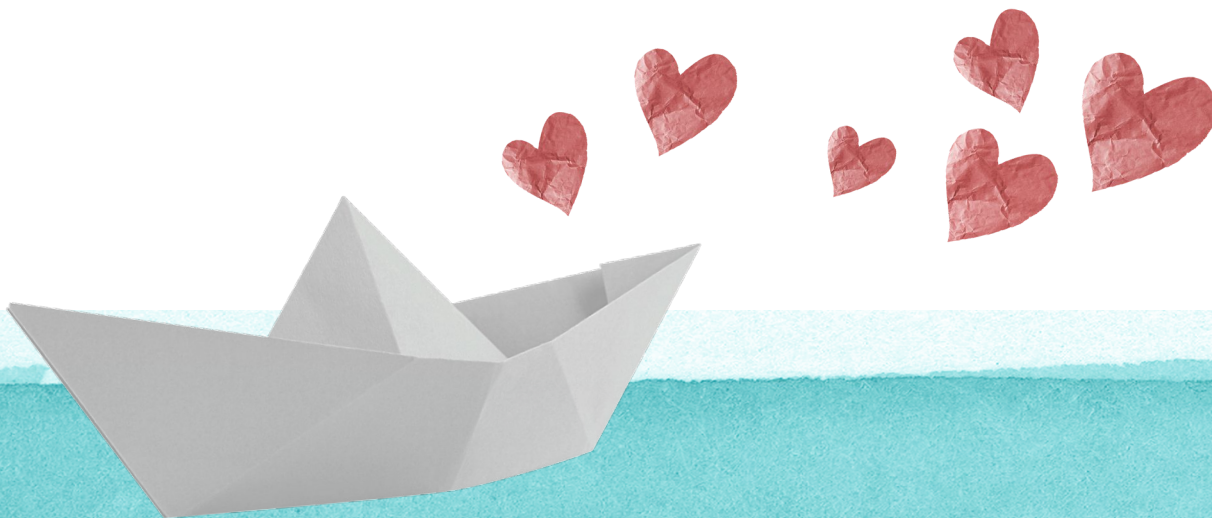




Navigating Barriers to Family Unity & Permanency for Immigrant Children



About Your Presenters



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Casey Family Programs

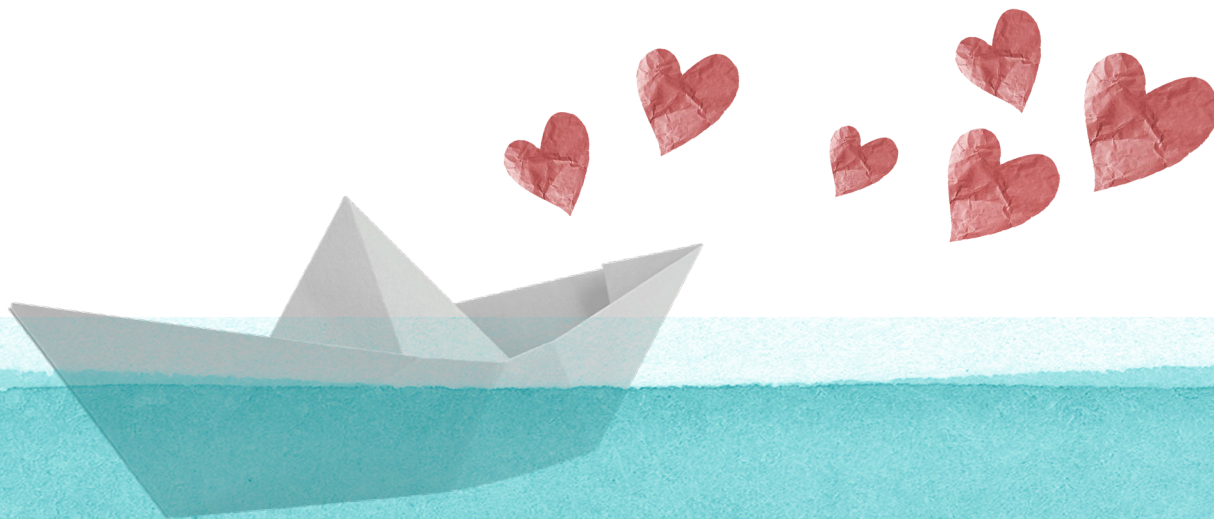
- Largest operating foundation in the nation
- Focused on safely reducing the need for foster care
- Newly focused on supporting immigrant children and families in state and federal systems

