

Best Practices for Mexican Children: Protocol for Cases Involving Mexican Families and Children

Introduction

Purpose of the Protocol:

The purpose of this Protocol is to serve as a guide for Social Workers working with Mexican families in order to insure best practices. It is also a guide for working with the Mexican Consulate on behalf of these families. Also its purpose is to ensure that the rights of incarcerated Mexican Nationals are honored in accordance with the Vienna Convention on Consular Relations treaty.

Summary of the Vienna Convention Consular Relations Treaty:

The Vienna Convention on Consular Relations was developed in an effort to establish friendly relationship between two nations. It includes a description of the Consulate's functions, performances of Diplomatic Acts, and requirements related to detainees. The Consulate's (article 2) functions include protecting the interest of foreign nationals, furthering relations between countries, issuing passports and other travel documents, safeguarding interest of minors who are foreign nationals, and representing or arranging for preservation of rights and interest of foreign nationals. The Consulate may perform various diplomatic acts including the following: acting as a representative of foreign national in any inter-governmental organization (article 17), visit a foreign national who is in prison, custody, or detention (article 36c), and receive information and participate in deciding who is to be appointed as the guardian(s) or trustee(s) in the interest of minor(s) (article 37b).

The following are requirements related to detainees: *

1. Foreign nationals must be told of their rights of consular notification and access.
2. The detaining official should determine whether consular notification is the option of the foreign nation or whether it is mandatory.
3. In cases of mandatory notification, the notice must occur immediately.
4. Detaining agency should keep records of the notification.
5. Consulate officers must be allowed to visit, converse, and correspond with the detained person.

*In the event of parental detention.

6. Consular officers must be notified of the death or accident of a foreign national.
7. If a person has dual citizenship, he/she will be treated simply as a U.S. citizen.
8. Court notification to the consulate is not mandatory, but it may be an option if it helps promote compliance.
9. Notification does not need to be in writing.
10. Agency should use discretion if reason for detention is disclosed to the consular officers.
11. The consular officers may speak to the detainee, may assist in legal representation arrangements, and may check on the conditions of the facility, and may notify the detainee's family.

Objectives of this protocol:

1. Provide best services to children and their families.
2. Ensure appropriate, safe placement with the family and/or relatives.
3. Serve as a guide for the Social Worker and other staff.
4. Ensure compliance with the treaty of Vienna Convention on Consular Relations Treaty.
5. Improve communication between the Department of Family and Children's Services (DFCS), General Consulate of México, the Desarrollo Integral de la Familia (D.I.F.) and DFCS' Families.
6. Maintain and/or establish relationships with the Consulate General of México.
7. Provide assistance to foreign national parents who are incarcerated.

Notification Requirements:

Notice to the Family: When a child is placed in protective custody, their citizenship/resident status should be determined. If they or their parents are Mexican nationals, the family should be informed of their right to contact and include the Mexican Consulate's Office in their case. This notification should occur immediately.

Protective Custody: When a child is placed in protective custody, their citizenship/resident status should be determined. If they or their parents are Mexican nationals, the parents should be informed of their rights to contact the Mexican Consulate. If the child is a Mexican national, the social worker should notify the Mexican Consulate of the date, time and location of the next hearing. This notification should occur by telephone, email, preferable by fax, and documented in the case file.

Court proceedings and actions: The Mexican Consulate may come to court to request permission to attend the hearing. However, they are not a party to the action and may not receive documents from the case file without approval from the Court.

Family Conference:

Once the Mexican Consulate's office has become involved in the case they can participate in TDMs (Team Decision Making) at the request of the parents.

Confidentiality

1. Welfare and Institution's Code Section 827 allows DFCS to share court reports and other confidential information with the Consulate only pursuant to court authorization.
2. Referral form required.
3. Information that can be shared with the Mexican Consulate's Office.

Only the parents and children's names and address, date of birth, telephone numbers, and brief and general overview of parent's situation can be provided.

a. Type of abuse and extent (list of permitted information)

4. Information that can be shared with other service providers (i.e. in Mexico, Secretaría de Relaciones Exteriores (SRE), Sistema para el Desarrollo Integral de la Familia (DIF), therapist, medical staff, etc.).

Give details of case to D.I.F., therapist, and medical staff.

Family Conference/TDM (Team Decision Making)

Once the Mexican Consulate's office has become involved in the case, they can participate in TDMs at the request of the parents.

Factors to Consider When Placing Child/ren in México (non-adoption)

1. Appropriateness of the family
 - a. Recommend to parents to call relative for possible placement; have the relatives call social worker if interested (have them call collect). Participation of Mexican consular officers can assist in placement options.
 - b. Contact family member by telephone. Assess over the telephone if relatives are willing to take child/ren.
 - c. If appropriate, are relatives willing and able to have a permanent placement, legal guardianship, or adoption?
 - d. Will relatives permit a home study by D.I.F.?

