



THE CENTER ON  
**IMMIGRATION**  
AND CHILD WELFARE



**casey** family programs

**CHILD WELFARE SYSTEM CHALLENGES &  
BEST PRACTICES**

March 15, 2022 | 9:00am PDT

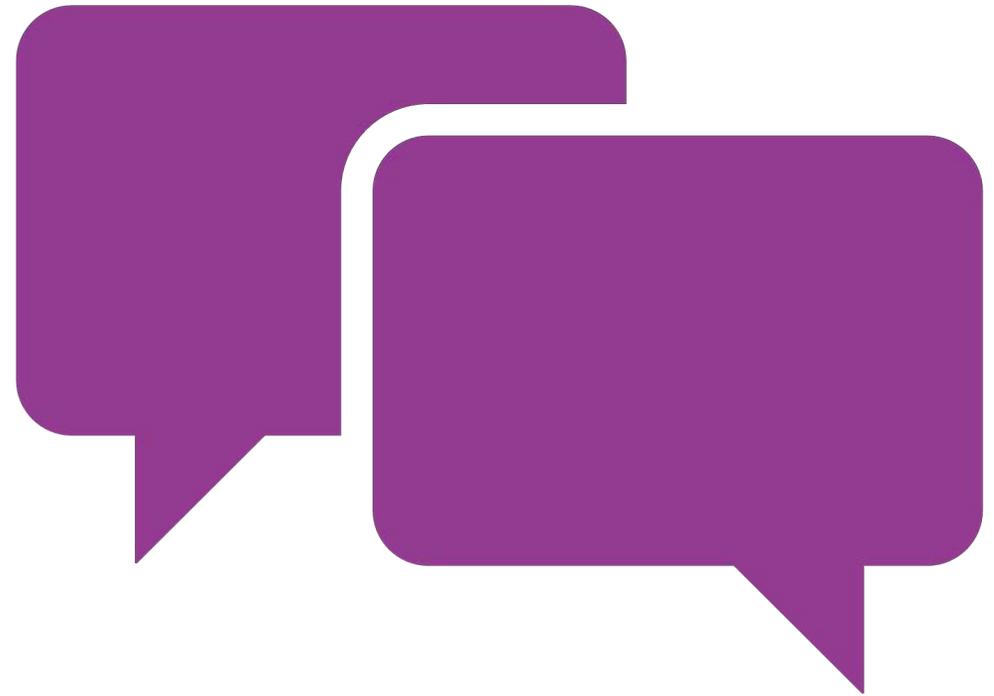


- Identify common challenges that arise in child welfare practice when working with immigrant clients
- Discuss best practices for working with immigrant clients with child welfare system involvement
- Utilize case scenarios and discussion to apply workshop concepts to participants' experience.

## OBJECTIVES

# INTRODUCTIONS

- **FIRST & LAST NAME**
- **JOB TITLE/POSITION**
- **DEPT/ORGANIZATION**



# REVIEW OF PREVIOUS WORKSHOP

## IMPACT OF IMMIGRATION ON CHILDREN & FAMILIES & PROVIDING SUPPORT

- ✓ Reviewed common impacts of immigration enforcement & policy on children and families, including signs of stress/trauma
- ✓ Identified different personal and agency-level strategies and best practices to mitigate the traumatic impact of immigration policies on children and their families.
- ✓ Discussed case scenarios to apply workshop concepts to Casey cases.

# COMMON CHALLENGES IN CHILD WELFARE PRACTICE

- Lack of coordination between local ICE and CPS agencies
- Difficulty assessing immigration status of children
- Difficulty identifying viable relatives for placement
- Inability of parents to participate in cases that cross borders
- Difficulty coordinating reunification at the time of a parent's release/deportation
- Inability of parents to visit with child, meet child welfare case plan requirements, participate in family court proceedings
- Barriers to receipt of needed services
- Strict child welfare timelines that can result in termination of parental rights.



# CHAT

Think about the families that you have worked with that have been impacted by immigration.

- Do any of the challenges mentioned resonate with your experiences working with immigrant families?
- Are there any other challenges you've experienced in your work with immigrant clients?

# RELEVANT POLICY



# KEY POLICIES THAT GUIDE CHILD WELFARE PRACTICE

## **CONSULAR NOTIFICATION**

→ Vienna Convention on Consular Relations

- A foreign country consulate must be notified when a minor is in the custody of the state without delay.

