



THE CENTER ON
IMMIGRATION
AND CHILD WELFARE



casey family programs

**CHILD WELFARE SYSTEM CHALLENGES &
BEST PRACTICES**

June 16, 2022 | 9:00am PT

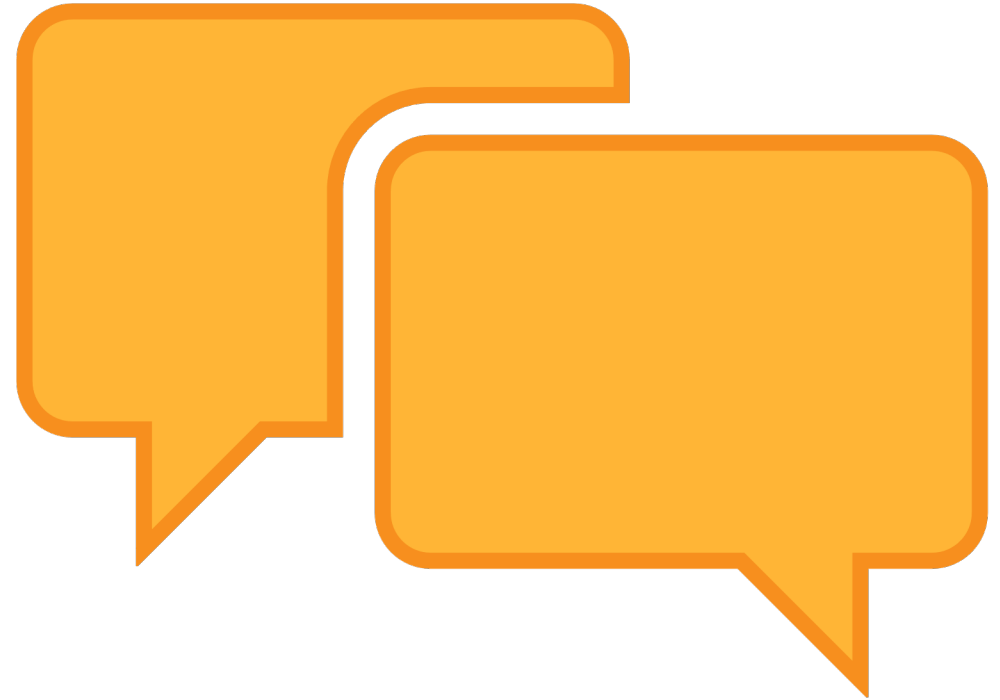


- Identify common challenges that arise in child welfare practice when working with immigrant clients
- Discuss best practices for working with immigrant clients with child welfare system involvement
- Utilize case scenarios and discussion to apply workshop concepts to participants' experience.

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

Name _____

Signature _____

Date _____



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?

TYPES OF HUMAN TRAFFICKING

SEX TRAFFICKING

- The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person **for the purpose of a commercial sex act**.
- **Commercial sex act:** any sex act on account of which anything of value is given to or received by any person.
- For a minor, commercial sex trafficking **does not need to** include force, fraud, or coercion.

LABOR TRAFFICKING

- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through force, fraud, or coercion **for the purpose of subjection to involuntary servitude, debt bondage, or slavery**.
- **Involuntary servitude:** a plan where the victim believes they must work, or they will suffer serious harm.
- **Debt bondage:** the individual has a debt for which they pledge services, but their services never pay off that debt. Oftentimes, the debt continues to increase.
- For a minor, force, fraud, or coercion **are** required.

RED FLAGS FOR TRAFFICKING

- ✓ Anyone trading sex for a place to stay or food.
- ✓ A parent who gave their child away for money or drugs.
- ✓ A business owner providing shelter and food in exchange for docked pay or sex acts.
- ✓ Large quantities of condoms, lubes, and cash.
- ✓ Inadequately dressing for the weather.
- ✓ Sign of physical abuse and neglect.
- ✓ Fear of an employer, job, or supervisor/coworker.
- ✓ Signs of tattoo/branding.
- ✓ Constant running away
- ✓ Never left alone and has restricted movement.
- ✓ The victim's answers seem "coached" or don't add up.
- ✓ Victim owes money which they can't pay back.

