

Administrators in Public Child Welfare: Responding to Immigrant Families in Crisis

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Introduction

Immigrants, refugees, and asylum-seekers—especially families and children—are arriving in record numbers and rapidly changing the demographics of many communities (Capps, Passel, Perez-Lopez, & Fix, 2003; Delgado, Jones, & Rohani, 2005). In many states and localities that have recently witnessed a large-scale influx of new immigrant populations there is concern that factors related to the stress of migration, overall economic hardship, and linguistic and cultural differences put immigrant families at greater risk for involvement with the child welfare system (Segal & Mayadas, 2005). Recent evidence suggests that migrating families and their children are appearing on the caseloads of child welfare services in significant numbers (Vericker, Kuehn, & Capps, 2007), and questions are now being raised as to how well child welfare services providers are prepared to handle the special needs of this population (Pine & Drachman, 2005; Lincroft & Resner, 2006). In describing the challenges faced by Latino families, who constitute the largest group of immigrant populations across the United States, Ortega (in press) bluntly states, “Latino families are largely disadvantaged in terms of system responsiveness and access to ancillary services and safe havens. Considerable concern has been raised about the system’s capacity to adequately serve this population.”

While language and culture do play significant roles in affecting the quality and scope of services provided to families and children, conflicting legislative mandates between child welfare and immigration are also contributing to fragmented service provision, especially when immigration status affects access to services or benefits (Davidson, 2006). Few child welfare agencies have developed handbooks, protocols, or training strategies to address this confusion. As a result, in most localities, immigrant

families who do come to the attention of child welfare services providers are dealt with largely on a case-by-case basis (Chahine & van Straaten, 2005). This situation does little to ensure accountability, consistency, or equitable provision of mandated services to families and children.

With regard to the provision of child welfare services, all decisions made about children and families must be based on the federal and state laws that define abuse and neglect. While there are subtle differences in each state and among communities, the Child Abuse Prevention and Treatment Act (CAPTA) defines abuse for all public child welfare agencies. Most children enter the child welfare system because of neglect, with a smaller percentage entering based on physical and sexual abuse (Baum, 2002). Poverty is an important predictor of negative child outcomes, and poverty rates are typically higher among children of immigrants than among children of natives (Capps et al., 2003). While generally accepted child welfare practices prefer the provision of services to maintain a child safely in the home, immigration status issues affecting either parents or siblings within a family do impact access to many needed services. Therefore, immigrant families may be ineligible for services mandated to ensure the safety of their children. In turn, the children in these families are more likely to either never receive the services they need or end up in out-of-home placements.

Additionally, the Adoption and Safe Families Act of 1997 (ASFA), federal legislation guiding all public child welfare agencies, clearly states that if a child cannot be safely maintained in the home, the first priority is to seek placement with relatives. Again, as documented in small studies, there is evidence that immigration status is a complicating factor in making decisions about the placement of children

with extended family members (Earner, 2007). Child welfare agencies are unlikely to conduct extensive international searches for appropriate placements of children with relatives.

This article addresses the special considerations and nuances for child welfare cases involving immigrant families. Recommended intervention strategies are based on the premises of concurrent planning and collaborative team decision making to ensure the safety, permanency, and well-being of all children, regardless of immigration status issues affecting the family.

Understanding Key Immigration Issues Related to Child Welfare

To work effectively with immigrant families, child welfare staff must have an understanding of their clients' immigration and language issues. Title VI of the 1964 Civil Rights Act requires any recipient of federal funding (which includes virtually all state and local government social service agencies) to make its services or programs reasonably accessible to individuals with limited English proficiency. It is important at initial contact to identify a client's primary language and seek interpretation services when necessary. In some immigrant communities where there is a low literacy rate or where the population does not find written documents to be a meaningful method of communication, spoken explanations of important child welfare documents may be a better method of communication.

Identifying the immigration status of the client and family members is a controversial issue and must be handled sensitively and, if possible, in a way that assures confidentiality (New York City Administration for Children's Services, 2005). Clients need to be informed that knowledge of their immigration status is strictly for the purpose of providing appropriate referrals to services or ascertaining eligibility for benefits. In case

planning, workers need to understand that many immigrants are reluctant to interact with government officials for fear of being reported to the United States Citizenship and Immigration Services (USCIS, formerly known as Immigration and Naturalization Service or INS).

