

Child Welfare and Immigration Tool Kit for Program Area Five Cases





Objectives

- To recognize the importance of collecting culturally crucial information as part of the evaluation of the case plan.
- To identify and integrate relevant immigration information as it affects the sequence of decisions regarding a child welfare case.
- To understand when, during a child welfare case, it is appropriate to engage immigration professionals to pursue eligible immigration relief options.

Summary



- The purpose of this PowerPoint is to illustrate how and when immigration issues may arise during the chronology of a child welfare case. The PowerPoint begins at the point of a child abuse report and continues through assessment, diversion or intervention, removal, dependency issues and permanency planning. At each stage of the hotline report, “Potential Immigration Issues” are noted and explored in *italics*.
- The Adoption and Safe Families Act (ASFA) is the federal timeline for permanency decisions regarding a child’s reunification with his or her birth parent(s). This PowerPoint reaffirms key assessments within the ASFA federally mandated timelines. The public child welfare worker’s knowledge (or lack of knowledge) regarding the immigrant population in his or her community and potential immigration relief options can profoundly affect the decisions made about a child welfare case. Understanding what immigrant families are saying about their situation requires acute listening and assessment skills. It is also critical for public child welfare agencies to have integrated internal cultural and linguistic staff capacity as well as access to immigration legal counsel and community partners to assist in working with immigration and refugee communities.

Report is called in to the hotline

- A report of suspected child abuse or neglect is called in to the county in which the suspected abuse/neglect has occurred by a mandated reporter (often school or medical personnel) or any individual who suspects abuse or neglect.

Potential immigration issues:

Child protective services involvement may have consequences for immigrants: it may affect their eligibility for, and maintenance, of lawful status; also fear of being reported and/or deportation may prevent parents from participating or appearing in their child's case. There can also be difficulties due to language barriers, etc.

Review of hotline report takes place

Supervisors or hotline staff screen the call to determine if an investigation is warranted. Some counties have an “alternative response” or “differential response” assessment track which may change the way that the county responds to the call.

Assignment Decision

- **Referral not investigated:**

The hotline staff or triage team assesses the report and decides that the definition of abuse or neglect is not met and a decision is made not to open an assessment. The referral may be given to a community-based organization to provide supports to the family.

OR

- **Referral assigned for investigation: Caseworker Assigned:**

A caseworker conducts an in-person investigation to assess evidence of child abuse or neglect. Depending on the circumstances existing within the assessment, a cross report may be filed with law enforcement

- **Potential immigration issues:**

Once law enforcement is involved, there is heightened risk that the parents may flee or be deported. Many immigrants left countries with harsh authoritarian regimes or corrupt government agencies and may distrust government agencies. Likewise, the parent may be cross-reported to state child abuse indexes that may trigger deportation for undocumented parents.

If an assessment is assigned:

- **Caseworker Assigned:** A caseworker conducts an in-person investigation to assess evidence of child abuse or neglect. Depending on the circumstances existing within the assessment, a cross report may be filed with law enforcement
- *Potential immigration issues:*

Staff with expertise in the family's language and/or culture should be used whenever possible. Once law enforcement is involved, parents may be fearful to participate or unable to participate. Likewise, the parent may be cross-reported to state child abuse indexes that may impact employability and background clearance as well as legal status.

Primary nationality and origin of all families should be obtained as early as possible to ensure that records in TRAILS are as correct as possible from the start.

Unsubstantiated or Substantiated

- The caseworker also may find that there is sufficient evidence to confirm the report of child abuse or neglect at this stage. Depending on the resources of the family or the risk associated with the family's circumstances the assessment may be opened into a case to provide services or placement for the child and family.
- *Potential immigration issues: There are potential immigration and customs enforcement holds/arrests that may result from a child abuse or neglect case being prosecuted in criminal court and a parent being incarcerated as a result. If a parent is picked up by immigration and customs enforcement it will seriously disrupt the parent's ability to participate in his/her child's case, and may result in deportation and therefore can result in long term family separation.*
- *Due to the high risk of deportation for undocumented immigrant parents, it is important that all family or kinship support information be gleaned as early as possible before a parent is placed in immigration detention (often in another state) and unreachable by their caseworker.*

When a placement decision is made

- **Child removed from home:** The child is taken into custody and placed in an emergency shelter, foster home or kinship care depending on the safety issues and severity of abuse.
- *Potential immigration issues:* *Parents should be engaged early in the removal process to include international searches for family or other kin. Team decision making (TDM)* and family group decision making (FGDM)* may occur at this point, and should include a bilingual staff or an interpreter if needed. Once family in a home country is identified, and it is determined that family reunification abroad is in the child's best interest, the country's consulate or embassy may be notified to obtain travel documents and a home study for the identified family or kin.*



Dependency Action Filed

- A petition is filed in juvenile dependency court by the child welfare agency, beginning a series of judicial hearings.
- All parties to the proceedings will have access to legal counsel, including children, parents and the child welfare agency. This allows for the family to come under the jurisdiction of the court for purposes of ordering a treatment plan.
- The child can remain in the family home with protective orders, be placed with kin or be placed into some form of out of home placement with the county having legal and physical custody of the child.
- Services are put into place to meet the family's needs and work towards the child continuing in the family home or being reunified with parents. Alternative planning takes place as well in case the family is unsuccessful so that permanency can be attained for the child no matter what.

