



Overview of Child Welfare Immigration Policies and Programs

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First Focus



Overview of Presentation

1. “Shattered Families” video
2. Research on immigrants in the child welfare system
3. Prucol, Benefits, and School Enrollment
4. Federal ORR system for unaccompanied minors
5. State and Federal Legislation
6. Case Examples

Overview of “Shattered Families” (Nov 2011)

<http://arc.org/shatteredfamilies>

- First six month of FY2011, US deported record number 397,000 people, of whom 46,000 were parents of US citizen children.
- Conservative estimate that at least 5,100 children currently living in foster care have parents either detained or deported.
- In areas where local police aggressively participate in immigration enforcement, more likely to have a detained parents.
- Immigrant victims of domestic violence are at particular risk of losing their children.
- Key barriers include – lack of protection at the time of apprehension, ICE detention obstructs CPS plans, child welfare agencies lack proactive policies for reunification, systemic bias against reunification with children in other countries, and structural bias against undocumented parents and relatives.

Involvement in the Child Welfare System

- Children living with a foreign-born parent comprise 8.6% of all children who come to the attention of the child welfare system
- More than 4 out of 5 (82.5%) are U.S.-born citizens
- More than two-thirds (67.2%) are Hispanic
 - Non-Hispanic White (14.8%)
 - Non-Hispanic Black (10.0%)
 - Non-Hispanic Asian (7.5%)

Maltreatment

- Children of immigrants are significantly more likely to be involved in substantiated cases of emotional abuse than children of native parents¹
- Children of Latino immigrants are significantly more likely to be involved in substantiated cases of sexual abuse than children of native parents²
- Children of native-born parents are significantly more likely to be involved in substantiated cases of physical neglect (failure to provide)^{1,2}

¹Dettlaff, A. J., & Earner, I. (In press). Children of immigrants in the child welfare system: Characteristics, risk, and maltreatment. *Families in Society*.

²Dettlaff, A. J., Earner, I., & Phillips, S. D. (2009). Latino children of immigrants in the child welfare system: Prevalence, characteristics, and risk. *Children and Youth Services Review, 31*, 775-783.

Parent and Family Risk Factors: Latino Families

| | U.S. Born Parent | Immigrant Parent |
|--|------------------|------------------|
| Active alcohol abuse | 11.3 | 12.9 |
| Active drug abuse* | 12.7 | 2.3 |
| Serious mental health or emotional problem | 7.1 | 5.4 |
| Intellectual or cognitive impairment* | 2.6 | 0.1 |
| Physical impairment | 2.9 | 1.7 |
| Poor parenting skills* | 26.0 | 17.4 |
| Active domestic violence | 10.6 | 13.8 |
| Use of excessive discipline | 24.1 | 19.5 |
| History of maltreatment (of caregiver) | 36.6 | 23.9 |
| Recent history of arrest* | 5.5 | 1.9 |
| Low social support | 25.3 | 26.6 |
| High family stress* | 58.0 | 42.9 |
| Difficulty meeting basic needs | 25.6 | 13.6 |

*Significant difference at 95% confidence level

Potential Protective Factors

| | U.S. Born Parent | Immigrant Parent |
|---|------------------|------------------|
| Biological father present in home* ¹ | 18.6 | 40.6 |
| Additional supportive caregiver* ¹ | 46.2 | 55.5 |
| Change of primary caregiver in past 12 months* ¹ | 12.9 | 2.3 |
| Live in a safe neighborhood* ² | 70.8 | 82.6 |
| Helpful neighbors* ² | 58.2 | 79.8 |

*Significant difference at 95% confidence level

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Outcomes for Children of Immigrants

- Specific systemic barriers exist including language access, immigration status, and cultural competency¹
- Child welfare outcomes vary across immigrant groups²
 - Children of Latino immigrants are underrepresented in foster care, while native Latino children are overrepresented
 - Children of Latino immigrants are less likely to be placed in relative care
 - Children of Latino immigrants appear to be at higher risk for sexual abuse
 - Immigrant Latino children are more likely to be removed for sexual abuse

¹Earner, I. (2007). Immigrant families and public child welfare: Barriers to services and approaches to change. *Child Welfare, 86*(4), 63-91.

²Vericker, T., Kuehn, D. and Capps, R. (2007). Latino Children of Immigrants in the Texas Child Welfare System. *Protecting Children, 22*(2), 20-40.

Deportation Effects on Communities and Families

- Communities and families live in constant fear of separation
- Children at risk of foster care involvement
- Create large number of single parenthood
- Strains on relatives caring for children left behind
- Heightened fear of any government authority including police, social service agencies
- Children begin to associate all immigrants with illegal status, regardless of their own identify or legal status

FROM: Joanna Dreby, “How Today’ s Immigration Enforcement Policies Impact Children, Families, and Communities” (August 2012).

Public Benefits and Immigrants

- Undocumented immigrants and persons on temporary visas are prevented from receiving major federal public benefits (like SSI, nonemergency Medicaid, TANF)
- After passage of 1996 federal welfare and immigration laws, federal government greatly limited access to major federal benefits for LPR, imposing a 5 year bar
- “Qualified aliens” include certain categories of humanitarian immigrants, and trafficking victims
- There are some support programs where immigration status is not considered (like Head Start, VOCA, WIC, immunization, EPSDT)
- While the new Affordable Care Act will expand coverage to millions, many who remain uninsured will be immigrants.

