreme case last year, a 15-year-old Chinese girl spent seven months in a Portland, Ore., juvenile jail, and was held for weeks after she had been granted asylum. In other cases, the INS ships unaccompanied kids to shelters such as Boystown, a West Kendall facility run by Catholic Charities.

At Boystown children are well fed, protected and even get classes in English and American history. But there is a fundamen-

tal problem: The agency that cares for them is also charged with deporting them.

The INS says it informs children at Boystown of their rights by giving them a fact sheet in English. But the truth is that without language skills, an attorney or other advocate, the chances are slim that children would be able to navigate the complicated immigration maze and avoid deportation — even though the law may be on their side. That’s why the Women’s Commission, which visited Boystown in March, cited lack of access to legal counsel and poor translation as problems.

The Florida Immigrant Advocacy Center and its lawyer Christina Kleiser must be saluted for representing many Boystown kids for free. But FIAC can’t do it all.

Thankfully U.S. Sen. Bob Graham and Rep. Alcee Hastings, both Democrats, have proposed legislation that would see a child-welfare expert assigned to each child and would improve their access to lawyers. These are the least protections mer-

ited by the most vulnerable refugees.
An incredible INS vs. a truthful teen

He has suffered incomprehensible loss and trauma.

Jama Abdul-Khare Abshir fears deportation to his native Somalia and death by gunfire, if he returns. He has been in the INS custody for more than a month, awaiting a deportation hearing.

He looks so frail and defenseless, his face so small and thin. Repeatedly, he rubs his hands over his big eyes... as if to wipe away the memories of war, separation and slaughter.

Jama Abdul-Khare Abshir fled his native Somalia and landed in Miami in December. Now he's locked up at the Immigration and Naturalization Service's Krome detention center, where he talked to me across a plexiglass panel. Yet even this is improvement.

"The treatment I am receiving is better now than before," he says, comparing his stay at Krome to life in Somalia. Here he can shower twice a day and - he looks surprised - eat three meals. Alone and working odd jobs to survive in Mogadishu, Abdul - the name he goes by - was lucky to shower every two weeks and eat once on a good day. Worse was the constant threat of violence in his war-torn homeland.

His description: "People fighting according to clan, everybody an enemy, anything can happen."

The State Department's description: "Somalia has been without a central government since its last president, dictator Mohamed Siad Barre, fled the country in 1991. Subsequent fighting among rival faction leaders resulted in the killing, dislocation and starvation of tens of thousands of persons... Abuse and discrimination against ethnic minorities in the various clan regions continued."

For Abdul, the consequences were clear. "I used to live in fear," he says. Now, at Krome, he is safe, like a bird in a cage. But I fear for his uncertain future: Somehow Florida's INS district decided that Abdul is not credible. I have read the INS's reasoning in court documents. I find the INS incredible.

Sitting across from me in his orange jump suit, Abdul shivers in the cold interview cubicle. He tells me how hard it is to be alone, how he can't stop thinking about his brothers, wondering what kind of life they might have. His face shows his distress. He is sincere. Clearly he has suffered loss and trauma that most of us privileged Americans would find incomprehensible.

Consistently Abdul has repeated the main, and saddest parts of his story: At age 8 in 1990, he and his father were separated from his mother and two younger brothers when war broke out in Somalia and they spent years searching for them in refugee camps from Somalia to Kenya. In 1996, at age 14, he survived an attack by bandits who killed his father and 10 other travelers. Those alive had no time to bury the dead before fleeing. He has been alone since.

Abdul washed dishes in a restaurant in Mogadishu and cleaned trucks to earn his keep. His father had the foresight to pay tutors so that Abdul could learn English. Obviously Abdul is smart and resilient. Though he does tell of times when he was badly burned in the restaurant and attacked by thugs questioning his clan and thought briefly of suicide.

A caseworker from the Child Protection Team of the University of Miami Medical School found Abdul "a bright and articulate 17-year-old boy who has been through incredible turmoil in his homeland of Somalia. Abdul appeared truthful in his statements. He was open and forthcoming during his interview."

Yet the INS didn't believe him. It found "insufficient" evidence that he couldn't reunite with his parents or substantiate his identity or age - even though no reliable public records exist in Somalia or in the region's refugee camps, as two cousins who live in the United States vouched for Abdul.

Thus the INS denied the consent required by law for him to go to dependency court - though for Abdul to have a shot at legal status here (through a special juvenile-immigrant process), he would have had to prove to that court that he was a minor and had been abused, abandoned or neglected - and the INS would have had the final say.

The INS couldn't even conclude that dependency court was in Abdul's best interest - even though the INS couldn't deport him if it had a court order to do so. Because, of course, Somalia has no government to issue him travel documents. Just what we need, another "lifer" at Krome.

Represented by lawyers from the Florida Immigrant Advocacy Center, Abdul will seek asylum. He told me he came to the United States for "protection and a bright future."

May God help him find it. sbarcia@herald.com

Miami Herald 3/10/00
Somalian teen sent to Krome

80°, Partly Cl udy,
By JODY BROWN, Sun-Sentinel
Web-posted: 11:55 p.m. Feb. 18, 2000

It was not the outcome Abdul Kheir Jama
Abshir and his lawyers had hoped for.

Hours after a federal judge ruled against him
on Friday, the wiry teen-age Somali refugee
found himself transferred from a juvenile
center to join 600 adult inmates at Krome
Detention Center.

