

# Wellbeing and Immigrant Families: The Intersection of Migration and Child Welfare

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Robert Mindell, & Lara Bruce



May 21, 2008

Prevent Child  
Abuse America

# Growth in Foreign-Born Population

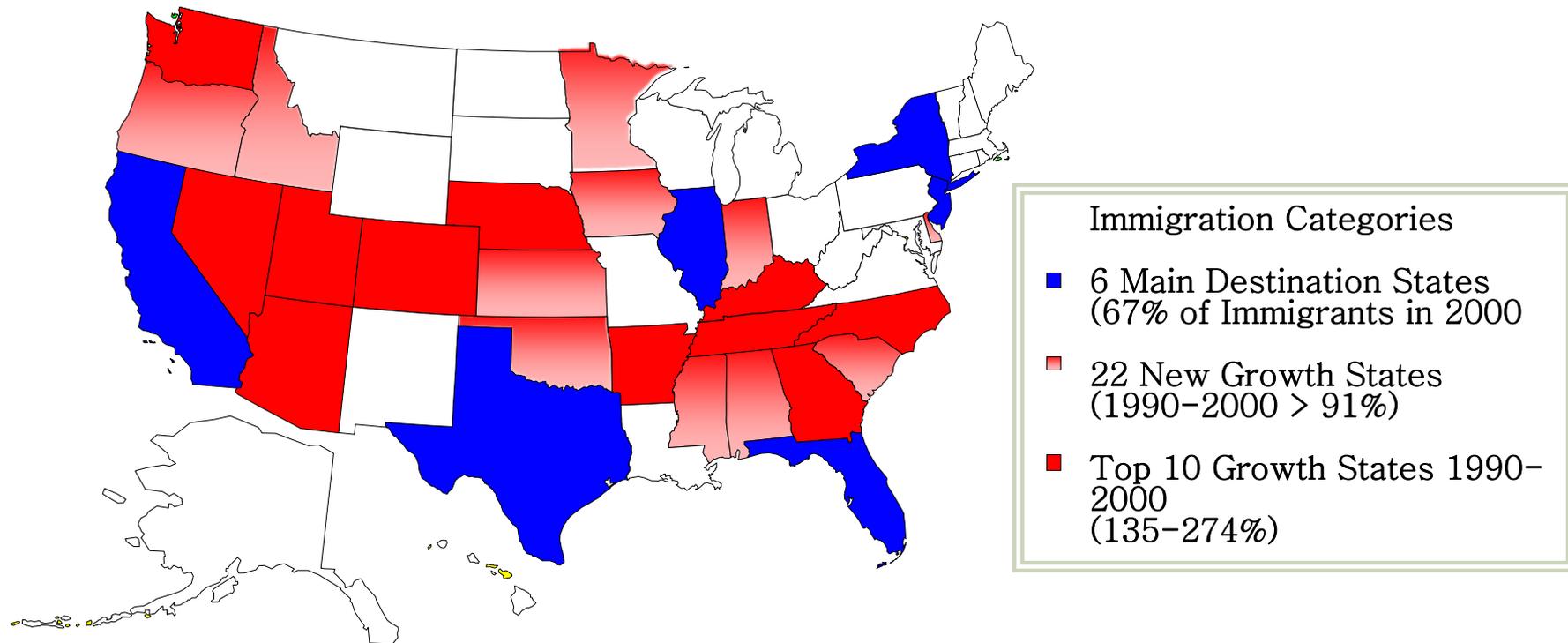


The percentage of the total U.S. population that is foreign-born more than doubled between 1970 and 2000.

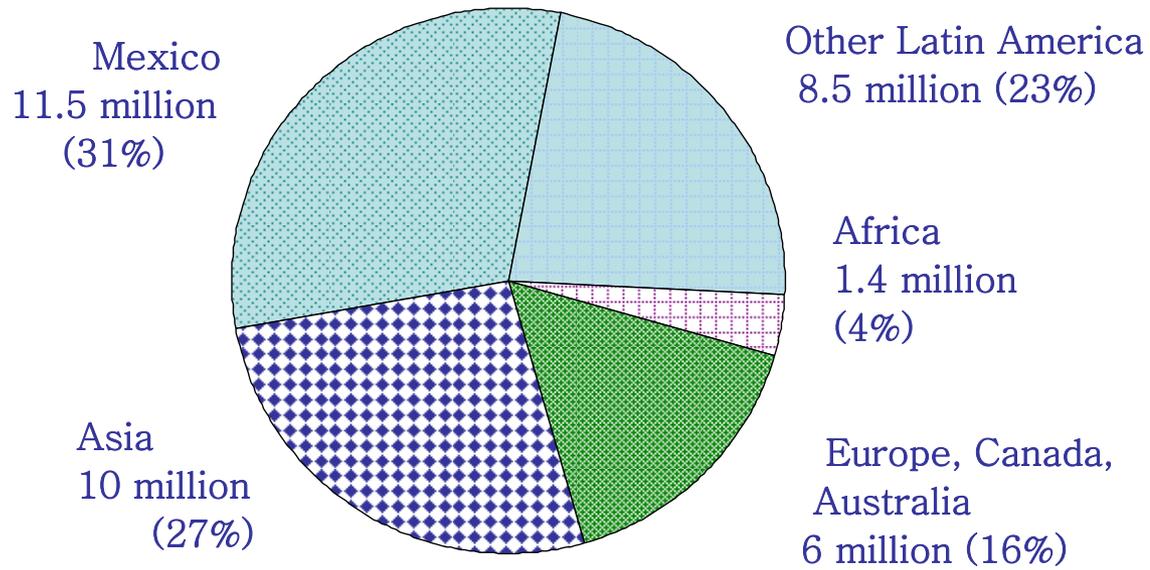
One in five U.S. residents is either foreign born or a first-generation child of an immigrant.

Source: Decennial censuses for 1850-2000; Current Population Surveys (CPS) for 1990-99 and 2000-04; Urban Institute projections (2004) for 2010.

# Immigrant Population Growth by Three Groups of States



# Regions of Origin



37.5 Million Foreign-Born  
(2006 U.S. American Community Survey)



## Definitions

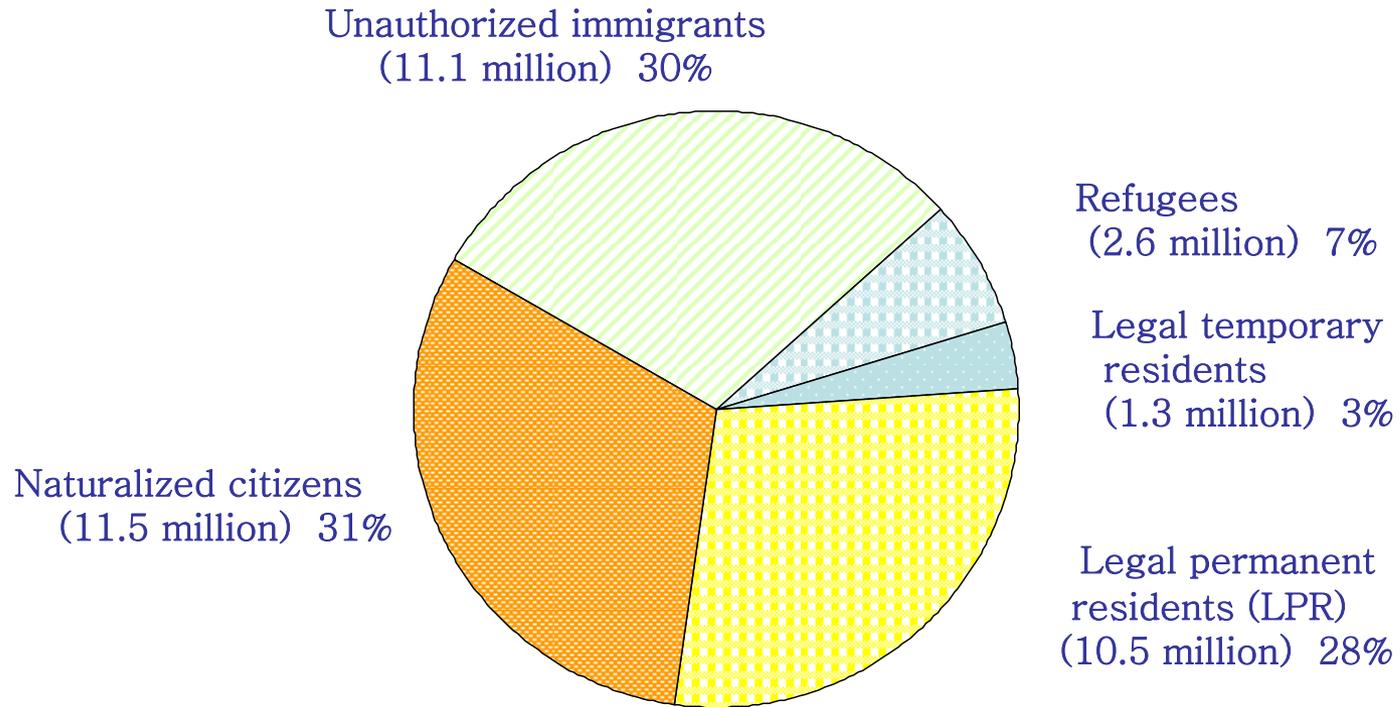
Legal permanent residents = noncitizens admitted for permanent residency (“green card” holders)

Undocumented immigrants = entered illegally or overstayed visas

Naturalized citizens = immigrants who have become U.S. citizens after passing the citizenship test

