

Thomas M. Susman
Director
Governmental Affairs Office

AMERICAN BAR ASSOCIATION
740 Fifteenth Street, NW
Washington, DC 20005-1022
(202) 662-1760
FAX: (202) 662-1762
SusmanT@staff.abanet.org

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Brian O'Leary
Chief Immigration Judge
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2500
Falls Church, Virginia 22041

Dear Judge O'Leary:

I write on behalf of the American Bar Association to voice the ABA's strong support for the continuation of the specialized children's docket in the Harlingen, Texas immigration court. In 1998, the Harlingen court coordinated with the South Texas Pro Bono Asylum Representation Project (ProBAR) and the Office of Chief Counsel to establish a unified children's docket for unaccompanied children held in custody. Since that time, Judge Margaret Burkhart has presided over the Harlingen children's docket where she has regularly employed child-sensitive techniques and procedures. We understand, however, that Judge Burkhart will soon be transferring to the San Antonio court, and we encourage EOIR to continue to support these vital child-sensitive policies and procedures at the Harlingen court following her departure.

The Harlingen immigration court carries the largest children's docket in the country. In South Texas, the Office of Refugee Resettlement (ORR) holds the largest number of unaccompanied children in the country, over 400 children on any given day. For the past decade, ProBAR, a project of the American Bar Association, has worked closely with the court and Chief Counsel's office to set up and maintain a specialized children's docket. This consolidated docket enables attorneys and accredited representatives from ProBAR to represent all children by their third court hearing. Currently, ProBAR covers children's court three days a week, representing approximately 50 to 100 children each week. These children clients have tremendous legal needs. Preparing for and appearing at these regular hearings is a constant challenge for ProBAR's limited staff. Adding additional dockets or multiple judges would make it virtually impossible for ProBAR to continue to provide pro bono representation in all children's cases.

Children appearing in these hearings vary in age from newborns to 17-year-olds. In court, Judge Burkhart has complied with EOIR policy memoranda and has focused considerable time and effort to ensure that minor respondents understand the nature of the proceedings and have the opportunity to communicate questions and concerns directly to the court. She makes appropriate courtroom modifications and works closely with pro bono counsel in scheduling cases. Finally, she regularly allows children who reunify out

of the area to appear at their master calendar hearings by telephone. When these children do call in for their hearings, she speaks directly to the children and does not rely solely on information provided by the sponsors. Because these children are highly vulnerable to trafficking and other dangers, these practices are critical.

EOIR recognized in OPPM 07-01 that special attention should be accorded to unaccompanied child respondents. That memorandum recognizes the need for specialized children's dockets, a child-appropriate hearing, child-sensitive questioning, courtroom modifications, and other appropriate procedures. Furthermore, the recently enacted Trafficking Victims Protection and Reauthorization Act of 2008 (TVPRA) has set new standards regarding the conditions under which children can be repatriated. The TVPRA demonstrates a heightened concern for identifying child trafficking and ensuring safe repatriation. It also requires that the Department of Health and Human Services ensure legal representation for children "to the greatest extent practicable."

In light of the recent changes in the law and upcoming changes at the Harlingen court, the ABA respectfully requests that EOIR consider these issues in deciding how the children's cases will be handled after Judge Burkhardt's departure.

Thank you for considering our views on this important issue.

Sincerely,



Thomas M. Susman

cc: Assistant Chief Immigration Judge Larry R. Dean
800 Dolorosa Street
Suite 300
San Antonio, Texas 78207

Steven Lang
Coordinator, Legal Orientation and Pro Bono Project
Board of Immigration Appeals
Executive Office for Immigration Review
US Department of Justice
5107 Leesburg Pike, Suite 2400
Falls Church, VA 22041