Young Center for Immigrant Children's Rights

- National non-profit that advances the rights and best interests of immigrant children
- Interdisciplinary model
- Technical assistance for state court stakeholders



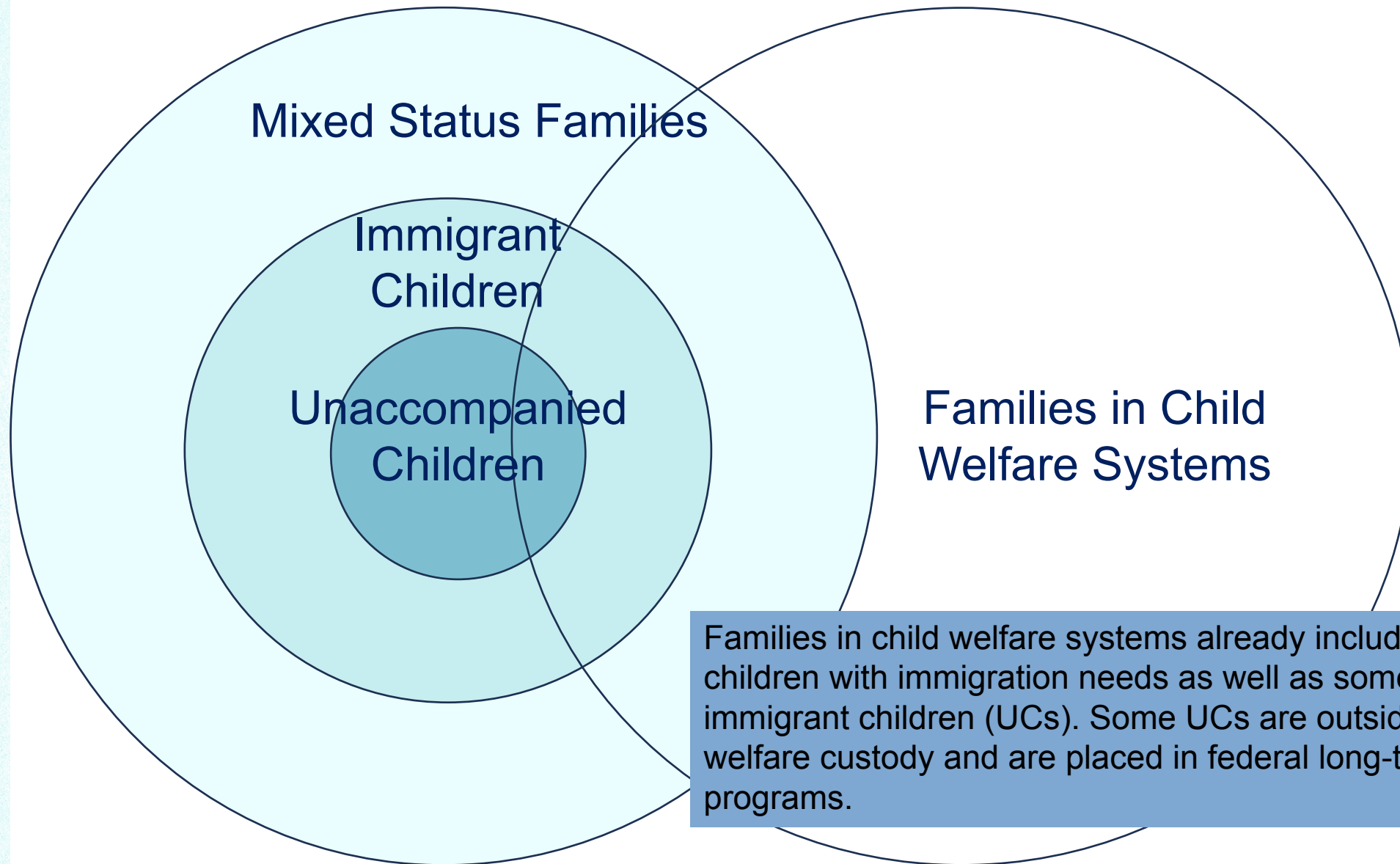
Contextualizing the Immigrant Child Experience



Who are
immigrant
children?