- e. Inform relatives of court procedures.
 - f. Contact Mexican Consulate by telephone and a written request for a home study by D.I.F.
 - g. Once the home study is completed it is received by the Mexican Consulate's office, who then contacts the social worker.
 - h. The social worker can now contact D.I.F. to discuss specific services needed by the family and/or child/ren.
 - i. If requested, social worker can provide D.I.F. with translated court documents ordering services needed for clients.
2. Services available to the children and/or the family in México:
- Social worker needs to check with the Mexican Consulate to find or locate specific service providers to arrange needed services for the children and/or family.
3. Meeting the *special needs* of the child/ren and/or the family in México:
- Social worker needs to check with the Mexican Consulate to locate specific service providers in order to arrange *special services* needed for the child/ren and/or family.

Procedures for Returning (or taking) Child/ren to México

1. Travel
- a. Arranging Travel
 - First prepare memo to County Executive requesting authorization to travel abroad (signatures of supervisor and SSPM needed). After approval, complete:
 - Travel authorization form
 - P11
 - SC414A
 - Paperwork to Travel Coordinator
 - b. Fiscal Issues
 - Request cash advances for hotel, food expenses and miscellaneous expenses.
 - Request money for passport and visa to enter a foreign country (for México: FM3).
 - Original receipts needed for reimbursements.
 - Exchange rates for converting dollars to national currency.
 - c. Safety Issues & Migratory Issues:
 - Inform supervisor, Mexican Consulate's office, and

Travel Coordinator of your itinerary.

- Names and telephone #'s of contacts (i.e. in México: DIF worker, Secretaría de Relaciones Exteriores).
- It is advisable to travel in pairs.
- Do not carry or show large amounts of money.
- It is advisable to drink bottled water.
- Always carry appropriate documents (i.e. American passport, FM3).

2. Notification (*3 weeks in advance. Indicate objective of visit.*)

a. The family in the U.S. and in Mexico

- Inform parent(s)
- Determine the time frame for notifying the family in México of your arrival.

b. Consulate's Office

Notify Mexican Consulate's office (at least 3 business days in advance for final travel itinerary).

3. Court orders

Under the U.S. and Mexican laws the court with jurisdiction is the one where the child/ren is residing. (For further clarification, consult with the County Counsel and the Consulate General of México.)

a. From U.S.

b. From México

1. INS issues (*for INS issues see Appendix*)

a. Prucol

b. Mexican Documentation

c. U.S. Documentation

d. Special Immigrant Status

Procedures for Placing child/ren with Relatives in México

Home Studies (non-adoption):

1. **D.I.F.:** To request a home study from D.I.F., the assigned U.S. Social Worker should contact the Mexican Consulate's office. The Mexican Consulate's office will contact D.I.F. in the area where the family to be studied is located and request a home study. Once the request is made, the Mexican Consulate will provide the Social Worker with the name and telephone number of the assigned D.I.F. Social Worker. The U.S. Social Worker should make contact with the D.I.F. Social Worker and make special requests for information needed on the social study and to inquire about the amount of time needed to complete the home study. The D.I.F. social worker will forward the completed homestudy. The U.S. Social Worker should be aware that the D.I.F. social worker might not be able to complete the social study in time to meet Court deadlines. This should be noted and reported to the Court.

2. **If D.I.F. is unable to do the homestudy (non-adoption):** If a pre-visit placement is necessary, the U.S. Social Worker may accompany the D.I.F. social worker responsible for the home study.

Once placement is approved:

3. **Notifications**
Notify the Mexican Consulate's office, they will notify Secretaría de Relaciones Exteriores, DIF, and family who will receive the child/ren.

4. **Court Orders from U.S. and México**

Under the U.S. and Mexican laws the court with jurisdiction is the one where the child/ren is residing. (For further clarification, consult with the County Counsel and the Consulate General of México.)

5. **Travel documents for child/ren**
 - a. U. S. born child/ren need original U.S. birth certificate(s) and Mexican birth certificate(s) (Acta(s) de Nacimiento) of child/ren born abroad (see attachment for requirements).
 - b. Passport(s).
 - c. Dual citizenship (if eligible)
 - d. Presumption of Nationality.

6. Travel

a. Arranging child/ren's travel

- Memo to County Executive (signature of supervisor and SSPM required)
- P11's
- SC 414A
- Travel authorization Form
- Paperwork to Travel Coordinator

7. Fiscal Issues (*including reimbursements, advances, and exchange rates*)

- Request cash advances for hotel, food expenses, and miscellaneous expenses (memo needed prior to traveling for advance miscellaneous expenses).
- Request money for passport and visa (FM3) to enter México.
- Original receipts needed for reimbursements.
- Exchange rates for converting dollars to national currency.