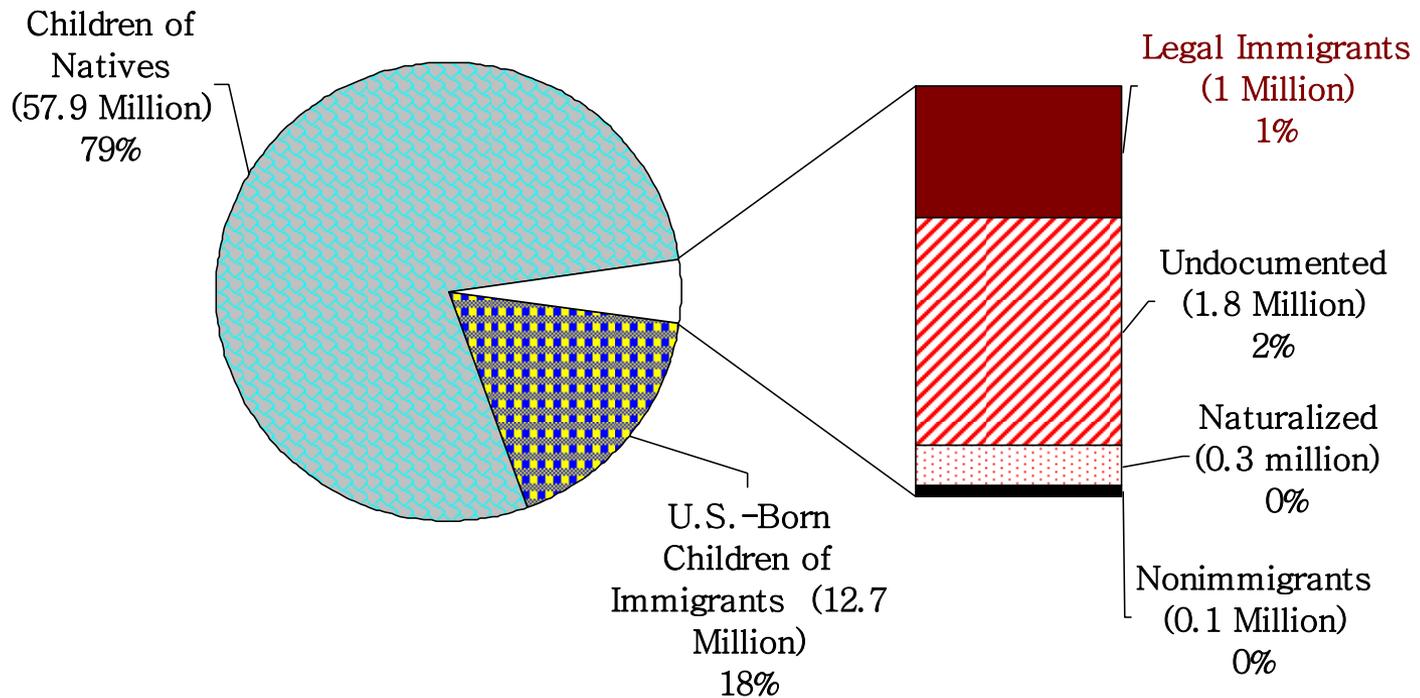
Refugees = admitted for “well founded fear of persecution”

# Authorized and Unauthorized



37 Million Foreign-Born in 2005 (Passel 2006)

# Most Children of Immigrants are U.S. Born Citizens



73.9 Million Children in 2005  
(March 2005 Current Population Survey, Imputed)



## Why Immigrant Children Enter Child Welfare

Poverty is one of the most important predictors of negative child outcomes. Poverty rates are generally higher among children of immigrants than among children of natives.

Young children of immigrants are less likely to receive public benefits.

Children in immigrant families are considerably more likely to be uninsured, to be reported in fair or poor health, and to lack a usual place where they can get preventive health care.

Immigrant families enter and stay in child welfare for same reasons as natives – domestic violence, substance abuse, health, and mental health – however access to services is limited in most regions of the country.

Source: “Undercounted, Underserved: Immigrants and Refugee Families in the Child Welfare System” Annie E Casey Foundation (2006)

<http://www.aecf.org/upload/pdf/files/familytofamily/immigration.pdf>

# The Most Vulnerable: Children of Unauthorized Immigrants

- Parents have limited formal education
- Parents often do not speak English
- Parents subject to job exploitation
- Parents ineligible for public benefits
  - But 2/3 of the children are U.S. citizens, therefore eligible for public benefits and services
- States, localities restricting employment, drivers' licenses, housing, services, etc.
- States, localities enforcing immigration laws
- Some parents are picked up in raids



## Immigration Raids

Congress has failed to reach consensus on comprehensive immigration reform, and greater enforcement has become the default policy.

There are between 11 and 12 million undocumented immigrants in the United States currently, and 5 million U.S. children with at least one undocumented parent. All of these children are increasingly at risk for separation from parents and other impacts of raids.

# Immigration Raids

Over 4,700 undocumented immigrants were arrested in worksite raids during Fiscal Year 2007

This was about 10 times the number arrested 5 years ago (485 in Fiscal Year 2002).

For every two adults arrested there was at least one child affected, and most were very young children and U.S.-born citizens



## Impacts of Raids on Children

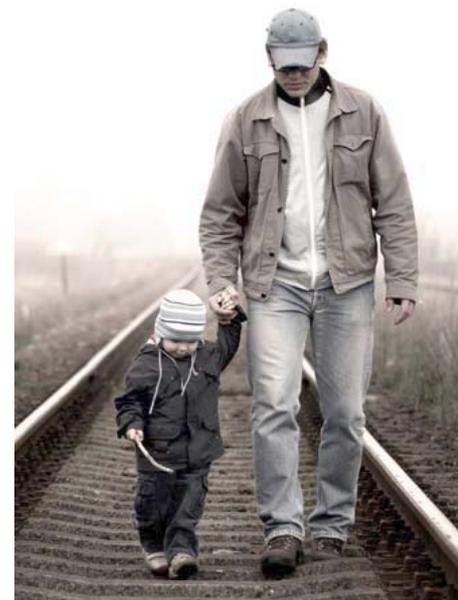
- Parents are arrested, may be deported immediately or detained for months.
- Two-parent families become one-parent families; some children live w/o parents.
- Family incomes plunge because breadwinners arrested; families rely on informal assistance.
- Children suffer social isolation and stigma.
- Parents may leave children behind (leading to long-term family separation).
- Children may leave with the parents (to poorer countries).
- Whole families may be detained and deported.

# Implications of Raids for Child Welfare Systems

- Parents, other families are terrified of government agencies, including child welfare.
- Enforcement agencies may not communicate with child welfare agencies.
- Parents may rely on family, other informal networks to help care of children.
- Parents arrested at worksites may not divulge they have children.
- Parents arrested at home may be separated from children.

# Over Arching Issues and Gaps at the Intersection of Immigration and Child Welfare

- Lack of sufficient research / shared knowledge / guiding principles
- Relatively small number of cases
- Complexity of cases
- Unprepared professionals
- Families caught between systems
- Questions of professionals unanswered
- Lack of common definitions across disciplines
- No funding sources
- Services not qualified for funding and penalized
- Negative Public Sentiment
- Political Agenda



# The Migration and Child Welfare National Network

- Leading a national dialogue since 2006
- American Humane Association
- Loyola University Chicago
- University of Illinois at Chicago, Jane Adams School of Social Work
- The U.S. Conference of Catholic Bishops
- Bridging Refugee Youth and Children Services
- The Annie E. Casey Foundation
- Casey Family Programs
- International Social Services
- Hunter College School of Social Work
- Urban Institute
- American Bar Association, Center on Children and the Law.
- National Immigrant Justice Center
- University of Texas at Arlington



# National Network and Committees

## National Advocacy

- Publications
- Conferences
- Presentations
- Resource sharing

## Best Practice

- Indicators of good practice
- Training materials and resources
- Positive examples of collaboration
- Values that drive practice

## Policy

- Funding issues
- State innovations
- Action alerts

## Research

- Current state of practice
- Characteristics of Immigrant Families in the System
- Immigrant SIJS Youth
- TANF Services for Non Qualified Immigrants

## Transnational

- Consular relations
- Home studies overseas
- Reunification
- Public awareness of transnational scope

# Migration and Child Welfare National Network

## Emerging Issues: Policy and Advocacy

- There is a lack of consistent policies in child welfare agencies addressing the needs of immigrant children and families.
- Existing state and federal policies create barriers to effective service delivery.
- State and federal policies, combined with anti-immigrant sentiment, have resulted in families who are fearful of accessing benefits.
- There is a need for policy development concerning child welfare systems' response to mixed status families and to separated and unaccompanied immigrant children.

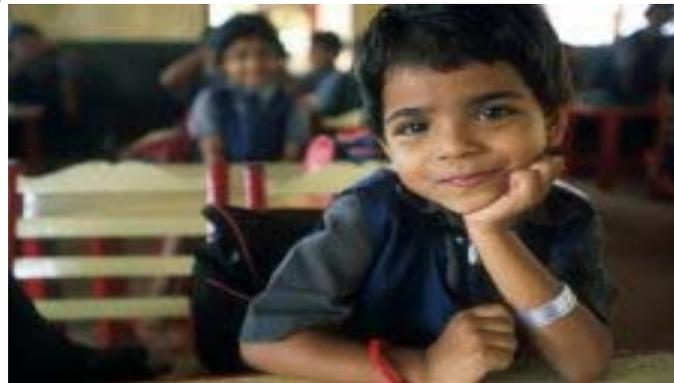
# Overview of State Legislation Related to Immigration and Immigrants in 2007

- Introduced January–April 2007
- As of April 2007, state legislators in all 50 states had introduced 1169 bills and resolutions related to immigration or immigrants and refugees
- Twice the total number of bills from 2006 (570)



# Handouts

- Undocumented Immigrants: Myths and Reality
- Guidelines for federal and state child welfare law and policy regarding immigrant-sensitive issues
- National and International Laws, Framework and Resources
- Migration and Child Welfare National Network Membership Forms



# The Impact of Migration and Acculturation



# The Migration Experience

- Reasons for migration vary, yet the immigration experience denotes a significant life crisis for the family system
- Children are often separated from parents and other siblings for extended periods
- The initial act of entering the country can be dangerous
- Once in the U.S., families continue to experience stress resulting from the language barrier, unfamiliar customs, and financial stress

# Acculturation & Acculturative Stress

- Refers to the process of learning a second culture and being able to navigate in that culture
- For families who are immigrants, many common practices within the U.S. may be very unfamiliar
- Previously established support systems are no longer in place
- Associated with depression, isolation, domestic violence, marital problems, and drug and alcohol abuse

# Differences in Acculturative Stress

- Early theoretical conceptualizations focused solely on behaviors
- Addition of psychological processes led to enhanced understanding
- Differences in psychological stress
- Compounding factors: Minority status and anti-immigrant sentiment