Immigrant Families and Child Welfare



Contextualizing the Immigrant Child Experience: Trauma & Migration

- Country of Origin
- Migration Journey
- Arrival in United States



Trauma & System Involvement

- Family separation
- Children or families may have had negative experiences with law enforcement in home country or at the border
- Immigration detention
- Acculturation and ambiguous loss



The Impact of the U.S. Immigration System on Children and Youth

Immigration Enforcement and Trauma

- Apprehension
- Experience with deportation
- Immigration detention

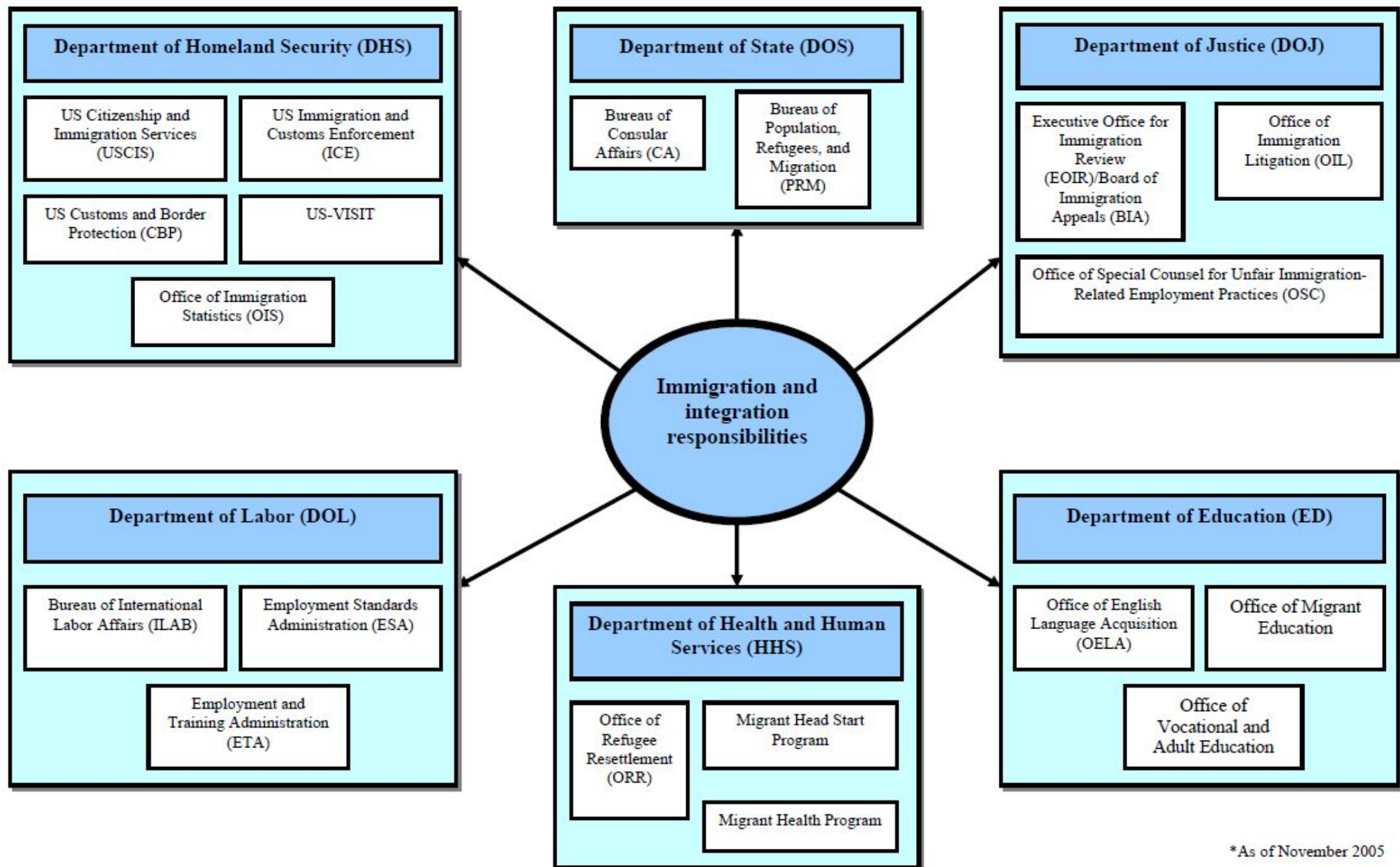


Ongoing Immigration System Involvement

- Immigration Court
- ICE Check-Ins
- Meetings with Immigration Representation
- Medical exams & background checks
- Access to work permits and social security number