Public Benefits and Immigrants

- While a child is in the child welfare system, services are generally covered. Problems arise with reunification, aging out youth, or placement with relatives.
- Access to benefits is constrained by many factors including:
 - lack of bilingual staff to assist them in application process
 - confusion over eligibility
 - fear of becoming a “public charge”
 - fear of cross-reporting to immigration officials
- Child welfare workers may misinterpret an immigrant client as “non-compliant” or label them unwilling to engage in preventative services if they are unfamiliar with these immigration dynamics

Benefits and PRUCOL

- In federal statutes defining eligibility criteria for federal benefits, Congress provided for payment of benefits not only to lawful immigrants, but to persons “permanently residing under color of law” (known as PRUCOL)
- PRUCOL means that USCIS is aware of the person’s unlawful presence, but is not actively pursuing his or her deportation.
- Although these persons have no legal right to remain in the U.S., they are nevertheless eligible for public assistance in certain states.

Relative Placement Issues

- Licensing Process requires criminal background checks (may include fingerprinting and asking for a social security number)
- Difficulty meeting minimum space or income requirements
- Difficult of relative searches out of country or cross-border
- Complications with guardianship and relative adoptions

Key Components from 2008 Fostering Connections Legislation

- 30-day notification of relatives when children enter foster care
- States allowed to waive normal foster care licensing standards to approve relative placement on case-by-case basis and only for non-safety standards
- Transition plan required for aging out youth
- School attendance
- Oversight of health care needs
- Preference for sibling placements and communication

School and Immigration Enforcement

- In *Plyer v. DOE* the U.S. Supreme Court held that states (and school districts) cannot exclude children from K – High School based on immigration status
- Enrollment problems for states like Georgia and Arizona which have tough new immigration enforcement laws
- Zero tolerance at school leads to greater police presence in school and greater risk for notification to ICE of undocumented youth or legal permanent residents

Overview of Federal Child Welfare System

Apprehensions of Unaccompanied Alien Child (UAC)

- UAC detected at sea by US Coast Guard
- UAC apprehended by CBP for lack of documentation at border
- UAC detained by ICE or refer to ICE by local officials at interior (some counties)

Returns

- Most apprehensions return voluntarily (unaccompanied, accompanied) to home country
- Arrests by ICE are housed for up to 72 hours in Detention and Removal Office pending Proceedings, some children are placed with ORR, some are released to a sponsor if available (Reunification Program)

Overview of Federal Child Welfare System

UAC Pending Proceedings

- Released to a sponsor
- Placed in ORR facility

Executive Office for Immigration Review (EOIR)

- Removal Proceedings by ICE
- Granted a visa by CIS and Removal Proceedings are cancelled (SIJS, Asylum, T-Visa, U-Visa)

Some Observation of Differences Between Federal vs. State Child Welfare

- Age of children in care
- Country of Origin
- Severity of abuse/neglect
- Role of the Court/access to Legal Counsel
- Role of Dept of Homeland Security
- Funding Sources/Capped budget allocated annually by Congress
- Placement Options

NOTE: According to ORR/DHS, the number of UAC has more than doubled this fiscal year

Federal Legislation

- Roybal Allard (HR6128) – Help Separated Families Act
- Woolsey/Franken (HR3531/S3522) – HELP for Separated Families
- Stark (HR 3333) – Foster Children Opportunity Act
- Violence Against Women Act Reauthorization (HR4970/S 1925)
- Advocacy for the US to sign the Convention on the Right of the Child

CA Legislation SB1064 (de León)

The bill is the first piece of state legislation to address the shattered families problem.

Key Components of SB1064

- Extending ASFA's TPR requirement (to reduce risk of parental rights terminations where parent is in immigration detention)
- Facilitating undocumented Relative Placement through use of Consular/Passport ID for fingerprint clearances
- Screening for Immigration Relief Options
- Encouraging MOUs with Foreign Consulates and guidance by state child welfare agencies to county agencies

CA Legislation AB2015 (Mitchell)

Time of Arrest Protection for Immigrant Families

Key Components of AB2015

- 2 phone calls for primary caregivers at the time of arrest
- Oral translation of this right at the time of arrest
- Posting rights at the jail setting
- Additional phone call when transferred from jail to detention facilities

FOR MORE INFORMATION: Resources for Policymakers

FIRST FOCUS & MCWNN/Caught Between Systems –
The Intersection of Immigration and Child Welfare
Systems, First Focus Policy Briefs (4 policy briefs and
a fact sheet)

<http://firstfocus.net/library/reports/caught-between-systems-the-intersection-of-immigration-and-child-welfare-policies>

MCWNN & American Humane Association/ Research
Brief - Children of Immigrants in the Child Welfare
System: Findings from the National Survey of Child and
Adolescent Well-Being

<http://www.americanhumane.org/assets/docs/protecting-children/PC-ChildofImmigrant.pdf>

