

# Program Area Four: Immigration and Case Planning



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# Types of assessments

## Court orders vs Voluntary cases

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- A court orders DHS involvement. This happens many times because parents are fearful to come to court. There are many times that relatives who are citizens come to court, however they are not the legal guardians of the child the court orders the involvement of the Department of Human Services.
- ***Potential immigration issues:***  
Once law enforcement is involved, there is heightened risk that the parents may flee. This is especially true since many communities have begun to criminalize undocumented immigrants. 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 impact employability and background clearance.
- Hotline reports are also made by concerned parties and mandated reporters regarding youth in conflict behaviors or children needing services due to out of control behaviors.



# Assignment Decision making

## Court orders vs hotline reports

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- Court orders are assigned to a caseworker for assessment when received.
  - When the caseworker receives the court order, they assess the youth's circumstances via interviews with the family, youth and any professionals involved.
  - The caseworker attends court and carries out the court's orders regarding DHS involvement to include scheduling a TDM.
  - Potential immigration issues: There are potential ICE holds that may result from the involvement of law enforcement. These ICE holds can result in the separation of the family. An assessment by legal immigration experts may find that the child qualifies for a "U-Visa" as a victim of a serious crime.
- Hotline reports are screened to determine whether or not the child does indeed exhibit behaviors that are a danger to self, family or the community. An assessment is also made as to the resources that the family has.
  - Potential immigration issues: Child protective services involvement may prohibit an undocumented immigrant from gaining legal status; fear of being reported and/or deportation may cause the parents to flee. There can also be difficulties due to language barriers, etc.



# Court orders vs Voluntary cases

- The court may make orders about the placement or services for the child. Orders of this nature are complicated when related to undocumented youth as the child may be ordered into placement with DHS which can impose significant difficulties on the agency as the child does not qualify for Medicaid.
  - The court also may order that the family participate in services that are geared towards keeping the child in the family or kin home. These services can sometimes be accessed in the community although, the resources available to most of the undocumented population are severely limited. Services are often put into place through the caseworker's referral utilizing core service funding.
  - If the services are available in the community, the court may vacate the involvement of the caseworker. If services are offered through the agency, an ongoing case will be opened.
  - Potential immigration issues:  
Relative placements are always sought first, the lack of a social security number often prevents social service agencies from being able to place with relatives unless the court orders otherwise.
- If the hotline report is assigned, the caseworker will make a thorough assessment about the needs of the family and the youth.
  - If placement is being pursued, a team decision making meeting will be held.
  - If services are determined to be appropriate, the caseworker will access services in the community or by accessing core services funding.
  - If services are accessed through DHS, a case is opened and continues to be monitored by a caseworker. If services are accessed in the community, the assessment will close.

# Removal

## Court orders vs Voluntary cases

- If the court orders the removal of the child or a decision is made that they cannot safely remain in the family home, the child is taken into custody and placed in an emergency shelter, foster home or kinship care depending on the severity of the mental health, legal issues, drug usage or other issues that brought the child to the attention of human services or the court. Custody of the child can be obtained through the delinquency action, a voluntary placement agreement or by opening a dependency and neglect case.
- Potential immigration issues: The child may qualify for Special Immigrant Juvenile Status (SIJS).\* Kinship care should include international searches. Team decision making ( TDM)\* and family group decision making (FGDM)\* may occur at this point. It is important to be mindful of emerging immigration issues in terms of placement, barriers to cooperation and coordination of out- of-home placement.
- In extreme cases where the child is completely beyond the control of their caretaker or a danger to self, community or family. A decision is made to place. The caseworker will schedule a team decision meeting.
- A case is opened for the placement of the child.
- A dependency and neglect case is opened to take custody of the child or the county may utilize a voluntary placement agreement.
- Potential immigration issues: similar issues exist for both the delinquency related placement as they do for the voluntary case that becomes a dependency and neglect petition.

# Unsuccessful services

## Court orders vs voluntary cases

- If the out of control behaviors, drug usage, increase in the severity of the mental health concerns or new legal charges continue to arise, an alternative plan involving placement or commitment to the Department of Youth Corrections is pursued. Depending on the level of cooperation of the family, the caseworker may opt to file a dependency and neglect petition vs. taking custody of the child through the delinquency action
- Placement options may be explored through the voluntary case or depending on the reason that services are unsuccessful, (ie: the family is uncooperative) At this stage, the caseworker or the team working with the family determines whether it is appropriate to pursue placement or close the case.



# Dependency and neglect

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- 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.
- *Potential immigration issues:* The child may qualify for SIJS, but the application must be submitted while the court has jurisdiction over the child. This court process can be intimidating for undocumented parents.



# Permanency Planning

## Court orders vs voluntary cases

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- If the court determines that the child is unsuccessful in their current placement (home or out of home) alternatives can be sought to include a higher level of care or a commitment to the Department of Youth Corrections. The court orders another permanent placement plan to be selected. Family reunification may be skipped in egregious situations, going straight to permanency planning.
  - Potential immigration issues: The SIJS application should be submitted while the court has jurisdiction over the child. For some states, dependency may be extended to age 21 to extend the timeline for the SIJS application. Other options include U visas, T visas and relative petitions. In the event of a denial, immigration legal representation needs to explore appeals
- If the court decides the child cannot safely be returned home and/or efforts to reunify with the birth family should end, alternatives are pursued to include the placement of the child with relatives or other planned permanent living arrangement (OPPLA).
  - Potential immigration issues: Kinship placements with undocumented family can be difficult, but not impossible. There are requirements for fingerprinting and background checks that must take place. The undocumented family members don't have social security numbers which is a barrier to the completion of a background check. Check with your county policy in this area.





# Pathways to case completion:

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- **Case closures:** 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 addresses their treatment needs and successfully completes the court ordered treatment plan.
- **Return Home:** The family successfully completes the court ordered treatment plan, safety and security of the child have been addressed.
- **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 (mostly age 18, with some states allowing an extension to age 21).
- **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 county’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. Most states require that the relative have a background check completed which can be complicated without the relative having a social security number available. (Check with your county’s policy in this area.)
- **Adoption:** All parental rights and responsibilities for the child are given to another person (s). Parental rights are terminated permanently.