Federal Agencies with Immigration and Integration Responsibilities*



*As of November 2005

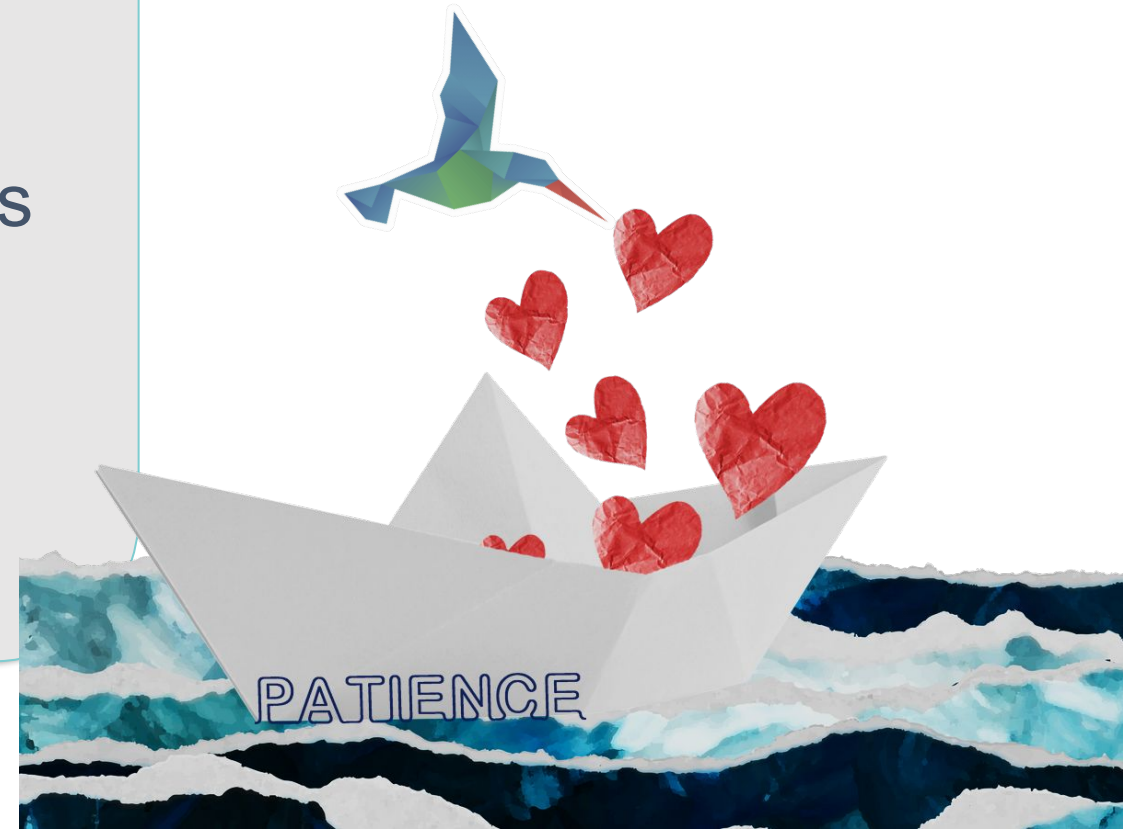
Basics of Immigration Court

- No right to court-appointed counsel, regardless of age
- Can be, and likely will be, ordered deported if absent
- No public records search for case by name (only A number); hard to quickly assess whether a child is in deportation proceedings
- No requirement that the judge consider the best interests of the child before ordering deportation



Prolonged Immigration System Involvement

- There are over 3.5 million cases in the immigration court backlog
- Average wait times on petitions commons for children is 4-6 years
- Almost 1/3 of new cases in immigration court are those of children



Importance of Cultural Sensitivity

“Awareness and appreciation of the values, norms, and beliefs characteristic of a cultural, ethnic, racial, or other group that is not one’s own, accompanied by a willingness to adapt one’s behavior accordingly.”
American Psychological Association



Connection to Culture, Identity Formation, and Mental Health



- Importance on connection to culture and heritage
- Belonging & identity
- Identity formation
- Protective factors

What biases might immigrant children and families encounter when they become involved in the child welfare system?