## **SPECIAL IMMIGRANT JUVENILE STATUS**

→ INA 101(a)(27)(J); 8 CFR 204.11

- If a child is eligible for Special Immigrant Juvenile Status (SIJS), the state child welfare agency should file a petition.

## **REPORT TRAFFICKING TO OTIP**

→ Trafficking Victims Protection Reauthorization Act (TVPRA)

- Federal, state, and local officials with information about noncitizen minors who may have experienced human trafficking must refer cases to the Office on Trafficking in Persons.

# REQUIREMENTS FOR CONSULAR NOTIFICATION

- Under the Vienna Convention on Consular Relations, a state child welfare agency has the duty to notify a foreign country consulate when:
  - It takes custody of a noncitizen minor
- The child welfare agency should notify the child's foreign national consulate without delay
  - There is an exception where the notification would create a risk to the child's safety.

## QUESTIONS:

- What is the process for consular notification in your county?
- Who do you provide consular notification to?
- Do you have formal relationships with consulates?

# SPECIAL IMMIGRANT JUVENILE STATUS

For an undocumented foreign national child to be eligible:

- Reunification with one or both parents is not a viable option.
- It is not in the child's best interest to return to his or her country of nationality or last habitual residence.
- The child must be under the jurisdiction of the court throughout the application process and status adjustment.

Also, child must be:

- In the U.S.
- Under the age of 21
- Unmarried

## QUESTIONS:

- Do you know how children are screened for and obtain SIJS?
- Who does this work in your county?

# REPORTING TRAFFICKING TO THE OFFICE ON TRAFFICKING IN PERSONS (OTIP)

## QUESTIONS:

- What's the process for reporting trafficking to OTIP in your county?
- Who's responsible?

## HOW?

- Report any suspected commercial sex trafficking or labor trafficking to OTIP within 24 hours of receiving the information
- Make report to OTIP for Non-Citizen Minors:  
<https://shspfm.gss.acf.hhs.gov/eaasidenityserver/Identity/Account/Login/LogInSelection/>
- OTIP will determine if the noncitizen minor is a victim of trafficking.

## WHY?

OTIP may issue an Eligibility Letter or Interim Assistance Letter, which connects youth to case management services and benefits like:

- Social Security Number (not valid to work)
- Medicaid
- Medical services
- Food assistance
- Educational services
- Housing assistance/cash assistance
- Mental health services

# CASE SCENARIO #1

## QUESTIONS:

- Would Jose qualify for any immigration relief?
- What would you do in this case?

Jose is 15 and was born in Honduras. He disclosed to police that he was held in a trailer with others and only let out to work. He and the others were beaten if they tried to leave. Any cash Jose received was taken by the owner of the trailer to pay his debt and to help his family in Honduras.

Jose discloses that he has been in the U.S. for about a year. The man who brought Jose to the U.S. was a family friend, and he promised that Jose would have a better life in the U.S. Jose has been unable to speak with his parents since coming to the U.S. Jose also mentions Border Patrol apprehended him and the man when they crossed the border. Jose does not want to return to Honduras.



- ICE should allow parents and/or guardians to make alternative care arrangements for their children;
- ICE should detain parents and guardians in close proximity to their children; and
- ICE should facilitate regular visitation between detained parents or guardians and children.



## ICE DETAINED PARENTS DIRECTIVE (2017)

# CALIFORNIA POLICIES

## CA SB 1064 - REUNITING IMMIGRANT FAMILIES ACT

- Prioritizes maintaining a child's ties to their family despite immigration-related barriers e.g., legal status, detention, deportation
- The act clarifies common issues around:
  - Reasonable efforts
  - Extended reunification periods
  - Relative placements
  - Immigration relief options
  - Agency/consulate MOUs

## CA AB 1140 - UNACCOMPANIED IMMIGRANT CHILD PROTECTION ACT

- Seeks to ensure that the state's Bill of Rights applies to all children in licensed childcare facilities, including unaccompanied minors
- Addresses things like:
  - children's communication with parents, family members, and sponsors
  - language access
  - educational needs
  - helping ORR staff understand licensing obligations

# IMPORTANT PRINCIPLES IN CHILD WELFARE IMMIGRATION CASES

- All parents have a constitutional right concerning care, custody and control of their children, regardless of immigration status.
- Agencies are required to satisfy reasonable efforts in all cases, including those involving detained or deported parents.
- Agencies are to investigate reunification with parent in home country when aboard, and parental rights may not be terminated based on standard of living in another country.
- Parental deportation does not constitute abandonment without additional evidence of abuse or neglect.
- All parents have a right to participate in hearings and to have legal counsel represent them.
- Complications in facilitating cases involving parental detention or deportation do not nullify a parent's right to participate in proceedings.