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The following is not an exhaustive list but provides some common immigration-related issues that child welfare staff may encounter when working with immigrant clients.

- **Assessment of Immigration Status:** There are many different classifications of immigration status. These include, but are not limited to: naturalized U.S. citizen; lawful permanent resident (i.e., "green card" holder); refugee, parolee, or asylee; one who has been granted employment-based status; student or tourist visa holder; and undocumented resident (Santa Clara County Department of Family and Children's Services, 2006). It is very common for one household to have members with different immigration statuses (for example undocumented immigrant parents with one or more U.S.-citizen children born in the United States).



It is important for the child welfare agency to understand the different types of immigration status and their implications for access to different services. It is also important for child welfare staff to not make assumptions about immigration status based on language ability, ethnicity, or country of origin. Even a lack of documents does not necessarily imply that an individual is not legally present in the United States.

- **Special Immigrant Juvenile Status:**

In 1990, Congress passed Special Immigrant Juvenile Status (SIJS) as an immigration relief option for undocumented children in long-term foster care. SIJS allows those children who have no possibility of reunification to gain permanent residency in the United States (Kinoshita & Brady, 2005). The child must be unmarried, under 21 years of age, and in long-term foster care. SIJS application can take 1 or more years to process. The public child welfare agency needs to file the appropriate application to immigration officials, including documents to prove age, such as a passport, birth or baptismal certificate, doctor or dentist evaluation, etc. In addition, public child welfare agencies often need to work with the appropriate foreign consulates to gather much of the relevant SIJS documentation, which can further delay the process. Since SIJS cases are time-sensitive to the age of the child, it is important for child welfare staff to file before a child “ages out” of the child welfare system (Earner, 2005). Many agencies have delayed a child’s dependency status to 21 until the SIJS has been approved in order to protect the undocumented foster youth from the risk of deportation after emancipation.

- **The Violence Against Women Act (VAWA):** A collection of federal laws, known generally as VAWA, was first enacted in 1994 to address a widespread problem: non-citizen spouses who stay in abusive relationships because their partners and abusers have U.S. citizen or legal permanent resident status and are sponsoring the family’s visa petition. Until a non-citizen has legal immigration status, she or he can be deported at any time and cannot get permission to work legally. Often, the abusive spouse will use the immigration sponsorship as a way to control the undocumented spouse (Catholic Legal Immigration Network and Immigrant Legal Resources Center, 2002). The VAWA legislation attempted to acknowledge and address these complexities by helping lawful permanent residents leave dangerous situations without prejudicing pre-existing immigration petitions. Domestic violence safety planning should be shaped by the entire family constellation, including who in the family is undocumented and which community resources are available to assist clients before and after their VAWA applications have been approved.

Documentation is key in VAWA cases. Domestic violence clients only qualify for VAWA when their abusers are either legal permanent residents or U.S. citizens. While a VAWA petition is not automatic, it can lead to residency for the spouse and children in question. Credible evidence of abuse must be provided, but this does not necessarily include a police record. For example, a petition may be filed on a domestic violence incident. The case may show that one count is against the father and



another is against the mother for her failure to protect the children. Thus, this matter may be held against the mother in her VAWA petition. Child welfare staff should work closely with domestic violence advocates and shelters to understand how best to support immigrant women and their children in these types of VAWA cases.

A Toolkit for Practice With Immigrant Families: Concurrency Planning and Team Decision Making

The literature is rich with best or promising practice models in child welfare; two that can prove useful in working with immigrant families are concurrent planning and team decision making that involves a neighborhood-based approach. The “concurrency model” has been identified as an effective tool to ensure permanency in the lives of children, regardless of whether they remain with their families of origin or in alternative settings (Schene, 2001). Concurrent planning assumes two different case goals are developed at the same time, the primary goal being reunification of the child and parent. However, should the primary goal not succeed there is a back-up plan already in place for another permanent home for the child (National Resource Center for Family-Centered Practice and Permanency Planning, 2001). Integrating immigration services into the “concurrency” model can also be helpful in preventing or ameliorating out-of-home placements when a child from an immigrant family enters the child welfare system. This involves helping either the parent or child resolve immigration status issues, thereby making access to services possible.

