

A failure to protect kids

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There were flowers in the waiting room. Valentine decorations on the walls. A sign above the entrance read, "God bless this home and all who enter."

In the boys' rooms, plaid comforters sprawled over cozy wooden beds and posters of cars and soccer players papered the walls. Girls' rooms were softened by pink rugs and stuffed animals. The children watched the Discovery Channel and reviewed for tests in small classrooms. They smiled.

From my vantage point, as an outsider touring the halls of the privately run South Texas facility for unaccompanied immigrant youths, all seemed well. The children seemed safe.

How wrong I was. During that visit to the facility in the rural town of Nixon in February, there were no clues about the kind of abuse that raged behind closed doors.

Looks were deceiving

At the time, I was working on a story for the Houston Chronicle on the double standard of our government's treatment of undocumented children: If they come with parents, they could end up in a prison-like environment, monitored by lasers, forced to wear uniforms and endure thrice-daily headcounts in the custody of Immigration Customs Enforcement, the law enforcement arm of the U.S. Department of Homeland Security.

If they came alone, they are usually sent to child-friendly shelters like the one in Nixon, which are licensed by the state and governed by federal regulations requiring special treatment for children. They were in the custody of the U.S. Department of Health and Human Services' Office of Refugee Resettlement, whose director vowed a commitment to protecting children regardless of their immigration status.

Nixon's 136-bed shelter, Texas Sheltered Care, owned by Away From Home Inc., contracted with ORR to house about 100 mostly teenage male undocumented immigrants from Central American countries while they awaited deportation or reunification with family members.

To an outsider, Nixon seemed like a model facility, a shining example of how the federal government was doing right by at least some immigrant children.

Staffer indicted

A few days after my visit, news broke that this supposed shelter from the storm for immigrant children had become a new kind of hell. These particularly vulnerable children, many of whom braved a scorching desert journey to escape poverty, abuse or a parentless existence in their homelands, were reportedly enduring sexual abuse from their would-be protector.

Last month, without much fanfare, Belinda Aguilar Leal, a former staffer at the Nixon facility, was indicted on four counts of sexual assault involving immigrant youths. According to the indictment, the 41-year-old Leal performed oral sex on two male youths and fondled the genitals of two more during various incidents in January and February. Kevin Lashus, an Austin attorney and former federal prosecutor who represents more than one of the youths in the indictment, said he believed Leal's victims numbered more than 20. Leal allegedly abused certain youths repeatedly, in front of others, luring them with promises of release, food, video games or alcohol.

Arrest got little attention

Compared with the statewide sex abuse scandal that rocked the Texas Youth Commission earlier this year, the Nixon cases got little media attention. Like TYC, the system built to protect them was broken. Failures in communication, accountability and limitations in federal jurisdiction delayed and hindered justice.

"My kids were abused by everyone," says Lashus.

Although Nixon youths told counselors about abuse, their allegations weren't taken seriously until witnesses who hadn't been abused backed up the victims' claims, Lashus said.

A counselor reported the alleged abuse to Gonzales County law enforcement, but investigators with the FBI soon took over the case. Meanwhile, ORR officials complained about not having been notified about the sex abuse allegations sooner. To make matters worse, after reviewing the FBI report, U.S. Attorney Johnny Sutton claimed he didn't have jurisdiction to prosecute and handed it back to Gonzales County, which began investigating anew. Leal was indicted, but she won't be subject to federal sentencing guidelines, which likely would have led to harsher punishment.

As it turned out, ORR, the federal agency charged with protecting the Nixon youths, had very little power to do so when it came to sexual abuse.

Loophole may be closed

Before 2003, the Department of Justice was the agency responsible for detaining immigrants, and prosecutors had the power to file criminal charges against those who abused detainees in the agency's custody. But when Congress transferred custody to other agencies, including Homeland Security's ICE and Health and Human Services' ORR, it neglected to transfer the authority to prosecute sex abuse cases.

The outdated law had created a loophole that left every immigrant man, woman and child in federal custody without a crucial layer of protection from sexual abuse.

Finally, last week, Sen. Dianne Feinstein, D-Calif., moved to address the problem by restoring some protection to immigrants in custody. Her amendment to the Homeland Security appropriations bill, which passed the Senate but awaits a conference panel vote, promises to close the loophole by ensuring the prosecution of anyone who sexually abuses a child or adult in federal custody.

It won't help the Nixon youths. But it's a small start in repairing the broken system that failed them.