(Beidler Carr, 2019)

# CASE SCENARIO #2

## Relevant Policies and Case Law:

- *State of New Mexico ex rel. Children, Youth and Families Dep't v. Alfonso*, 366 P.3d 282 (New Mex. App. 2015)
- *re Adrianna A.E.*, 745 N.W.2d 701 (Wis. Ct. App. 2007)
- ICE Detained Parents Directive

Part 1: An undocumented father of 2 children is working a reunification case due to issues of neglect (e.g., lack of supervision, older child was found at home alone caring for the younger child). Mother of the children passed away several years ago. The father works at a restaurant and is detained during an ICE raid. The two children are in foster care and were at school at the time of the raid.

→ What do you do?

Part 2: You find out there is an immigration hold and the father is deported 3 weeks later.

→ Now what do you do?

# EXAMPLES FROM CASE LAW – NM & WI

*In State of New Mexico ex rel. Children, Youth and Families Dep't v. Alfonso, 366 P.3d 282 (New Mex. App. 2015)*

- Child → foster care due to neglect by mother
- Father incarcerated with an immigration hold → deported
- Agency filed for TPR within 1 month of the deportation, citing father abandoned child by not sending sufficient support.
- Court rejected argument as father expressed a legitimate desire to take responsibility for the child well in advance of the termination and the facts supporting abandonment were largely irrelevant as child was an infant.

*In re Adrianna A.E., 745 N.W.2d 701 (Wis. Ct. App. 2007)*

- Father is deported
- Agency used webcam system and interpreter to facilitate his participation in court proceedings + real-time text messaging with attorney.
- Court ruled webcam approach offered meaningful participation in proceedings by allowing father to assess the witnesses, communicate with his attorney in real time and hear everything happening in the proceedings.

# CASE SCENARIO #3

## Relevant Policies and Case Law:

- *In re E.N.C., et al*, 384 S.W.3d 796 (Tex. 2010)
- CA SB 1064

A U.S. citizen mother of 3 children was criminally charged with child abuse along with other serious drug trafficking crimes and was sentenced to several years in prison. Father to the children had been deported 5 year earlier following a shoplifting conviction that occurred years before that. The child welfare worker argued in court that father endangered his children by engaging in conduct years earlier that put him at risk of deportation and moved to terminate parental rights.

→ What would you do in this case?

# EXAMPLE FROM CASE LAW – TEXAS

## *In re E.N.C., et al*, 384 S.W.3d 796 (Tex. 2010)

- Texas Supreme Court decided that the deported father had Constitutional rights to parent his children and that those right should NOT have been terminated
- Finding child endangerment due to risk of future deportation → countless immigrants potentially lose their children + violates their Constitutional rights to parent
- Agency also had not offered father a service plan or explored reunification with him
- Court ordered the agency to offer the service plan to assess whether children could be reunified with him in Mexico

# **AGENCY BEST PRACTICES**



# MODEL AGENCY POLICIES & PROCEDURES

- ✓ Make non-citizen/undocumented caregivers eligible to be approved caregivers
- ✓ Review and incorporate the ICE Detained Parents Directive in agency policy manuals
- ✓ Develop clear policies on confidentiality and sharing info with immigration authorities
- ✓ Have/develop policies to ensure compliance with federal law in obtaining SIJS for eligible children/youth in care
- ✓ Have a process/mechanism for screening and referral for SIJS, U Visas, VAWA, etc.
- ✓ Have specific staff members trained on immigration-related issues e.g., immigration liaison
- ✓ Ensure that all documents and forms are language accessible to clients

# CROSS SYSTEMS COLLABORATION

## ESTABLISH

- Establish relationships with local immigration legal clinics and other social service providers

## IDENTIFY

- Identify an ICE point of contact

## DEVELOP

- Develop relationships with consulates

# WORKING CASES ACROSS BORDERS

- ✓ Develop formal relationships with foreign consulate → MOUs
- ✓ Home studies
- ✓ Welfare checks
- ✓ Facilitate visits and court proceedings (e.g., through Skype, Facetime, etc.)
- ✓ Community resource assessments
- ✓ Criminal background/child abuse registry check
- ✓ Evidence and documentation/document tracing (birth, death, etc.)