Immigration & Child Welfare: Common Misconceptions



- If a parent is in another country, they have abandoned their child.
- A child can never safely be returned to another country.
- If a child doesn't have immigration status in the U.S., they *have* to go home.
- An undocumented family member can't be a stable caregiver because they could be deported at any minute.
- If a child is adopted, they automatically become a U.S. citizen.

Best Practices for Connecting Children with Immigration Counsel

Immigration Status as a Central Aspect of Permanency

- General security and stability
- Access to benefits and services
- Mental health
- Long-term opportunities and transition to independence



Benefits of Immigration Representation



- Understanding of pathways to immigration status
- Consideration of a child's wishes and interests, including impact on family unity
- Important check to ensure child's rights are protected
- Connection to work permits and SSNs
- Facilitates access to public benefits

Early Identification of Non-Citizen Youth

- The earlier their immigration status is identified, the earlier their immigration needs can be met, and federal funding and benefits can be accessed
- Not all children and youth may be aware of their immigration status
- Ways to identify non-citizen youth:
 - Birth certificates
 - Social Security Cards
 - Any other identification (passport, consular ID)
 - Language child and family speak
- Connection with Parental Interests unit can help determine whether child has a pending immigration court case
- Confidentiality



Common Immigration Pathways for Children

Relief	Pros	Cons
Special Immigrant Juvenile Status	A pathway to legal permanent residency for children in the U.S. who have been abused, abandoned or neglected.	
	<ul style="list-style-type: none"> Commonly granted for children in foster care Can obtain a work permit and SSN while they wait for a visa to be available 	<ul style="list-style-type: none"> 4-5 Year visa backlog Can never petition for parents
Asylum	Protection granted to individuals in the U.S. who fear persecution in their home country due to race, religion, nationality, political opinion, or membership in a particular social group	
	<ul style="list-style-type: none"> Can obtain work permit, SSN while case is pending No annual cap 	<ul style="list-style-type: none"> Approval rates vary by geographic location in the US Shouldn't return to home country until USC
U Visa	A visa for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement in the investigation or prosecution of criminal activity.	
	<ul style="list-style-type: none"> Can obtain a work permit, SSN while waiting for approval if have prima facie approval Can include parents & other family members as derivative beneficiaries 	<ul style="list-style-type: none"> Decade long process to become resident due to visa backlog (only 10,000 visas available annually) Certification by law enforcement is required and can be challenging to obtain at times
T Visa	A visa for victims of human trafficking who assist law enforcement in the investigation/prosecution of trafficking.	
	<ul style="list-style-type: none"> Can obtain a work permit, SSN while waiting for approval if have prima facie approval Shorter processing Can include parents & other derivative family members 	<ul style="list-style-type: none"> Complex analysis required and often overlooked Only 5,000 visas available annually (yet this cap has never been reached)

Common Immigration Pathways for Children

Relief	Pros	Cons
Violence Against Women Act (VAWA)	Allows certain abused immigrants to petition for legal status without relying on their abuser.	
	<ul style="list-style-type: none"> Can obtain a work permit, SSN if petition approved while waiting to become resident Provides pathway to residency & citizenship 	<ul style="list-style-type: none"> Requires extensive evidence of abuse Limited to victims of abuse by USC (former/current) spouses/parents/children or LPR (former/current) spouses/parents
Temporary Protected Status (TPS)	A temporary status given to nationals of certain countries experiencing ongoing armed conflict, environmental disaster, or other extraordinary conditions	
	<ul style="list-style-type: none"> Can obtain a work permit, SSN Protection from deportation Can apply for travel authorization 	<ul style="list-style-type: none"> No pathway to residency or citizenship Limited to designated countries that may not be redesignated Must be renewed frequently
Deferred Action for Childhood Arrivals (DACA)	A policy that provides temporary relief from deportation and work authorization to certain young undocumented immigrants who came to the U.S. as children.	
	<ul style="list-style-type: none"> Can obtain a work permit, SSN Protection from deportation Can apply for travel authorization 	<ul style="list-style-type: none"> No pathway to residency or citizenship No initial applications are being accepted Currently being litigated Must be renewed frequently (every 2 years) Limited to those who entered before turning 16 and have lived in the US since 6/15/2007