8. Safety issues

- Inform supervisor, Mexican Consulate's office, and Travel Coordinator of your itinerary.
- Names and telephone #'s of contacts (i.e. in México: DIF worker, Secretaría de Relaciones Exteriores).
- It is advisable to travel in pairs.
- Do not carry or show large amounts of money.
- It is advisable to drink bottled water.
- Always carry appropriate travel documents (i.e. American Passport, FM3).

Returning Child/ren to the U.S. After Temporary /Failed Placement in México

*Remember: to return children from México to the U.S., requires authorization from the Mexican courts. (D.I.F. worker will file petition with Mexican judge for the return of the child/ren. If the court approves, children can return).

1. Immediately notify the Mexican Consulate's office by telephone and in writing informing them of the need to return the child/ren to the U.S.
2. Mexican Consulate's office will contact Secretaría de Relaciones

Exteriores (SRE) and D.I.F.

3. Notify
Parents, District Attorney, relatives, parent's lawyers, and the
Child/ren.

Documents needed:

- a. Exparte Applications and Orders translated to Spanish and certified by the court.
- b. Exparte Applications and Orders to be "apostillado" (certified) by the Secretary of State office in San Francisco or Sacramento.
- c. Child/ren's original birth certificate/if possible have the passports.
- d. Notarized letter from relative caregivers releasing the child/ren from their care to present to Mexican Immigration authorities at the airport, so child/ren can leave the country.

4. Migratory Issues

- a. Child/ren placed in México who are not U.S. citizens or permanent U.S. residents, will not be able to return to the United States. (Parents should be informed of this issue from the beginning).
- b. For U.S. citizen child/ren a migratory form (forma migratoria de turista, FMT) is needed to leave México. To re-enter the U.S. proof of citizenship is mandatory. (*See Appendix*).

5. Arranging Travel

- Memo to County Executive (signature of supervisor and SSPM needed)
- Travel Authorization Form
- P11's
- SC414A
- Paperwork to Travel Coordinator

6. Fiscal Issues

- Request cash advances for hotel, food expenses, and other miscellaneous expenses, (memo needed prior to traveling to receive advance monies)
- Request money for passport and visa to enter México (FM3). (*see Appendix*)
- Original receipts needed for reimbursements.
- Exchange rates for converting dollars to national currency.

7. Safety Issues

- Inform supervisor, Mexican Consulate's office, and Travel Coordinator of your itinerary.
- Names and telephone #'s of contacts (i.e. in México: D.I.F. worker, Secretaría de Relaciones Exteriores).
- It is advisable to travel in pairs.
- Do not carry or show large amounts of money.
- It is advisable to drink bottled water.
- Always carry appropriate travel documents (i.e. American Passport, FM3).
- Cell phone.

Social Worker's Role in México

1. A United States Social Worker's role:
 - a. U.S. social worker will follow the regulations of the Secretaría de Relaciones Exteriores (SRE), Sistema Para el Desarrollo Integral de la Familia (DIF) and all the laws of the host country (i.e. México).
 - b. A U.S. social worker cannot practice social work in the host country (i.e. México). He/She is considered a visitor.
 - c. All official activities of the U.S. social worker must be accompanied by a D.I.F. social worker or an official from Secretaría de Relaciones Exteriores.
2. México's Social Worker (D.I.F.)
 - a. A D.I.F. social worker will accompany U.S. social worker to visit families.
 - b. D.I.F. will provide most of the resources needed by the client and the family.
 - c. If requested D.I.F., in most cases, will provide updated information about the family.

Mexican Consulate's Role

- a. Assist parents in juvenile process once contacted by the family.
- b. Participate in TDM's and Family Conferences.

- c. Assist in obtaining the following documents:
 - 1. Mexican birth certificates (Actas de Nacimiento) from child/ren born abroad
 - 2. Matricula Consular (photo ID)
 - 3. FM3 (Mexican Visa)
 - 4. Dual citizenship
- d. Obtain placement homestudy (non-adoption).
- e. Locate specific service providers and special services in México to meet the needs of the child/ren and/or family.
- f. Contact the Secretaría de Relaciones Exteriores for protection of the traveling social worker.
- g. Presumption of Nationality.
- h. Special Immigration Juvenile Status for Mexican child/ren.
(In cases where a Mexican child/ren has been placed as a ward of the State of California and become eligible for Special Immigrant Juvenile Status (SIJS), the consulate will assist the Department in obtaining the necessary documentation from México for completion of the SIJS application).