- ✓ DNA testing
- ✓ Drug testing
- ✓ Medical Care
- ✓ Location of family members
- ✓ Repatriation/placement of minors in another country
- ✓ Post-placement services
- ✓ Cases involving a parent leaving the country



**International Social Service (ISS)**, an international network of professionals that helps connect vulnerable children, adults and families, separated by an international border, to the services and support they need.

# **CASEY CASE STAFFING**

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# CASE 1 (CONT. FROM LAST WORKSHOP)

A birth mother and birth father were referred to Casey Family Programs to support the parents with maintaining their two children in the home. Both parents are monolingual Spanish speaking, the children speak Spanish and English. The children are 11 and 2 years old. The children were only in care for a month or so before being returned to their parents.

The family was referred from Family Maintenance. The children were removed for an unsafe home environment, and then issues of domestic abuse came to attention. The mother reported to the CFP SW that her husband hit her “once a year ago.”

As stated above, the mother is monolingual and does not read. The mother has a green card. It is not clear what the status is of the father.

The Casey Social Worker is using a translation service to work with the family.

**What can be done/could have been done to build rapport and trust with the family?**

# CASE 2 (DJ'S STORY PART 2)

The team also connected with Casey's Family Engagement Liaison to search for other relatives in the US. The team was able to locate a cousin who lived in Southern California. The team was able to have her visit her relatives for holiday's where she was able to share in their family customs/traditions and eat familiar foods from back home. Unfortunately, she wasn't able to be placed in the home, but the connection was made and she remains in contact with them. The Casey Social Worker who did not speak Spanish, worked across difference and used technology (google translator) and the help of an interpreter to build a strong relationship of healing, meeting her needs and coming to understand her trauma history. The Casey team also worked to support the mother, who was back in Guatemala, and now with the father who returned to Guatemala, her mother feared for her and her two children's safety.

Our Kinship Navigator worked with DJ's mother to support her and provided her with technology (laptop and wifi) so that she could reach DJ, in addition our Casey team also worked to support the girls (DJ's twin siblings) with school supplies.

Much of the work by the Casey Social Worker was to ensure that DJ was in a safe home (placement) and that she could begin to focus on her well being (starting at a new school, playing soccer again and learning English). The Casey Social Worker and Child Welfare Worker made referrals to begin the process of having her become a US Citizen. DJ is currently placed in a safe family setting and although she is unable to be permanently placed in this home due to her legal status (pending Citizenship) she is on her way and feels apart of the family.



# RESOURCES

## IMMIGRANT FAMILIES AND CHILD WELFARE SYSTEMS

Emerging Needs and Promising Policies



By Mark Greenberg, Randy Capps, Andrew Kalweit, Jennifer Grishkin, and Ann Flagg



## PROTECTING ASSETS & CHILD CUSTODY IN THE FACE OF DEPORTATION

*A Guide for Practitioners Assisting Immigrant Families*



## STRENGTHENING CHILD WELFARE PRACTICE FOR IMMIGRANT CHILDREN & FAMILIES

A Toolkit for Child Welfare Professionals in California

AUGUST 2019



J. I. & Flagg, A. (2019). Immigrant Families and Child Welfare Systems: Emerging Policy Institute. Available at <https://www.migrationpolicy.org/research/immigrant-families-and-child-welfare-systems-emerging-policy-institute>

## Best Practices for Child Welfare in Working with Families with Immigrant Members

NOVEMBER 2021

One out of four children in the United States has an immigrant parent, and while the great majority of those parents are in the United States lawfully, 5 million children live with at least one parent who is an unauthorized immigrant. These families face many of the same issues and needs as other families and some have contact with state and local child welfare systems. Families with immigrant members interacting with state and local child welfare systems may face distinctive issues and challenges relating to a child or parent's immigration status, barriers to service access resulting from linguistic and cultural differences, and fear or distrust toward public systems.

All child welfare agencies can take important steps to improve their responsiveness to the needs of these families and promote the well-being of these children. The recommendations here are drawn from *Immigrant Families and Child Welfare Systems: Emerging Needs and Promising Policies*, a Migration Policy Institute report done in collaboration with the American Public Health Services Association. The report recommendations were developed after reviewing relevant literature and consulting with members of the National Association of Public Child Welfare Administrators (NAPCWA), with follow-up discussions in 2021 and in consideration of increased numbers of unaccompanied youth in 2021. The report presents a detailed discussion of the reason for each recommendation and examples of promising state and local practices. Read the report at: [bit.ly/childwelfareimm](https://bit.ly/childwelfareimm). And click on the links below or use the page numbers to access the relevant section in the report.