# Immigrant Youth and Acculturation

- Stress of acculturation involves learning to negotiate two conflicting sets of cultural values
- Many youth feel torn between their cultural and family values and those of U.S. culture
- Often results in significant tension between parents and children, as children acculturate faster than parents
- Associated with depression, anxiety, and delinquent behavior

# Immigrant Children and Maltreatment

- No data concerning prevalence of maltreatment
- Many of the risk factors for maltreatment – *financial distress, personal dissatisfaction, depression, family conflict, stressful life events* – are all factors associated with immigrant families experiencing high levels of acculturative stress
- Several researchers have suggested that immigrant children and families may be at increased risk of maltreatment

# Implications for Child Welfare Practice



# Engagement

- Importance of initial contacts
- Trust development
- Understanding the effects of stigmatization on relationship development
- Need for mutual sharing and inclusion



# Assessment

- Comprehensive cultural assessment
- Migration and acculturation experience
- View of the problem
- Strengths and resources

# Intervention

- Based on cultural assessment
- Respond to immediate crises resulting from acculturative stress
- Importance of increasing social support and reducing isolation
- Family as active partners



Latino Children of Immigrants in the  
Child Welfare System:  
Preliminary Findings from the National  
Survey of Child and Adolescent  
Well-Being



# Purpose of Study

- Secondary analysis of National Survey of Child and Adolescent Well-Being (NSCAW)
- Identify differences in rates of maltreatment between children of Latino immigrants and children of Latino natives
- Identify differences in risk factors between children of Latino immigrants and children of Latino natives

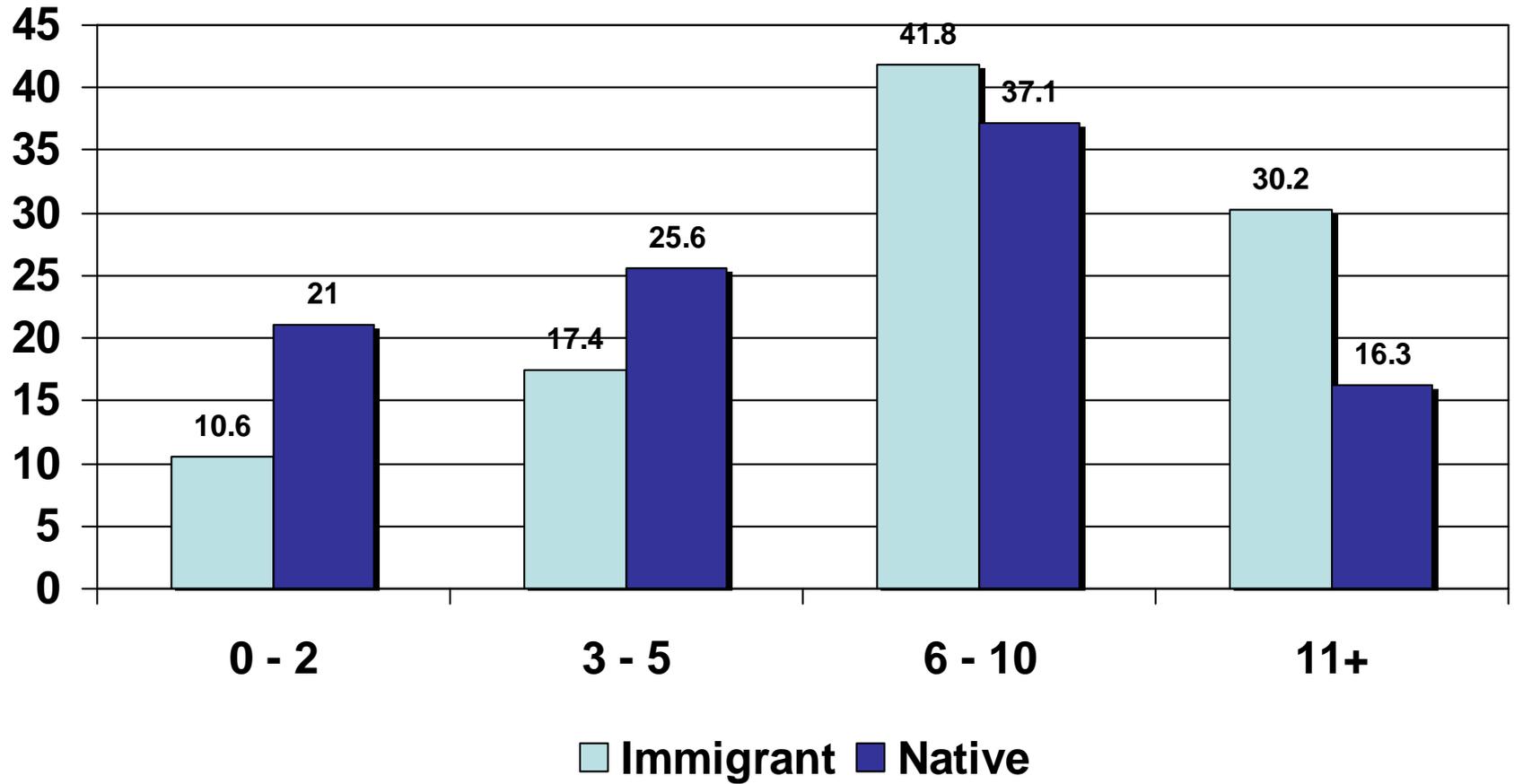
# Preliminary Findings



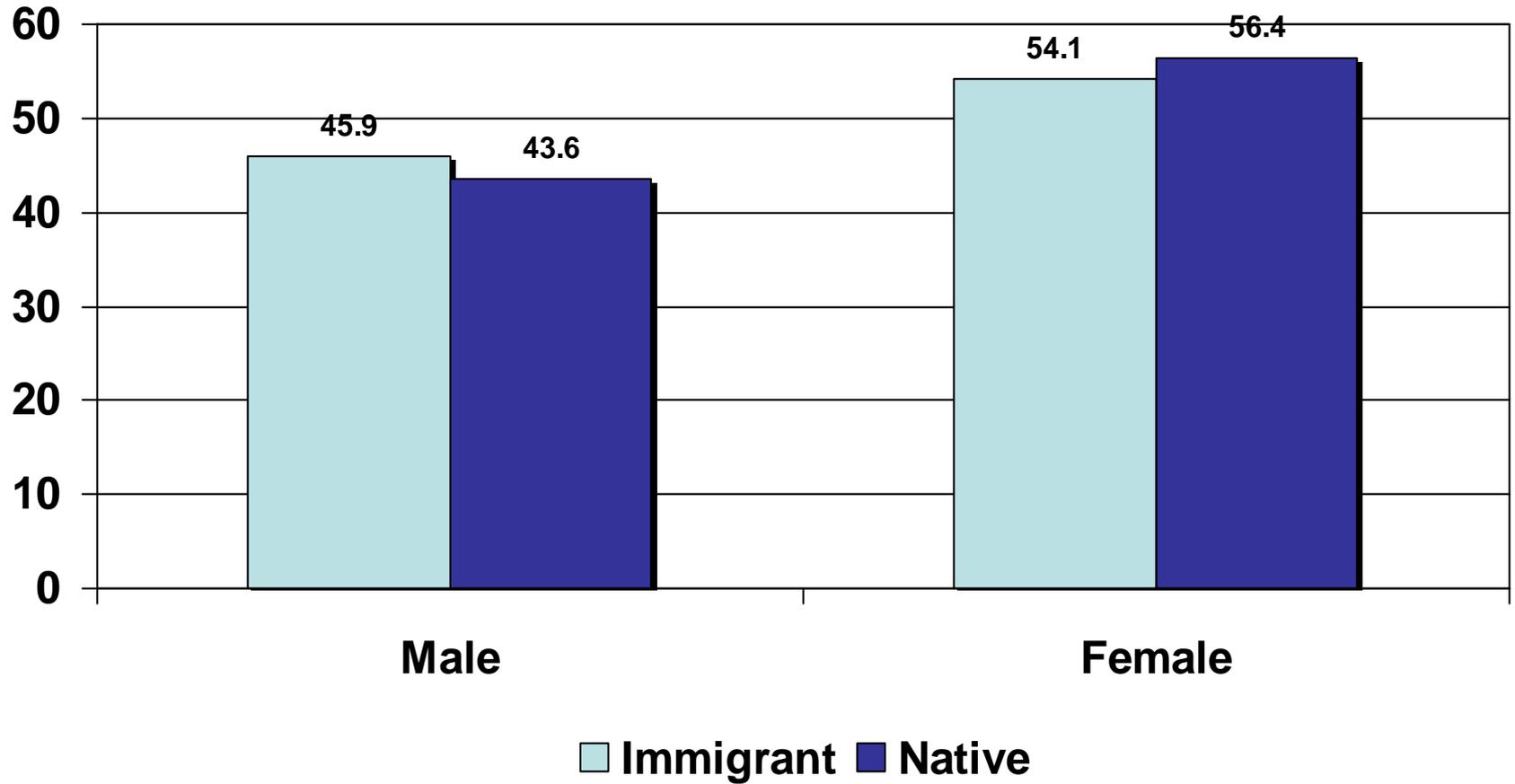
# Demographics

- Latino children represent 18.2% of children who come to the attention of child welfare agencies
  - 12.5% of 2000 U.S. population
- 64% have a parent born in the U.S.
- 36% have a parent not born in the U.S.
- Children of immigrants represent 9.6% of total sample
- Of these, 68% are Latino