Dependency Action Filed (cont.)

- **Potential immigration issues:** *This court process can be intimidating for undocumented parents due to the extra level of uncertainty related to their legal status in the United States.*
- *The attorneys for parents can be helpful in identifying potential family reunification options in the U.S. and the family's country of origin. Parents should be encouraged to include all potential placement options on the relative affidavit submitted to the court at the adjudication.*
- *Undocumented children may qualify for lawful residency if they are unmarried, under 21, cannot be reunited with one or both parents because of abuse, abandonment, or neglect. The D&N court must make these findings and further find it is not in the child's best interest to return to her country of origin.*

Services Are Provided:

- If the child remains at home: The family may agree to voluntary in-home services. Depending on the level of cooperation and the safety risks that exist, the caseworker may need to file a dependency and neglect petition to seek protective supervision of the child.
- **Potential immigration issues:**
Services for the family should include providers who are knowledgeable of the home culture and/or language. Even in cases where the children are safe to remain home, family should be encouraged to provide contact information for relatives and/or kin both inside and outside the united states as deportation may happen at any time and the children would still by law need to be placed with family or parents if placement is needed.

Unsuccessful services

- The abuse continues, a new report of abuse or neglect is confirmed or voluntary services fail for other reasons, additional services or placement may be required to secure the safety of the child. A dependency and neglect petition is typically filed in the case at this point, if it was not filed earlier.
- **Potential immigration issues:** *Especially if permanent placement other than the parents is needed and not immediately available in the community for the children, family/kin in the country of origin should be evaluated and utilized once deemed appropriate.*
- *Lawful residency (green card) via SIJS may be available to children without legal status who cannot be reunited with one or both parents due to abuse, abandonment, or neglect.*

Permanency Planning

- The court decides the child cannot safely be returned home and/or efforts to reunify with the birth family should end. The court orders another permanent placement plan to be selected.
- Potential immigration issues:

At this point any family identified as permanent placements for children in the family's country of origin should be seriously considered as placement options. Such a placement allows children to retain important cultural, linguistic, and familial ties, and prevents lengthy foster care placements. Repatriation to country of origin should always be assessed on a case by case basis, as return to some countries may be dangerous for a child, and/or the child may have resided for so long in the U.S. and have developed such strong cultural attachments here that it is in his/her best interest to remain in the U.S.
- *An SIJS application should be submitted while the court has jurisdiction over the undocumented child. Other options include U visas, T visas and relative petitions. In the event of a denial, immigration legal representation needs to explore appeals.*

Solutions for permanency

- **Case closes:** If the child was not removed from the home and protective supervision was pursued rather than custody, the case may successfully close when the family addressed their treatment needs and successfully completes the court ordered treatment plan.
- **Return Home:** The family successfully addresses any safety or serious risk issues related to successfully caring for their children at home, and works to address any treatment issues.
- **Other planned permanent living arrangement (OPPLA):** This refers to a type of placement when a youth “ages out” and becomes too old to remain in foster care. It should be noted that the law recently changed allowing only children 16 years or older to be given an OPPLA permanency goal. These children should they continue to be undocumented should be the focus for SIJS status as they are the ideal candidate. It should be noted that assisting these children in obtaining SIJS status is significantly beneficial to counties as they can not obtain federal matching funds for undocumented children in care.

Solutions for permanency (cont.)

- **Permanent placement with relative/subsidized guardianship:** Parental rights are transferred to a caretaker so the caretaker will become the child's legal guardian. Often an adult relative, the child's legal guardian must meet the state's standards for child protection. It can also be more difficult to find appropriate relatives if they are undocumented or reside out of the country. Each county in Colorado handles undocumented kin or family placements differently with many allowing for alternative ways to assess safety even when legal status can not be verified.
- **Adoption:** All parental rights and responsibilities for the child are given to another person (s). Parental rights are terminated permanently. Some counties can assist undocumented persons to adopt relative children through supporting the adoption on a county only level as federal subsidy requires a social security number.

Credits:



- Adapted from Reed, D. F., & Karpilow, K. A. (2002, November). *Understanding the child welfare system in California: A primer for service providers and policymakers*. Berkeley, CA: California Center for Research on Women and Families, Public Health Institute. Available at <http://www.ccrwf.org>.
- * See glossary in Immigration Status and Relief Options Tool Kit for definitions and descriptions.
www.americanhumane.org/migration.