### Staff, Training, and Procedures

- 1 **Employ specialized staff or points of contact for caseworkers to partner with on immigration issues in child welfare cases.** While all staff working with immigrant families will benefit from training, caseworkers need access to specialized staff when more complex questions arise. (For more, see report pp. 23-25.)
- 2 **Develop preservice and continuing training for caseworkers concerning immigration issues in child welfare cases.** The nature and extent of training will vary depending on caseworker responsibilities, but there is some core information that all caseworkers should have relating to common legal statuses, identifying immigration issues in child welfare cases, and key agency resources. (Pp. 25-28)
- 3 **Ensure language access policies reflect the needs and demographics of immigrant populations.** In addition to having forms translated into multiple languages, agencies need to ensure the availability of multilingual staff and interpreters. (Pp. 28-30)



## Best Practices to Support Immigrant Families Involved in the Child Welfare System

November 2019

### AGENCY POLICY & PROCEDURE

- Make non-citizen/undocumented caregivers eligible to be approved caregivers.
- Review and incorporate the ICE Directive on Detention and Removal of Alien Parents of Legal Guardians in agency policy manuals.
- Develop clear policies on confidentiality and sharing info with immigration authorities.
- Implement policies similar to SB 1064.
- Have a process/mechanism for and equip workers to screen for SIJS, U Visas, VAWA
- Have specific staff trained on immigration-related issues e.g., immigration liaison.
- Ensure that all documents and forms are language accessible to clients.
- Commit to ongoing policy review and development to improve responsiveness to these families.
- Listen to and learn from families and caseworkers about the needs and experiences of these families.

### LAW & POLICY

- Enact legislation which provides exceptions to the Adoption and Safe Families Act (ASFA) termination of parental rights timing provisions when case involves delays due to parental detention or deportation.
- Advocate for visitation and reasonable efforts based on parent parents.

### WORKFORCE TRAINING & PREPARATION

- Educate and encourage workers to support immigrant families in preparing for possible detention and deportation (e.g., contingency and safety planning, power of attorney).
- Incorporate trauma-informed and culturally sensitive practices.
- Train workforce on screening for legal relief options.
- Conduct pre-employment AND ongoing training on these issues.

### CROSS-SYSTEMS COLLABORATION

- Establish relationships with local immigration legal clinics
- Identify an ICE point of contact
- Develop relationship with consulates

### TRANSNATIONAL PRACTICE

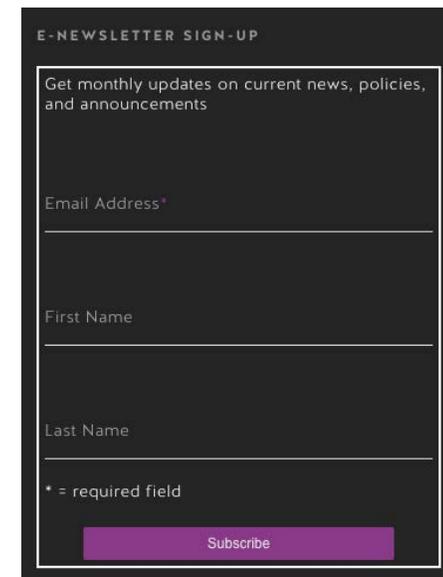
- Involve and develop relationships with foreign consulate, including MOUs
- Locate parents and relatives
- Conduct home studies
- SKYPE
- Arrange for participation in court proceedings and visits
- Arrange for service provision in other countries
- Placement in other countries

# CICW IMMIGRATION & CHILD WELFARE PRACTICE NETWORK

- Platform for ongoing communications among child welfare agency representatives who work with families around immigration issues across the country.
- If you work directly with immigrants or on immigration issues/policies in child welfare, please join our network.
- Email: [ssepp@nmsu.edu](mailto:ssepp@nmsu.edu) to be added to the listserv!

# CICW MONTHLY E-NEWSLETTER

- Sign-up for our monthly e-newsletter for news and resources on immigration and child welfare issues
- Go to [www.cimmcw.org](http://www.cimmcw.org)



The image shows a screenshot of an "E-NEWSLETTER SIGN-UP" form. The form is titled "E-NEWSLETTER SIGN-UP" and includes the following text: "Get monthly updates on current news, policies, and announcements". Below this text are three input fields: "Email Address\*", "First Name", and "Last Name". A legend at the bottom left indicates "\* = required field". At the bottom right of the form is a purple "Subscribe" button.

**QUESTIONS?**

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# THANK YOU!

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Please go to the link posted in the chat to complete the post-workshop survey.