That's because, in addition to the judge's
adverse ruling, a dental exam administered by
the Immigration and Naturalization Service
found that Abshir may be older than he claims.
The teen, who says he turns 18 today, found
that his word alone was not enough.

"Life is like a puzzle and unfair to every
human being," Abshir wrote in a statement
distributed by his lawyers. "Everybody should
be able to work it out. Although I was ready to
do so, my life is in a total eclipse. ... Only
death can make me forget my problems."

Lawyers from the Florida Immigrant
Advocacy Center disputed the findings of the
dental exam, saying it was not an accurate
way to determine a person's exact age.

"What child carries evidence with him to
corroborate his age?" said attorney Christina
Kleiser. "We have no reason not to believe
him. He is a child. He does not belong in
Krome."

They had hoped U.S. District Judge Alan
Gold would allow the case to go before a state
family court judge on Friday. A special
program for unaccompanied refugee minors
allows them to be placed in foster care.

But Gold found that his court did not have
jurisdiction in the case and that INS had not
acted improperly when it refused Abshir's
request. The decision means Abshir must
pursue an adult’s political asylum claim instead.

In his 23-page decision, Gold repeated the INS’ belief that Abshir paid a smuggler to get to the United States, noting that he had no documentation, no airline ticket and no recollection of which airline he had traveled on.

The teen, who said he watched robbers shoot his father dead, somehow fled his war-torn country for Holland, then flew to Miami. A member of the minority Madhan clan, Abshir said he has not seen his mother and brothers since civil war broke out in Somalia in 1990, when they went into hiding.

Abshir has cousins in California and Minnesota and may have been seeking to reunite with them.

In an odd twist, the INS decision recommending that Abshir be put into deportation proceedings was made by Mariano Faget, the high-ranking INS supervisor who was arrested in Miami on Thursday on charges of spying for the Cuban government.

Faget was the INS section chief in charge of or green card applications. He signed the preliminary order denying Abshir a chance to go before family court because his supervisor was out of town.

Still, Abshir’s attorneys tried to use the arrest to question the INS decision, saying in a release it “raises further questions about INS’s decision in this case.”

INS officials denied that Faget’s involvement with the Somali boy’s case tainted its outcome.

“Not every case that Mr. Faget looked at needs to be reviewed,” said INS spokeswoman Maria Elena Garcia.

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Judge Stays Out of Immigration Case

February 18, 2000

Judge Stays Out of Immigration Case

By The Associated Press

MIAMI (AP) -- Confronting one of the same legal issues of the center of the Elian Gonzalez case, a federal judge refused on Friday to get involved in the case of 17-year-old boy fighting deportation to Somalia.

U.S. District Judge Alan Gold ruled he lacks jurisdiction to help the teen-ager, who is known in court only as Abdul and claims to know of no relatives left alive in his homeland. Abdul had asked the judge to order that his case be heard in state court.

The judge said that even if he had legal authority to intervene, the Immigration and Naturalization Service acted properly in deciding to send the teen-ager back to Somalia despite his fears about returning.

The question of jurisdiction also figures in Elian's case, which will be argued on Tuesday before a different federal judge.

Abdul flew into Miami by himself on Dec. 23. He has said that he and his father were separated from his mother and two brothers by war in 1990, and he told INS officials he saw his father killed by bandits in 1996.

He wanted a state court to declare him a ward of the

Judge Stay Out of Immigration Case

state and let him remain in the United States on the grounds of abandonment by his parents.

But federal prosecutors argued that allowing anyone but the INS to decide the boy's future would "thwart the intent of Congress."

Cheryl Little, one of Abdul's lawyers, said that because of Friday's ruling -- and because Abdul turns on 18 on Saturday -- he will have to pursue a political asylum claim instead, the usual route taken by adults who arrive in this country.

"It's a much higher burden," Little said. "It's much more difficult for him to win his case because he has to prove he has a well-founded fear of persecution upon his return to Somalia."

After the ruling, an INS dentist examined Abdul and concluded from his teeth that he is an adult already subject to INS rules governing them. Abdul was allowed to get his belongings from a juvenile center where he had been staying and was transferred to an INS detention center for adults.

Mariano Faget, an INS official arrested Thursday on suspicion of being a Cuban spy, was the one who denied Abdul's requests to remain in this country. But the judge said the arrest had no bearing on Abdul's case.

U.S. officials said Faget played no role in deciding Elian's case.

Ask questions, give answers and tell other readers what you know. Join Abuzz, a new knowledge network from The New York Times.
Judge Stays Out of Immigration Case

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GIVE ABDUL THE BENEFIT OF THE DOUBT

When Jama Abdulcare Abshir turns 18 on Saturday, hope that he has something to celebrate. A native of war-torn Somalia, he could well qualify for U.S. legal status. But Immigration and Naturalization Service District Director Robert Wallis so far refuses to give him a fair chance.

The teen, who goes by Abdul, says he was separated from his mother by war in 1990 and lost his father to killer bandits later. Surviving refugee camps and life alone, he flew to Miami in December where he was taken into INS custody.

If a juvenile court were to find Abdul abused, abandoned or neglected by his parents, he could qualify for U.S. residency under special “immigrant juvenile” provisions — as long as he wasn't yet 18.

Unreasonably, Mr. Wallis has refused to consent to juvenile-court jurisdiction, though INS policy itself would instruct him to do so — another example of how the INS overlooks the best interests of children.

Today Abdul is asking a federal judge to order the needed consent. If this INS district remains uncaring, the judge must not be.