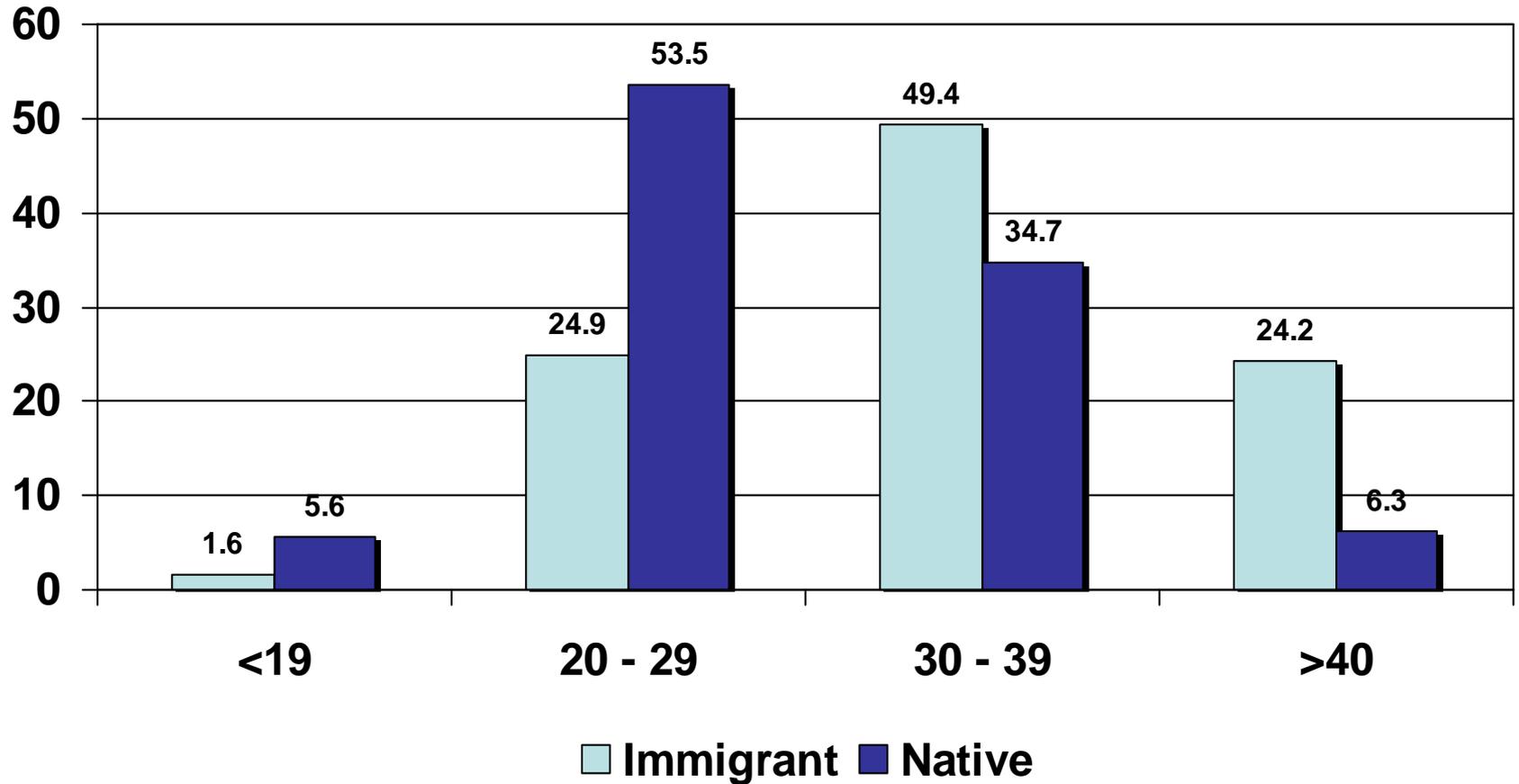
# Age



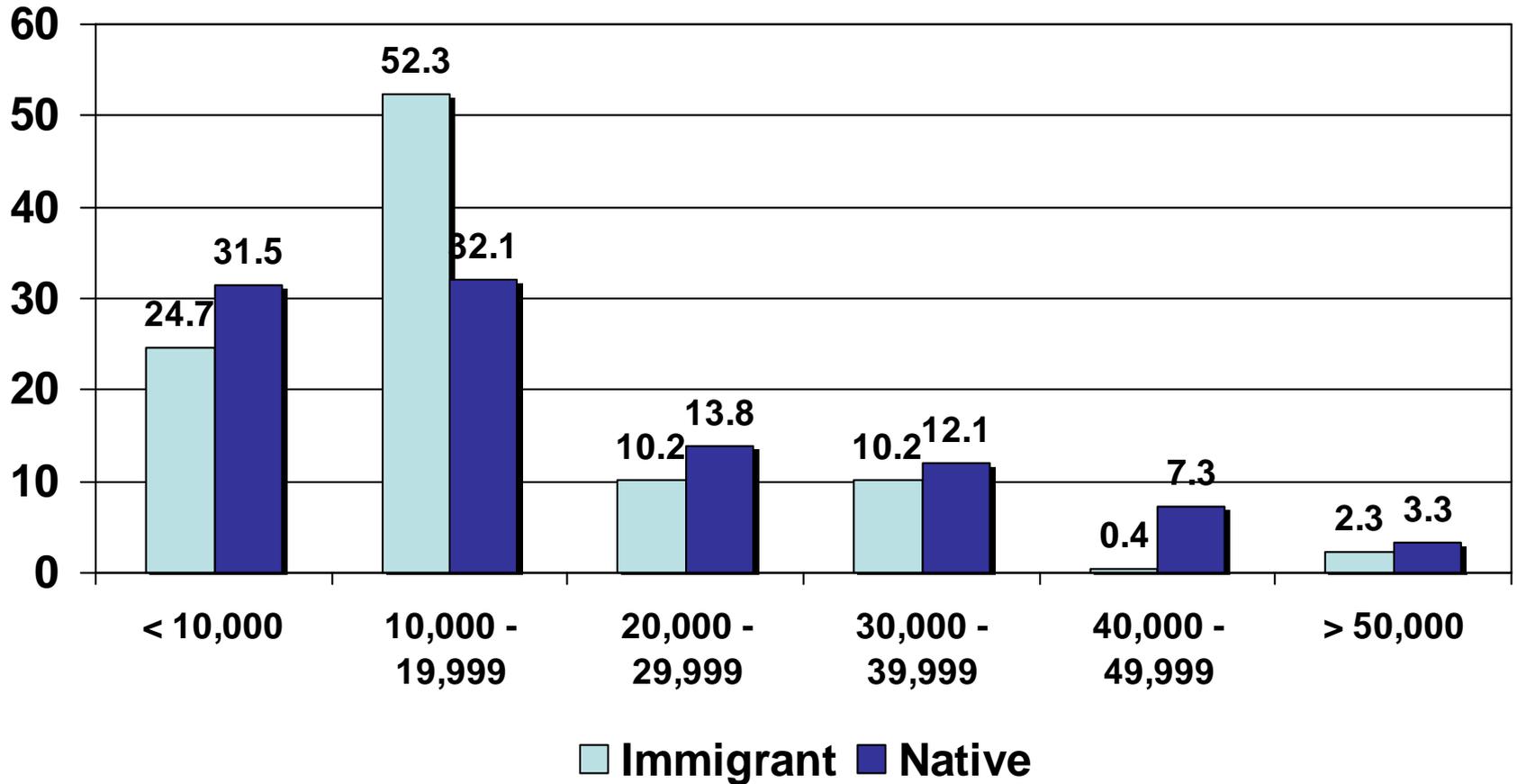
# Gender



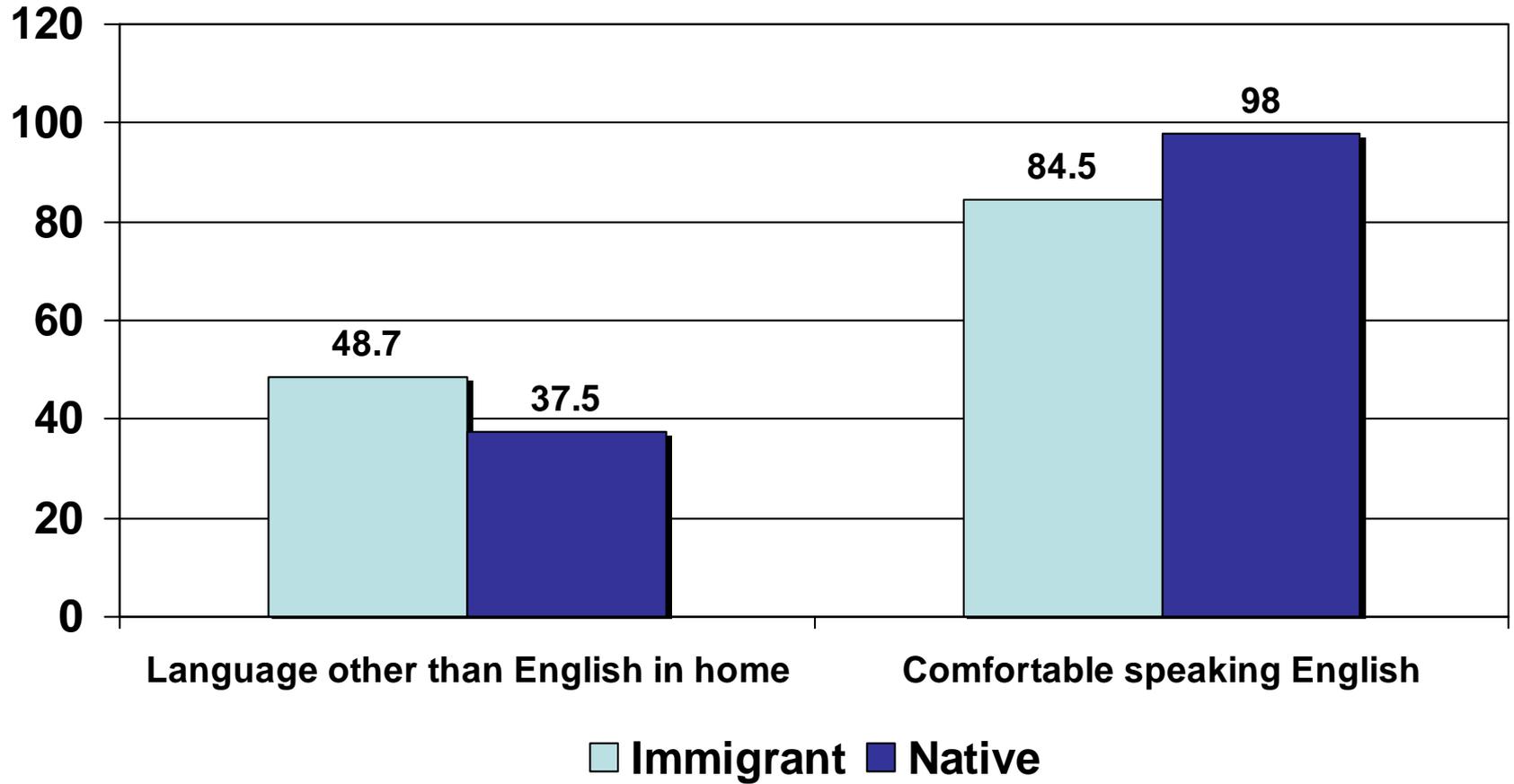
# Caregiver Age



# Income Level



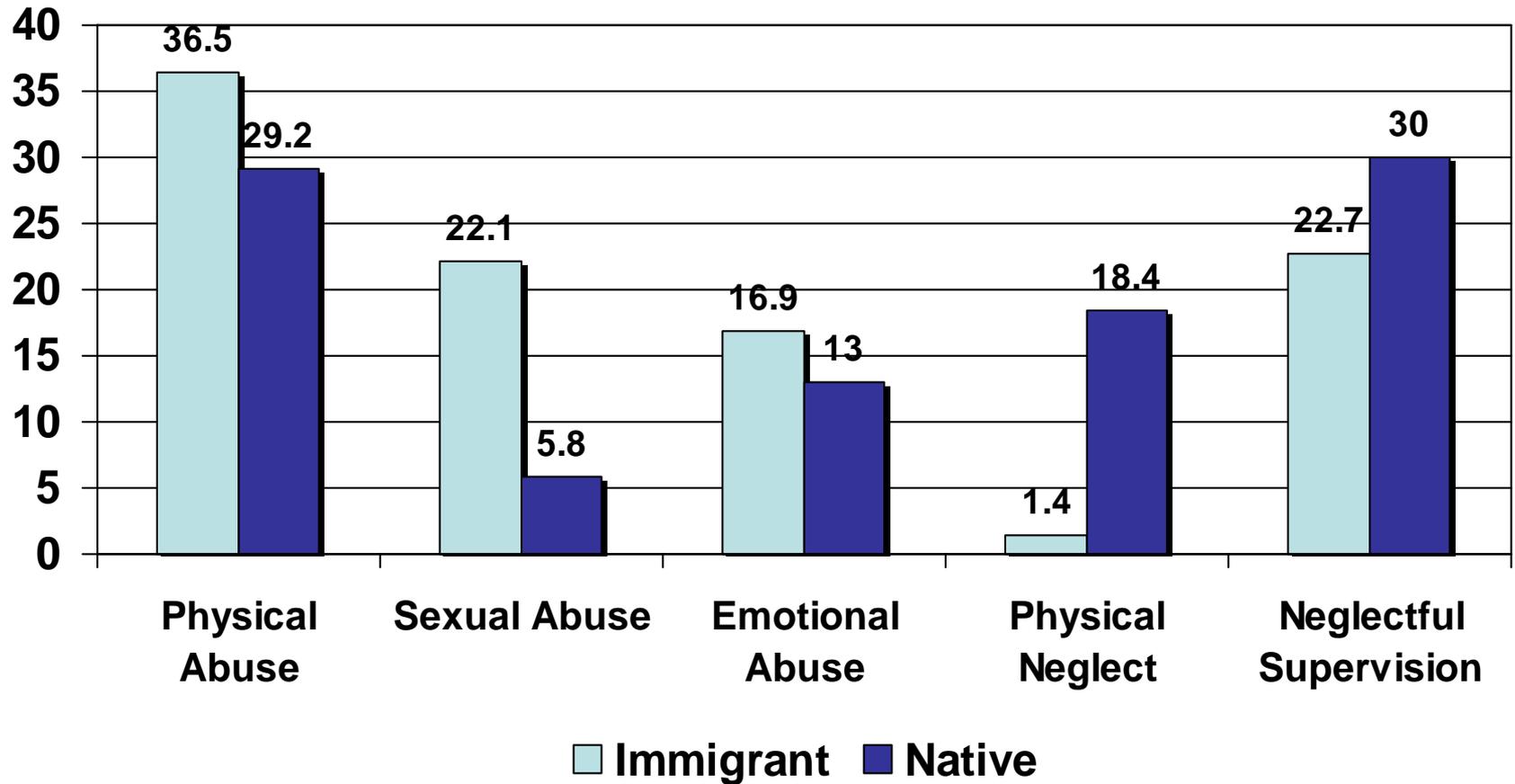
# Language



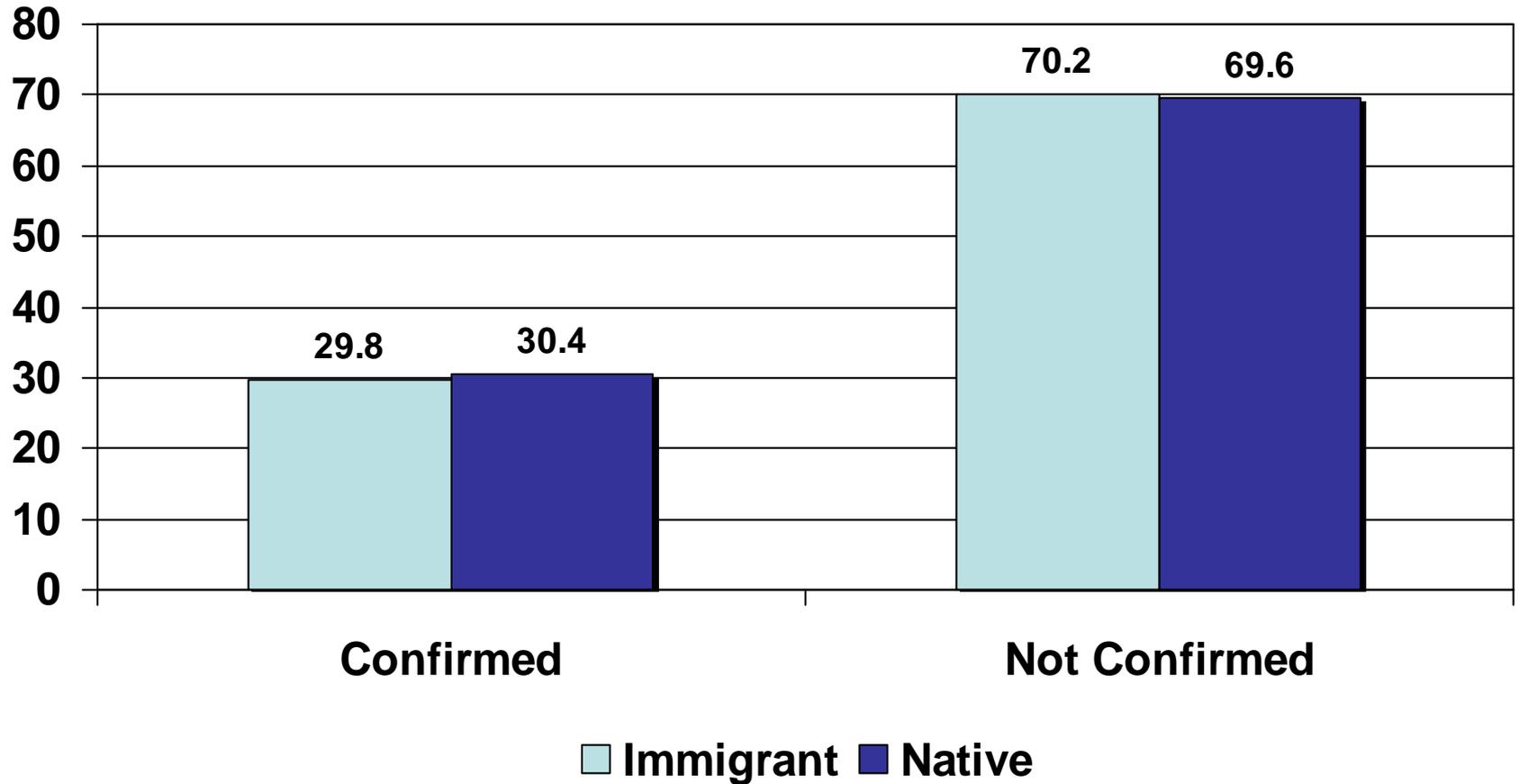


# Maltreatment

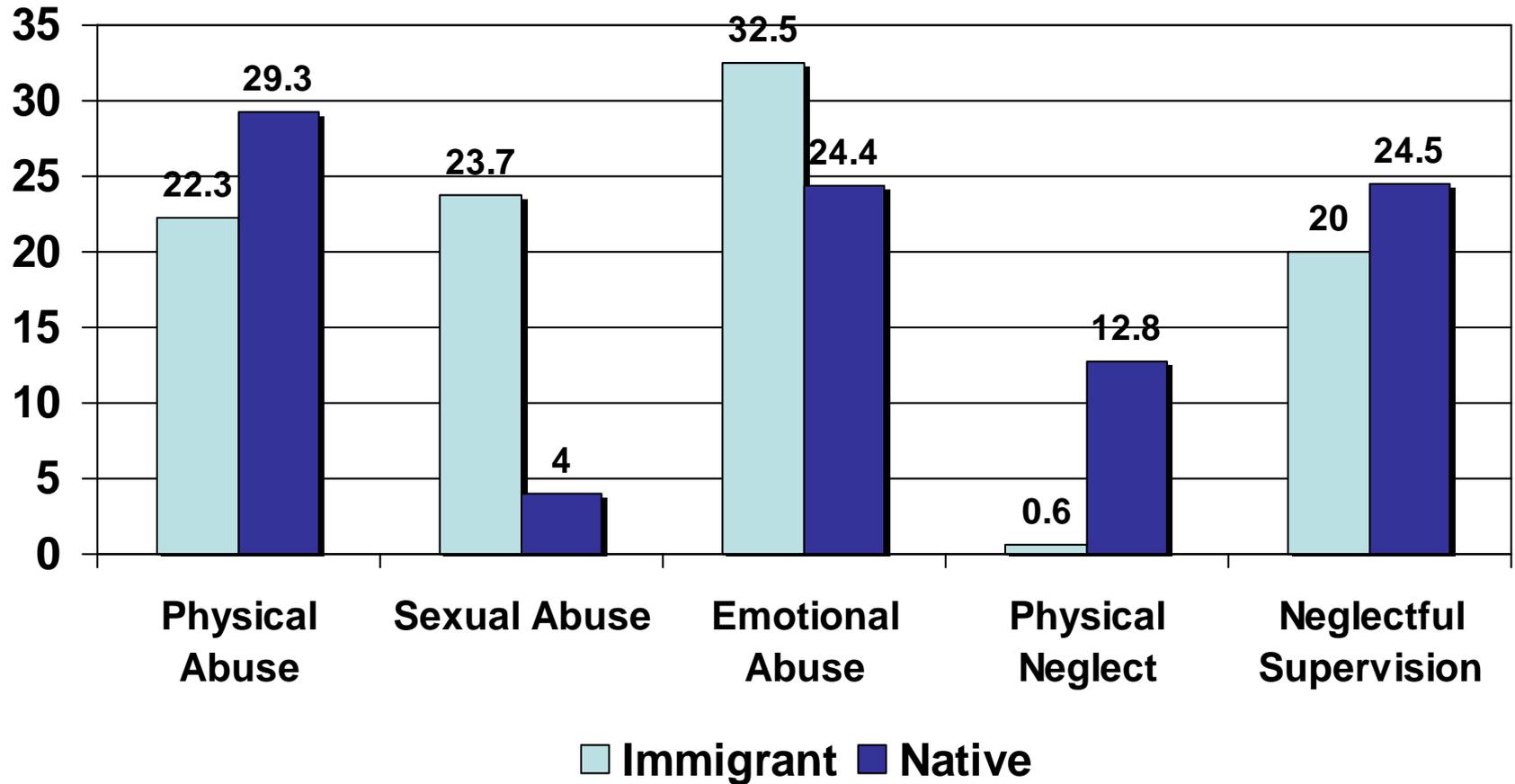
# Maltreatment Type - Alleged



# Outcome of Investigation



# Maltreatment Type - Confirmed



# Risk Factors



# Risk Factors

<b>Risk Factors</b>	<b>Native Caregiver</b>	<b>Immigrant Caregiver</b>
Alcohol use	15.9	13.9
Drug use	12.7	2.3
Mental health problem	7.1	5.4
Intellectual impairment	2.6	0.1
Poor parenting skills	26.0	17.4
Domestic violence	32.4	34.9
Excessive discipline	24.1	19.5
History of abuse	36.6	23.9
Difficulty meeting basic needs	25.6	13.6
History of arrest	5.5	1.9
At least 1 risk factor	67.8	57.5

# Community Factors

<b>Community Risk Factors</b>	<b>Native Caregiver</b>	<b>Immigrant Caregiver</b>
Assaults/muggings	21.5	17.3
Gangs	34.9	32.9
Drugs	34.9	24.3
Unsupervised children	42.8	27.8
Unsupervised teens	38.7	19.0

# Protective Factors

<b>Protective Factors</b>	<b>Native Caregiver</b>	<b>Immigrant Caregiver</b>
Relative in home	18.0	17.5
Biological father in home	18.6	40.6
Caregiver stability	87.1	97.7
Helpful neighbors	58.2	79.8
Safe neighborhood	70.8	82.6
Involved parents	56.0	60.4

# Evolving Practice and Training for Working with Immigrant Children and Families



# Will Migrant Families Overwhelm the Child Welfare System?

- There have not been overwhelming numbers of new child welfare cases involving immigrant children and families.