Concurrency planning can also address one of the more tragic consequences of “foster placement drift” by encouraging child welfare workers to identify and apply for SIJS for those eligible children who may

otherwise be emancipated into a downward spiraling existence as undocumented people. Furthermore, the early identification of immigration status within a concurrent model can stabilize a family through the immediate initiation of a relevant relative search, including those family members living outside of the child welfare area or abroad. Identifying immigration status also helps workers focus on the relevant documentation the family/child has or needs in the event a permanent plan (adoption, guardianship, or an independent living plan) is necessary.

Another promising practice model that can be a useful tool in working with immigrant populations is the development of relationships between child welfare agencies and both formal and informal support networks that can then participate as meaningful members in team decision-making efforts. This type of neighborhood-based service approach can be invaluable in helping develop culturally and linguistically appropriate services, break down barriers, and facilitate outreach to families. It also is an effective way to keep children safe, stabilize families, and recruit resources (Rivera, 2001).

One of the more promising outcomes of proactive concurrent planning has been the improvement of relations between child welfare agencies and foreign consulates. Mexico has taken a leadership role in many localities where there are large settled populations of Mexican nationals. Specifically, the country is providing technical assistance, supporting families involved with the child welfare system, and sharing national child welfare resources with local U.S. child welfare agencies. Several child welfare agencies have established best practice protocols or memorandums of understanding with Mexico in an attempt to improve and refine internal assessment, placement,



and support services. These include the provision of critical documentation to both the income maintenance or fiscal and service components of the agency.

A Review of Four Common Scenarios Involving Immigrant Families

The scenarios that follow are common to many child welfare agencies, whether located in one of the six major immigrant receiving states (California, Texas, New York, Florida, Illinois, and New Jersey) or in one of the new fast-growth secondary migration states, including those in the Rocky Mountain, Midwest, and Southeastern regions (North Carolina, Nebraska, Arkansas, Nevada, and Georgia). Child welfare agencies may have hundreds of cases like these each month or just one or two per year that invite alternative case planning strategies. Depending on the number of cases involving immigrant families, child welfare agencies may consider different models of services, such as a dedicated staff/bilingual unit or a service contract with a community-based agency that specializes in working with immigrant families.

Please note that each child welfare case and immigrant family is unique. The following scenarios are intended to provide general information and discussion about the topic, and are current and accurate as of the publication date. However, immigration and child welfare laws change constantly. The authors advise that qualified legal and professional advice should always be sought before taking any action.

- **SCENARIO 1 - EMERGENCY RESPONSE REFERRAL:** *As a mandated child abuse reporter, a school employee contacts a child protective services hotline because a student has been truant, comes to school with dirty clothes, and is hungry. The social worker assigned to the case completes an*

assessment classifying the case as a low-risk prevention situation due to neglect. The worker sends the case to community diversion as part of a differential response plan. However, he is unable to close the case because family members cannot attend parenting classes (due to long or evening work hours) and cannot receive welfare, job training, or other supportive services because of their immigration status or because they fear the child will be classified as a “public charge.”

POTENTIAL SERVICE PLAN

FOR SCENARIO 1: Diversion to community services is by far the most common case plan for calls made to child abuse hotlines. If the child welfare agency is not opening a dependency case, community partners are critical players in diversion cases. If, in the process of conducting an assessment, the agency determines that immigration issues are impeding the delivery of services, and yet the family situation meets the threshold for diversionary services, the best possible scenario would be to provide a referral to a community-based organization. That community-based agency must have the sensitivity, understanding, and the resources to assist with the underlying referral. Potential service plans for diversion plans depend heavily on the comfort and trust level for the immigrant family; there must be an understanding that the service plan will not jeopardize family members' immigration status, which could cause them to run away, resist, or simply ignore the plan. In this sense, the service plan will not so much resolve the problem as recognize the dilemma facing the family.



Service referrals could include Food Stamps (eligible for the citizen child of the undocumented immigrant), Head Start or subsidized child-care programs—some of which do not depend on immigration status—legal services, free health or mental health clinics, access to Victim/Witness Protection funding (which is available to eligible families, regardless of immigration status), etc. It is important to connect resources and support to the families as a prevention strategy so that child welfare problems can be solved at the lowest level of intervention.