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/eaasidenntityserver/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 Ricardo qualify for any immigration relief?
- What would you do in this case?

Ricardo is 17 and is originally from Mexico. He is currently in foster care due to allegations of physical abuse by his father. His mother was deported to Mexico a year ago. During a visit with his caseworker, he shares that when he first arrived to the U.S. with his family, they were forced to work on a dairy farm. He was told his family owed money to the person who brought them to the U.S., and he had to work to pay this debt.

Ricardo has been able to keep in contact with his mother via phone and video calls since she was deported. But both Ricardo and his mother want him to stay in the U.S. so he can complete his education and hopefully get a job after he graduates.



- 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)

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 years 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 SCENARIO

CASE SCENARIO

The Department is working with a 12-year-old youth. The youth is originally from Honduras and has lived in the U.S. for 3 years and been in foster care for nearly 1 year. Her mother lives in Honduras. Father brought youth to the U.S. without mother's permission. Youth was removed from father's care due to allegations of sexual abuse. Father's whereabouts are unknown at this time

The Department's case plan was reunification with mother in Honduras and is waiting on the Honduran Consulate to complete the home study process. In the meantime, the youth is placed in a foster home where foster mom communicates with youth and the mother in their primary language. The mother, youth, and foster mother have frequent visits via WhatsApp.

The mother called the Dept. and expressed she would like an open adoption with current foster parent and for the youth to continue to work on her U.S. immigration legal status. The caregiver, mother, and youth have contacted the Honduras Consulate to obtain the youth's birth certificate.

The caregiver, youth, and mother would like the open adoption to be completed as soon as possible. The caregiver has expressed she has contacted an immigration attorney and the youth's legal process can be completed after the adoption is finalized.

Should the youth's legal status process be completed before adoption?

What other important considerations are there in this scenario?



RESOURCES

IMMIGRANT FAMILIES AND CHILD WELFARE SYSTEMS

Emerging Needs and Promising Policies



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



STRENGTHENING CHILD WELFARE PRACTICE FOR IMMIGRANT CHILDREN & FAMILIES

A Toolkit for Child Welfare Professionals in California

AUGUST 2019

PROTECTING ASSETS & CHILD CUSTODY IN THE FACE OF DEPORTATION

A Guide for Practitioners Assisting Immigrant Families



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 Human 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://www.migrationpolicy.org/research/immigrant-families-and-child-welfare-systems-emerging-needs-and-promising-policies). 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 grant 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

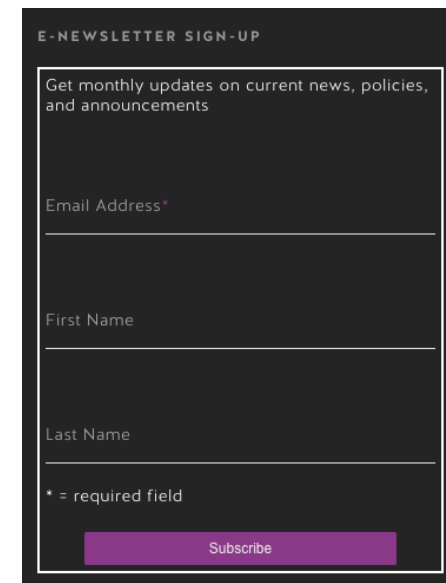
J. I. & Flagg, A. (2019). *Immigrant Families and Child Welfare Systems: Emerging Needs and Promising Policies*. Available at <https://www.migrationpolicy.org/research/immigrant-families-and-child-welfare-systems-emerging-needs-and-promising-policies>

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 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



The image shows a screenshot of an "E-NEWSLETTER SIGN-UP" form. The form is titled "E-NEWSLETTER SIGN-UP" and contains 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". At the bottom of the form, there is a purple "Subscribe" button. A legend at the bottom left of the form indicates that "*" = required field.

QUESTIONS?



THANK YOU!

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