- Child welfare cases involving immigrants are often extremely complicated for workers and systems to serve



# Case Complicators

Immigration Law (lack of knowledge thereof)

Immigration Status of Family/Mixed Status

Language

Culture

Religion

Family History & Dynamics

Special Placement Needs

Transnational Issues

Politics

Juvenile Court Response

Lack of Appropriate Resources

Hostility to Certain Migrant Groups

# SOME OF THE MANDATES THAT AFFECT PROVISION OF CHILD WELFARE SERVICES TO LATINO FAMILIES

## INTERNATIONAL LAW

Vienna Convention on Consular Relations

Bilateral Convention between the U.S. & Mexico

## FEDERAL MANDATES

### Child Welfare

- Multi-Ethnic Placement Act/ Inter-Ethnic Placement Act
- Adoption and Safe Family Act

### Social Welfare

- Personal Responsibility and Work Opportunity Reconciliation Act

### LEP

- Title VI of Civil Rights Act
- Executive Order 13166

### Immigration

- Illegal Immigration Reform & Immigrant Responsibility Act
- Violence Against Women Act
- Special Juvenile Status Adjustment
- Unaccompanied Alien Child Protection Act
- Public Charge
- Immigration Marriage Fraud Act

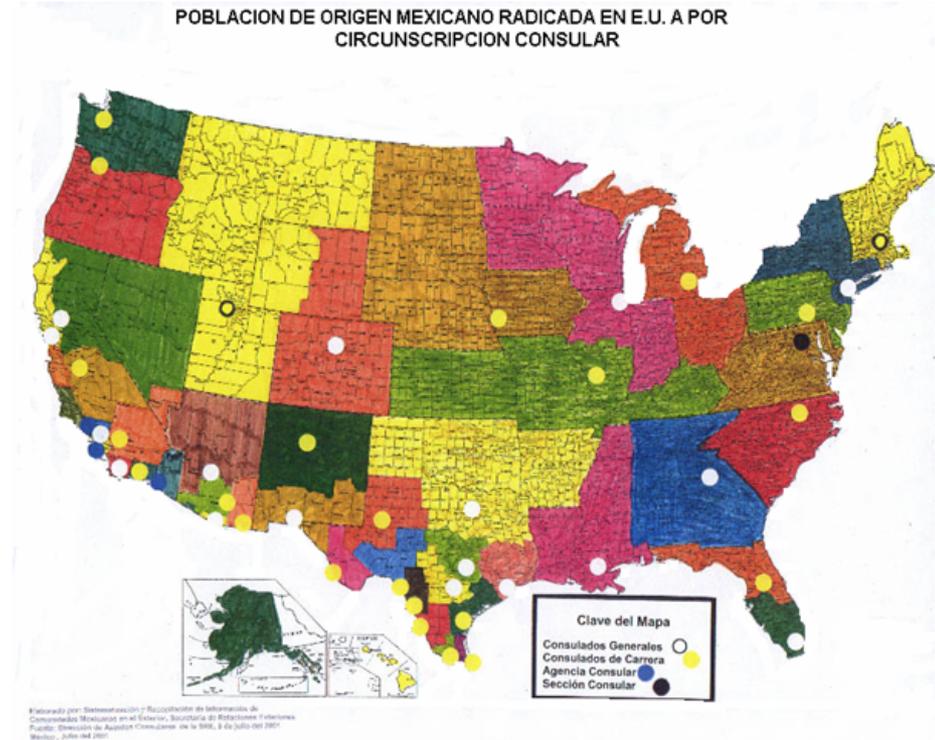
## STATE MANDATES

Burgos Consent Decree

MOU

# Consular Services of Mexico in the U.S.

- 19 Consulate Generals
- 27 Consulates
- Embassy & Consular Section
- Services include:  
Protection, documentation,  
political and social relations  
(health, education, benefits,  
community relations, etc.)
