



To: Texas Judges Who Hear CPS Cases

From: The Honorable Robin Sage and The Honorable Dean Rucker,
Jurists in Residence, Supreme Court Children's Commission

Date: July 21, 2014

RE: Unaccompanied Alien Children

By now many of you are aware of the issue of Unaccompanied Alien Children (UAC) crossing the border of South Texas, and many judges are wondering what impact this anticipated surge will have on our courts. The Children's Commission, in collaboration with the Supreme Court of Texas, Office of Court Administration, Texas Department of Family and Protective Services, Casey Family Programs, and seasoned State District Court judges, developed this JIR letter with the intent of providing a brief overview of important legal issues relating to UAC and what a judge in your position might encounter. This area of the law is complex and there are presently few established procedures and practices.

Q: What is a UAC and is the term synonymous with a refugee?

A: UAC are persons under the age of 18 who have no lawful immigration status in the United States, and for whom there is no parent or legal guardian in the United States available to provide care and physical custody.¹ UAC are not refugees despite the fact that the UAC crossing the border are often referred to as such. "Refugee" is an official, legal immigration status² that is granted by U.S. Citizenship and Immigration Services. Only Citizenship and Immigration Services can declare a UAC as a refugee or a victim of human trafficking. State courts do not have this authority.

Q: How does the federal government process UAC?

A: By law, the U.S. Administration of Children and Families, a division of the Department of Health and Human Services, must provide for the custody and care of UAC.³ UAC detained by the Department of Homeland Security Border Patrol are transferred to the Administration of Children and Families Office of Refugee Resettlement. While deportation proceedings are pending, the Office of Refugee Resettlement must place UAC in the least restrictive setting possible.⁴

¹ 6 U.S.C. § 279(g)(2).

² 8 U.S.C. § 1101(a)(42)(A).

³ 6 U.S.C. § 279(a).

⁴ 8 U.S.C. § 1232(c)(2)(A).