- SCENARIO 2 - ASSESSMENT/ FRONT-END SERVICES:** *A newborn tests positive for drug exposure. The mother is undocumented and speaks only Spanish. Furthermore, there are no linguistically/ culturally appropriate substance abuse treatment services available. No relative in the United States is willing to care for the child because each one's own immigration status is precarious. A grandparent living in Mexico has been identified for placement but the public child welfare agency has no experience with the Mexican consulate or conducting a home visit out of the United States.*

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POTENTIAL SERVICE PLAN FOR SCENARIO 2:

In the event that there are no parent caretakers available, it is imperative that workers conduct a relative search as soon as possible. A bilingual/bicultural social

worker should complete a thorough assessment, since information is often lost in the assessment process using translation services. Or, the public child welfare agency can work closely with a contracted community-based agency to help with this type of assessment. Just because a family member may reside outside of the United States does not preclude a placement. Finding such family members rests heavily on understanding the population served and how to secure the services and resources to not only assess but also support a family member who may be able to take care of the child.

Additionally, it is the responsibility of the public child welfare agency to inform the Mexican Consulate when there is a dependency hearing for a

national and if there are no known relatives in the United States willing or able to care for the child. The child welfare agency should obtain more information on the appropriateness of any maternal grandparents who reside in Mexico and make phone contact with them. After the

initial contact, the public child welfare agency should complete a home assessment and work with the Mexican child welfare agency, Desarrollo Integral de la Familia (DIF). DIF will provide a preliminary assessment through intervention with the Mexican Consulate. If the assessment meets DIF's community standards, the U.S. child welfare agency can conduct a home visit to further assess the appropriateness of the placement.



If there is a chance of reunification that meets the 18-month federal timeline, then it may be necessary to place the child in foster care with visitations and support opportunities during the reunification period. In the event reunification is not feasible (for example, the mother is incarcerated for a period longer than 18 months), it is imperative to connect the child with appropriate relatives. Likewise, even if a relative may not serve as an appropriate placement due to economic or other reasons, this does not preclude the child maintaining contact with his or her relative. Because of the fluidity and proximity of the border countries (i.e., Canada and Latin American countries), visits from relatives should be encouraged and supported, including participation in family group conferences. In cases where a parent is deported to Mexico but the child is born in the United States, the child may or may not go back to Mexico with his or her parent, depending on the individual case and legal representation.

- **SCENARIO 3 - PERMANENCY AND INDEPENDENT LIVING:**

An immigrant youth, presumed to be undocumented, has languished and is “growing up” in the system. No paperwork was ever found for the child because the parents fled and could not be located after the child’s removal. After years in foster care, the issue of his unresolved immigration status figures prominently during his mandated emancipation/independent living program planning conference. The court, attorney, and foster parent for the child are demanding an immigration action plan prior to emancipation.

POTENTIAL SERVICE PLAN FOR SCENARIO 3:

It is critical to understand and gather documentation early in the case assessment regarding the migration history of the child. If it was previously determined that the child was undocumented, a more thorough immigration assessment needs to be conducted. The birth parents’ immigration status is particularly important. In the initial assessment, if there is a dependency action (i.e., a filing petition against the parents), all relevant immigration documents should be shared with child welfare agencies in juvenile courts. This may be an issue in cases where the family refuses to surrender critical documents such as a passport or birth certificate. For example, the child may be eligible for derivative U.S. citizenship through a birth parent even though the parent is no longer directly involved in supervising the child. There have been anecdotal cases of children assumed for years to be undocumented immigrants, when in fact they were legal residents or derivative U.S. citizens. Also consider that in cases where it’s been determined a child is undocumented, it may not be in the best interest of the child to return him to the country of origin, because the child has acculturated to the United States and reunification is no longer possible. In these situations, it is critical to apply for SIJS prior to emancipation from foster care.

- **SCENARIO 4 - SERVICES TO VICTIMS OF DOMESTIC VIOLENCE:**

A U.S. citizen child is injured during a domestic abuse altercation. The mother, who is undocumented, is fearful of leaving the abuser since he has legal immigration status and is petitioning for his spouse.



The child welfare agency handling the case has never filed a VAWA (Violence Against Women Act) claim and does not know how to help or support the mother after she is required to leave the shelter. The mother does not want to file a restraining order due to her fears of deportation. However, both mother and child are in physical danger of re-abuse, and the social worker is faced with the dilemma of providing out-of-home care for the child due to his/her inability to protect the non-offending parent.