- Other Foreign Consulates are  
also developing similar protocols



# A Transnational Resource:

## Memorandum of Understanding IL DCFS and Consulate of Mexico in Chicago

- For Mexico
  - Access to children
  - Protect rights of parents
  - Ensure culturally consistent environment
- For IL DCFS
  - Help protecting children's future rights (e.g. birth certificates)
  - Help with Special Immigrant Juvenile Status
  - Enforcing Burgos Consent Decree (culturally consistent environment)
- Other Examples of Existing MOUs
  - Santa Clara, Sacramento, and Monterrey Counties in California

# Mandate Sources

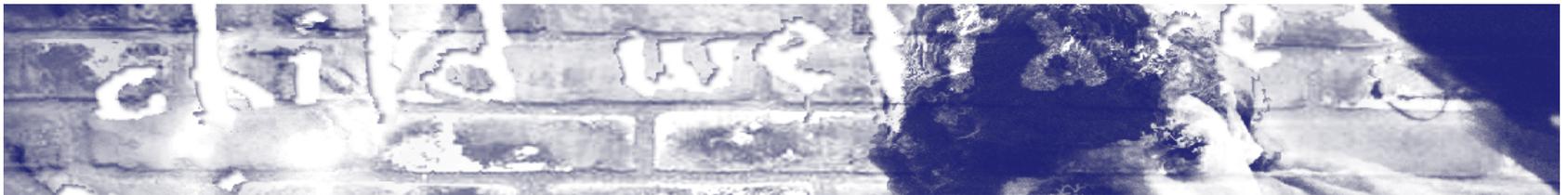
- Federal child welfare law
- Federal immigration law
- Federal administrative policies & orders
- Federal court orders/consent decrees
- State law
- State administrative policy & procedure
- State legal agreements



# Addressing Child Welfare Training & Practice in Working with Immigrant Families

Important note:

- The child welfare system is comprised of more than the state, county or municipal public child welfare agency.



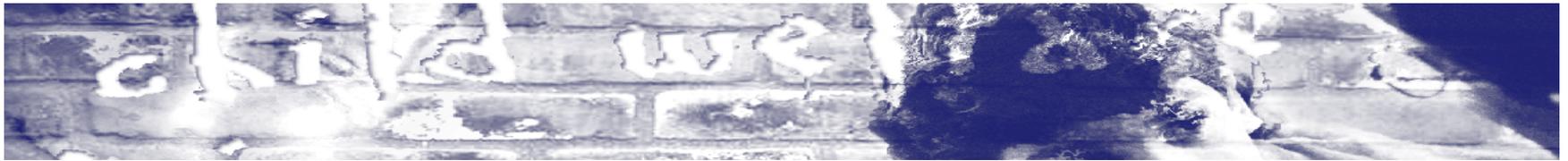
# “Better” Practice with Migrant Families

Systems need policies & procedures for:

- Compliance with Vienna Convention on Consular relations & notification of consulates
- Transnational placement with relatives or family reunification (particularly w/ Mexico)(home studies, means of return)
- Provision of translation & interpretation services
- Early assessment of special relief: Special Immigrant Juvenile Status, VAWA, etc.

# “Better” Practice

- Development of appropriate placement resources
- Working with relatives & the community to preserve culture/family connections
- Development of active liaison with ICE, communities, consulates
- Development of guidance & support for workers
- Protecting & safeguarding children in the aftermath of ICE raids (in some states)
- Assessment of safety, well-being & permanency issues in repatriation of unaccompanied minors

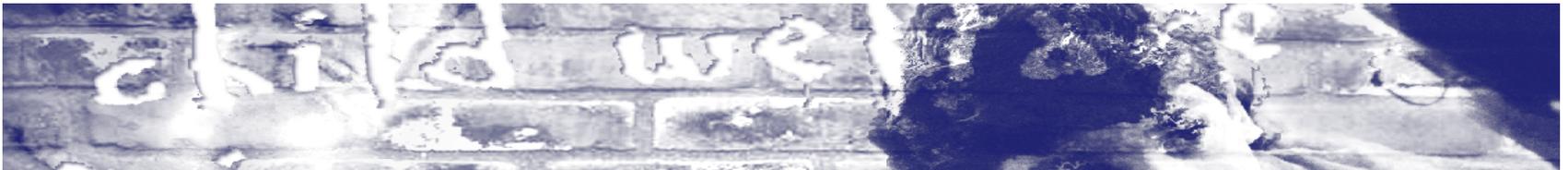


# Training

- Loyola University project
- Cross-training
  - Child Welfare & Court Personnel
  - Child Welfare & Immigration Advocates
- Immigration Law
  - Immigration status, SIJS, VAWA
- Transnational social work
- Consular notification & working w/ consular officials

# Training

- Cultural awareness & responsiveness  
(forget competency)
- History of migration
- Personal experience of migration & impact on families
- Mix of training directed at knowledge, skills & attitudes at every level



# Questions??



Please visit [www.americanhumane.org/migration](http://www.americanhumane.org/migration)  
and [www.americanhuame.org/migrationforum](http://www.americanhuame.org/migrationforum) for  
more information.

**Quotes and contributions from:**  
***The Migration and Child Welfare National Network***  
***(Capps, Lincroft) 2006-2008***

**Guidelines for federal and state child welfare law and policy regarding  
immigrant-sensitive issues**

**What Should Child Welfare Agencies Include- Through Law, Policy, and Training-  
to Address Immigration Issues?**

1. References to immigrant children, including unaccompanied minors.
2. References to immigrant parents, documented and undocumented.
3. References to children or families being in U.S. under refugee or asylum status.
4. References to child/family's immigration status confidentiality/non-disclosure
5. References to "Special Immigrant Juvenile Status".
6. References to child and protective parent eligibility for special VAWA protections.
7. References to agency contacts with child and family's national consulate, when child is taken into custody.
8. References to foster care or kinship care placement of child with relatives, documented or undocumented, in U.S. or elsewhere.
9. References to child trafficking victims or child victims of serious crimes (T and U visa issues).
10. References to language & nationality determinations and provision of language-appropriate & culturally-appropriate services.
11. References to process of checking on safety and suitability of possible return of child to another country (i.e., out-of-country home studies).
12. References relating to referral of immigrant children and families for legal services programs or immigration attorneys.

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Source: Howard Davidson  
American Bar Association  
Center on Children and the Law  
Presentation to NCSL 8/2007

## **Undocumented Immigrants: Myths and Reality**

Randy Capps, The Urban Institute

Michael Fix, Migration Policy Institute

October 25, 2005

### **Myth #1: Undocumented immigrants come to the United States to get welfare.**

Undocumented men come to the United States almost exclusively to work. In 2003, over 90 percent of undocumented men worked—a rate higher than that for U.S. citizens or legal immigrants (Passel, Capps, and Fix 2004). Undocumented men are younger, less likely to be in school, and less likely to be retired than other men (Capps et al. 2003). Moreover, undocumented immigrants are ineligible for welfare, food stamps, Medicaid, and most other public benefits (Fix, Zimmermann, and Passel 2001).

**Myth #2: Undocumented immigrants all crossed the Mexican border.** Between 60 and 75 percent of the more than 10 million undocumented immigrants entered illegally and without inspection—mostly across the Mexican border. The other 25 to 40 percent entered legally and subsequently overstayed visas or otherwise violated the terms of their admission (Passel 2005).

**Myth #3: Undocumented immigrants are all single men.** Over 40 percent of undocumented adults are women, and the majority (54 percent) of undocumented men live in married couples or other families (Passel 2005). Fewer than half of undocumented men are single and unattached.

**Myth #4: Most children of the undocumented are unauthorized.** In fact, two-thirds of all children with undocumented parents (about 3 million) are U.S.-born citizens who live in mixed-status families.

**Myth #5: A large share of schoolchildren are undocumented.** Nationally in 2000, only 1.5 percent of elementary schoolchildren (enrolled in kindergarten through 5th grade) and 3 percent of secondary children (grades 6–12) were undocumented. Slightly higher shares—5 percent in elementary and 4 percent in secondary schools—had undocumented parents.

**Myth #6: Undocumented immigrants do not pay taxes.** Undocumented immigrants pay the same real estate taxes—whether they own homes or taxes are passed through to rents—and the same sales and other consumption taxes as everyone else. The majority of state and local costs of schooling and other services are funded by these taxes. Additionally, the U.S. Social Security Administration has estimated that three quarters of undocumented immigrants pay payroll taxes, and that they contribute \$6–7 billion in Social Security funds that they will be unable to claim (Porter 2005).

## References

- Capps, Randy, Michael Fix, Jeffrey S. Passel, Jason Ost, and Dan Perez-Lopez. 2003. "A Profile of the Low-Wage Immigrant Workforce." Washington, DC: The Urban Institute.  
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- Porter, Eduardo. 2005. "Illegal Immigrants Are Bolstering Social Security with Billions." *New York Times*, April 5.

# National and International Laws, Framework, and Resources

## 1. Child Protective Services/Child Welfare System Mandates

Titles IV-B and IV-E, Social Security Act (*42 U.S. Code Sections 620 et seq. and 670 et seq.*) – helps fund state home-based and foster care services. Where child’s family is not “IV-E eligible”, all states provide foster care that is fully state-funded and some foster care may be federal Title XX (non means-tested) funded CAPTA: Child Abuse Prevention and Treatment Act (*42 U.S. Code Section 5101 et seq.*) – state CPS mandates protective services to all children.

## 2. Eligibility for Federal Benefits for Those Not “Qualified Aliens”

*8 U.S. Code Section 1611(b)(D)* Exception to ineligibility for federal public benefits are services “necessary” to protect life or safety (e.g., CPS services; foster care placement & family preservation/ reunification services). Attorney General’s Order 2049: Specifies these “necessary services” to be – crisis counseling and intervention, services/assistance relating to child protection, violence and abuse prevention, and short-term housing/shelter for runaway, abused or abandoned children.

## 3. CAPTA 2003 Sense of Congress Amendment

Secretary should encourage all States and public and private agencies or organizations that receive assistance under this title to ensure that children and families with limited English proficiency who participate in programs under this title are provided materials and services under such programs in an appropriate language other than English.

## 4. Multi-Ethnic Placement Act of 1994 (MEPA)

*PL 103-382, 42 U.S. Code Section 622* A state or other entity covered by MEPA-IEP may not delay or deny the placement of a child for adoption or into foster care on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved. And foster parents must be recruited that are reflective of a state’s ethnic diversity.

## 5. Immigrant Child Victim Protections in the Violence Against Women Act (VAWA)

(*provisions in 8 U.S. Code Section 1154*) Non-citizen child (up to age 21) may “self-petition” for lawful permanent residency in U.S. if “abused” by their U.S. citizen or lawful permanent resident parent (including an adoptive parent) – Or, a non-citizen “protective” parent who is a victim of battering can petition on behalf of both themselves and their children.

## 6. Special Immigrant Juvenile Status, SIJS

*8 U.S. Code Section 1101(a)(27)(J)* Gives authority for under 21 child’s permanent residency if: under jurisdiction of juvenile court (including legal guardianship); can’t be reunited with parents due to abuse, neglect, or abandonment; eligible for “long term foster care”; return home not in child’s best interests; & found “dependent” by court or legally committed to a state agency Judicial education critical: Benchbook / SIJS & VAWA Manual at [www.ilrc.org](http://www.ilrc.org).

## 7. Children’s Eligibility for “U” and “T” Visas, and for “Asylum”

*8 U.S. Code Sections 1101(a)(15)(T) and (U) and Section 1158*

## 8. The 1996 Hague Convention

The third of the modern Hague Conventions, the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children*, is much broader in scope than the first two, covering as it does a very wide range of civil measures of protection concerning children, from orders concerning parental responsibility and contact to public measures of protection or care, and from matters of representation to the protection of children’s property.

The Convention has uniform rules determining which country’s authorities are competent to take the necessary measures of protection. These rules, which avoid the possibility of conflicting decisions, give the primary responsibility to the authorities of the country where the child has his or her habitual residence, but also allow any

country where the child is present to take necessary emergency or provisional measures of protection. The Convention determines which country's laws are to be applied, and it provides for the recognition and enforcement of measures taken in one Contracting State in all other Contracting States. In addition, the co-operation provisions of the Convention provide the basic framework for the exchange of information and for the necessary degree of collaboration between administrative (child protection) authorities in the different Contracting States

## **9. Memorandum of Understanding from Chicago DCFS and Mexico**

### ***Determination of Mexican Lineage***

Child protection workers are required to establish ancestry of every child taken into protective custody. At the commencement of an investigation, child protection workers will distribute CFS Pamphlet 1050-26, Guide for Parents Who are Mexican Nationals, to all Hispanic subjects of reports. In addition, the Memorandum of Understanding between the Illinois Department of Children and Family Services and the Consulate General of Mexico requires the Department to notify the Mexican Consulate in writing within ten working days of the decision to take protective custody of a Mexican or Mexican American minor or at any time one of the following occurs:

- A child for whom the Department is legally responsible is identified as having Mexican ancestry.
- A parent or custodian of a Mexican or Mexican American minor requests that the consulate be notified.
- The Department learns that a non-custodial parent resides in Mexico.

### ***Rights of Children and Families of Mexican Ancestry***

Children who are determined to be of Mexican ancestry and who are age appropriate, and their parents or custodians shall be advised that:

- They have the right to freely communicate with consular officers of their country.
- The Mexican Consular Representatives may interview Mexican or Mexican American minors in the custody of the Department.
- The Mexican Consulate can receive specific information, otherwise confidential, regarding the reason protective custody of the Mexican minor was taken.
- The Mexican Consulate can assist the Mexican child, parents or custodians in legal proceedings.