POTENTIAL SERVICE PLAN FOR SCENARIO 4:

This is probably one of the most challenging scenarios facing child welfare agencies. Households where domestic violence occurs can be particularly dangerous for a child, but removal from the abused parent, who has otherwise been a fit parent, and whose only crime was to be involved with a man who hit her, can also be devastating to the child. In order for the mother and child to be eligible for VAWA, the batterer must be either a U.S. citizen or a lawful permanent resident. Unfortunately, no relief is available under these laws if the abuser is neither a U.S. citizen nor a legal resident. In these situations, the child welfare agency should make an appropriate referral to a domestic violence shelter with lawyers or staff specifically trained to handle VAWA petitions.

Child welfare agencies that use decision-making team models (such as team decision making, family group conferencing, family unit meeting, etc.) involving the family and community-based agencies can be especially effective in determining case plans for these types of cases (Annie E. Casey Foundation, 2006).

Team decision making is based on the premise that involving families along with supportive community members results in the creation of a network that helps ensure permanency plans' success. The social worker will need to determine the level of services appropriate for the domestic abuse victim and the child without putting the child in harm's way. Providing services early in the case is critical. It allows the non-offending parent to achieve safety in a faster way because it helps her overcome obstacles making it difficult to leave. For example, if she has access to ethnic-specific counseling, new housing, help with immigration papers, or programs that can help find an alternative source of income, she will be better prepared to part with an abusive partner.

- **SCENARIO 5 - FISCAL CONSTRAINTS:** *Child welfare management must make a presentation to fiscal authorities regarding an action plan to maximize federal claims. Management needs to address the growing list of children who are not eligible for federal claims. Many of these locally funded cases involve undocumented children. Several others involve older youth placed in group homes, which are generally the most expensive out-of-home care option.*

POTENTIAL SERVICE PLAN FOR SCENARIO 5:

Knowing cases' immigration realities is the key to an efficient use of an agency's discretionary, limited local dollars. This is one of the fundamental advantages of using a concurrent model, especially at the emergency-response level. What may have been interpreted as resistance or unwillingness to engage in a



preventative service plan may be all, or partly, an immigrant family’s fear of dealing with the immigration system. By knowledgeably demonstrating an awareness of this reality, agencies can eliminate a major obstacle to engaging the family. Likewise, the service plan “connects” with the family and real change can occur, reducing the risk factors that brought the referral to the agency in the first place and increasing referrals to a skilled and appropriate community-based agency. In addition, if further child welfare intervention services become necessary, this basic core immigration knowledge is invaluable in determining eligibility for categorical programs and claims. It also helps resolve which documents are available and necessary in order to assist the dependent minor and family.

Another benefit of being familiar with immigration realities surfaces when agencies assist families with SIJS, VAWA, and other forms of immigration relief. Basic personal documents and records are already in place to immediately move to the next level of claiming and expedite the fiscal process to resolve a minor’s immigration status. It certainly is not best practice to wait until family reunification services are terminated before beginning to gather immigration documents. For the agency, the lack of proper funding and claiming for this same minor could have all been avoided by a focused and

knowledgeable concurrent response. Case reassignments, transfers, and “hand-offs,” while often an agency necessity, lend themselves to many continuity problems in service plans. They also invite clients’ often-repeated claim: “This is my *n*th worker in a year!” The most tragic scenario occurs when the public child welfare agency is negligent and hasn’t responded to a minor’s immigration needs for the life of the case. As a result, the dependent minor is emancipated out of the system into a very bleak future as an undocumented immigrant.

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Conclusion

New immigrant populations are enormously diverse in culture, language, socio-economic status, and reason for migration; however, given the increasingly conflictual legislative climate surrounding immigration status and access to resources, providing services to these populations is becoming more complicated (Fong, 2004). In developing models of practice with immigrant families in child welfare, service providers would do well to remember that immigrants are not a new phenomenon to social work. The evolution of the profession itself, from its historic roots in the Settlement House Movement, was accomplished through practice with immigrant families and children (Addams, 1990). Possible differences today include the impact of new immigrant populations on communities that have not had a historic relationship with migration, a countervailing set of growing regulatory guidelines, and the psychosocial dynamics of outreach, integration, and problem-solving within a child welfare context.



Regardless of the current debates about immigration, one thing is clear: In the near future communities across the United States will be more diverse than ever before in our history. The challenge is now upon child welfare services administrators and providers to identify and address the needs of these communities. This requires bold leadership, the ability to take risks, and a willingness to be innovative—all of which can help ensure the safety, permanency, and well-being of families and children.

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