### ***Identification of Mexican and Mexican American Children***

Each month, the Office of Latino Services is notified of every case that has been opened for a Hispanic child. The Office of Latino Services contacts the worker for each child to determine whether one or both of the parents are Mexican Nationals. If a determination is made that the child is of Mexican ancestry, the worker completes the CFS 1000-6, Notification to the Mexican Consulate and submits it to the Office of Latino Services. The Office of Latino Services is responsible for notification to the Mexican Consulate and to the Guardianship Administrator.

### ***Information Provided to the Mexican Consulate***

The initial notification provided to the Mexican Consulate by the Office of Latino Services shall include the name of the Mexican or Mexican American minor; the minor's date of birth, if known; the names, address and telephone number of the parents or custodians, if known; the consent of the parents or custodian to the disclosure; and the name and telephone number of the assigned Department caseworker and the caseworker's supervisor. Workers are to complete the and submit it to the Office of Latino Services.

## State/Local Laws and Policies Addressing Immigrant Children

1. Florida Law, Section 39.5075 and .013 (2005) Recognizes SIJS process in “dependency” cases (and keeping court jurisdiction post-18 for completing it); need for child welfare agency to report to court on child’s immigration status and steps to address it; services “must be provided” without regard to immigration status unless otherwise statutorily prohibited; agency case plan must recommend whether permanency plan will include child remaining in U.S.
2. Florida law says that if case plan says child should remain in U.S., agency must evaluate whether child is eligible for SIJS and if so it “shall petition the court” (within 60 days) for the findings and order required, with the child’s views heard. Florida child welfare policy: 65C-9.001-003
3. Illinois Law Chapter 705, Section 405/2-4a (2003) recognizes SIJS procedures and describes findings needed for child’s eligibility for “long term foster care” as well as defining “abandonment” for purposes of SIJS
4. New York City implementation of Local Law 73 on access to services to non-English speaking persons by NYC Administration for Children’s Services
5. “Immigration and Language Guidelines for Child Welfare Staff” addressing immigration status issues in CPS investigations and foster care placements, working with immigrant clients, & language issues
6. “Language Identification Card” to help determine family’s primary language and provide language-specific services (ACS clients speak 35-plus languages)
7. Texas Department of Family & Protective Services CPS Policy 6580– addresses notifying foreign consulate requirement (under Art. 37(b) of Vienna Convention on Consular Relations) when child taken into care, getting home studies in foreign countries, the repatriation/stay in U.S. decision, repatriation requirements, verifying immigration status of foster kids, the agency citizenship/immigration status verification process, SIJS process, agency transportation of undocumented children/parents, and forms & checklists
8. Connecticut Department of Children and Families Policy 31-8-13 (12/05) : Clearly states that agency services are available regardless of immigration status, including “family preservation efforts to avoid family members being separated through incarceration due to violation of immigration status of deportation procedures” and that CPS shall serve children who don’t have documentation papers. Identification of undocumented persons “shall not result in” reporting to DHS. States that workers should aid children in their care to get Green Cards.
9. Utah Division of Child and Family Services Out-of-Home Care Practice Guidelines 303.10 (rev. 6/06) : agency “will seek to meet” support and health care needs of kids in state custody regardless of “status”
10. Vetoed in California in 2004 by Governor: AB1895 : Would have required appointment of immigration attorney for every dependent child or ward of the court who was not a lawful permanent resident or U.S. citizen. Attorney would have to help child secure SIJS status.

## Federal Models for Intervention

- 1. Delivering Culturally-Sensitive Placements and Services:** Unaccompanied Minor Program/U.S. HHS Office of Refugee Resettlement; Available to refugee minors, those granted asylum, victims of trafficking, others
- 2. Not Treating Immigrant Child “Victims” as Offenders:** U.S.-ratified Optional Protocol to CRC on Sale of Children, Child Prostitution and Pornography, Art. 8/Trafficking Victims Protection Act, Section 107 & 2005 addition on residential facilities for child trafficking victims
- 3. Providing Every Child with an Advocate for their Court Cases, ideally an Attorney:** The Child Abuse Prevention and Treatment Act (CAPTA) requires states to provide a Guardian Ad Litem (GAL), Attorney, or Court Appointed Special Advocate (CASA) for every child involved in an abuse or neglect related juvenile court proceeding (attorney appointed, all but 11-12 states). ABA Immigration Commission has issued ABA-endorsed Standards for the Custody, Placement and Care; Legal Representation; and Adjudication of Unaccompanied Alien Children in the U.S. (2004)

## **Child Protective Services/Child Welfare System Mandates and Examples of Local Policies:**

- **CAPTA:** Child Abuse Prevention and Treatment Act (42 U.S. Code §5101) mandates CPS provide protective services to **all** children.
- Federally funded family and child services agencies are required to follow **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (LEP) of 2000, and associated policy guidance from the Office for Civil Rights (OCR), Administration for Children and Families (ACF), U.S. Dept of Health and Human Services. In accordance with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of national origin, Executive Order 13166 requires recipients of federal funding to take reasonable steps to ensure meaningful access to services for people with limited English. If a person with limited English proficiency faces barriers to services at federally funded agencies, the agencies could be in violation of the law.
- **New York City's** Executive Order No. 41, signed by Mayor Bloomberg in 2003, Administration for Children's Services (ACS) shall not inquire about a person's immigration status, among other things, unless that inquiry is needed to determine program, service or benefit eligibility or to provide City Services. ACS' child welfare services are provided to children and families without regard to immigration status. [http://www.nyc.gov/html/acs/downloads/pdf/immigration\\_language\\_guide.pdf](http://www.nyc.gov/html/acs/downloads/pdf/immigration_language_guide.pdf)
- **Connecticut Department of Children and Families Policy** 31-8-13 (12/05) Clearly states that agency services are available regardless of immigration status, including "family preservation efforts to avoid family members being separated through incarceration due to violation of immigration status of deportation procedures" and that CPS shall serve children who don't have documentation papers. Identification of undocumented persons "shall not result in" reporting to DHS.
- **California Department of Social Services'** memo to all county child welfare directors on their obligation to comply with regulations regarding the provision of effective language services to all applicants/recipients in their primary language. Specific reference was made on only using minor to serve as temporary interpreter at the request of the applicant/recipient or under other extenuating circumstances. "In all instances, the use of a minor as the applicant's/recipient's interpreter should be temporary, only until a county interpreter is made available." <http://www.dss.cahwnet.gov/getinfo/acl06/pdf/06-20.pdf>
- **Indiana Child Welfare Agency Regulations, SECTION 2 - CHILD PROTECTION SERVICES 205.212** Investigations Involving Illegal Aliens...Immigration and Naturalization (INS) is to be contacted if the parties involved in the situation under investigation are illegal aliens. For immigration-related matters for the State of Indiana except Lake, Porter, LaPorte, and St. Joseph counties, contact the Indianapolis INS Enforcement Office, Investigations Unit, at (317) 226-6202. For Lake, LaPorte, Porter, and Saint Joseph counties only, contact the Chicago District Office, Enforcement Office, Investigations Unit, at (312) 385-1820 or (312)-385-1776. By contacting the INS, DFC fulfills any obligation to report illegal aliens. Making this report does not necessarily result in INS taking any action, however. Found at: <http://www.in.gov/dcs/pdf/policies/cwmanual2a.pdf>
- **CHILDREN IN NEED OF SERVICES:PROCEDURES FOR SERVICES DELIVERY TO CHINS,** 303.12 Taking Children Who Are Illegal Aliens or Foreign Nationals into Custody...When a child who is an illegal alien/foreign national is removed due to immediate safety concerns, the county office of family and children (COFC) cannot delay or deny placement of the child in an available foster home based on the race, color or national origin of the child or foster parent (42 USC 1996b; 42 USC 671(a)(18) (Title IV-E). In addition, it is the responsibility of the COFC to provide adequate translators for the family and child in the removal, CHINS and service proceedings.

In addition, the COFC must contact the appropriate foreign consulate. In compliance with the provisions of the Vienna Convention for all detained foreign nationals, it is the responsibility of the COFC to contact the appropriate foreign consulate or embassy in the United States as soon as possible after the detention of a child. All foreign nationals are entitled to consular notification and access, regardless of their visa or immigration status in the United States. Thus "illegal" aliens have the same rights to consular assistance, as do "legal" aliens.

- **Kansas Children and Family Services Policy and Procedure Manual**

§ 5262 Special Considerations for Undocumented Youth- Children and youth may petition for lawful permanent resident status in the United States through Special Immigrant Juvenile Status (SIJS) If granted special immigrant juvenile status and their petition for adjustment of status is approved, then the child/youth becomes a legal resident alien of the United States with the ability to live and work within the U.S. without fear of deportation. After five years, legal resident aliens may apply for citizenship, if they choose. The link to the complete SIJS manual can be found at <http://www.ilrc.org/sijs.php>. A child or youth loses the option of applying for SIJS once the juvenile courts no longer have jurisdiction or the youth turns 21 years of age, whichever comes first. SIJS does not alter the youth's status as a child in need of care. All requirements of the state and federal law as well as agency policy continue to apply throughout the process seeking SIJS and until the Secretary is relieved of custody.

- **In July 2007, a federal judge in Scranton, PA ruled against the City of Hazleton, Pennsylvania** in a landmark challenge (*Lozano v. City of Hazleton*). The City had enacted a local, anti-immigrant ordinance aimed at punishing landlords, employers, and people perceived to be immigrants. "Whatever frustrations officials of the City of Hazleton may feel about the current state of federal immigration enforcement, the nature of the political system in the United States prohibits the City from enacting ordinances that disrupt a carefully drawn federal statutory scheme. Even if federal law did not conflict with Hazleton's measures, the City could not enact an ordinance that violates rights the Constitution guarantees to every person in the United States, whether legal resident or not. The genius of our Constitution is that it provides rights even to those who evoke the least sympathy from the general public. In that way, all in this nation can be confident of equal justice under its laws. Hazleton, in its zeal to control the presence of a group deemed undesirable, violated the rights of such people, as well as others within the community. Since the United States Constitution protects even the disfavored, the ordinances cannot be enforced."