Common Immigration Pathways for Children

Key Takeaways

- There are multiple pathways to status for children; many children may be eligible to pursue more than one pathway
- Different pathways confer different benefits
- Processes and timelines vary
- Connecting a child to a legal screening early on informs a child's wishes and an agency's case plan



Identifying Immigration Legal Services



- Cultivate local partnerships
 - Charlotte Center for Legal Advocacy
 - U.S. Committee for Immigrants & Refugees
- Explore out-of-state services when necessary; immigration law is federal
- UC designation may qualify some youth for federally-funded immigration counsel
 - Lively Law Firm provides these services in NC (note: stop work order as of Tuesday)

Accessing Public Benefits

- Accessing a work permit is the key to obtaining a SSN and therefore, in accessing many public benefits
 - Eligibility for work permits is based on having some type of immigration status or a pending application for status
- All the more reason to prioritize early connection to immigration legal services



Title IV-E Funding for Immigration Legal Services for Some Parents a Possibility

A child must be a U.S. citizen or “qualified immigrant” as defined in 8 U.S.C.1641(b),^[18] among other requirements, to be eligible for title IV-E foster care (Personal Responsibility Work Opportunity Reconciliation Act of 1996 (Public Law 104-193); 8 U.S.C. 1611; CWPM 8.4B). A title IV-E agency may claim independent legal representation for title IV-E eligible children in any proceeding consistent with the requirements of this rule. However, a title IV-E agency may not claim FFP for the administrative cost of independent legal representation of children who are not U.S. citizens or qualified immigrants. **A title IV-E agency may claim representation costs for parents of a title IV-E eligible child if such representation is needed to carry out the requirements in the agency's title IV-E foster care plan in relation to the title IV-E eligible child.**

The image features a solid teal background. In the upper corners, there are decorative elements consisting of white dotted patterns within light blue, semi-transparent circular shapes. The word "BREAK" is centered in the middle of the frame in a bold, white, sans-serif font.

BREAK

Maria and Carlos: A Case Study

Thirteen-year-old Maria arrived in the United States from Guatemala with her father Carlos. They came seeking safety and stability. They settle outside Charlotte with the support of extended family, and Carlos enrolls Maria in school. At times, Carlos travels out of state to work in construction. When he does, he leaves Maria in the care of his cousin Selma. Carlos speaks with Maria every day and sends Selma money for Maria's care.

Unbeknownst to Carlos, when he is away on an especially long work stint, Selma forces Maria to perform domestic labor in her home for an 8-hour shift each day after school and on weekends. Selma tells Maria that if she complains to her father, Selma will report Maria and Carlos to ICE. So Maria stays quiet.

But one day, Maria is exhausted at school and when a teacher notices and asks if she's okay, Maria tells the teacher what's been happening. The teacher makes a report to child protective services and Maria is taken into protective custody.

You are assigned to Maria's case. What questions do you have?

Engaging with Detained Parents

Immigration Policy & Parental Rights

The ICE Parental Interests Directive helps ensure that ICE's civil immigration enforcement activities do not unnecessarily disrupt or infringe upon the parental or guardianship rights of noncitizen parents and legal guardians.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 11064.3:

Interests of Noncitizen Parents and Legal Guardians of Minor Children or Incapacitated Adults

Issue Date:

July 14, 2022.

Superseded:

ICE Directive 11064.2, Detention and Removal of Alien Parents or Legal Guardians (Aug. 29, 2017).

1. **Purpose/Background.** U.S. Immigration and Customs Enforcement (ICE) is committed to the safe, effective, and humane enforcement of the nation's immigration laws. As part of this commitment, ICE will take actions aimed at ensuring the fundamental interests of parents, legal guardians, and their minor children or incapacitated adults for whom they serve as legal guardians impacted by civil enforcement activities. This Directive establishes ICE policy and procedures regarding the preservation of the parental and/or guardianship rights of noncitizen parents and legal guardians.

ICE Parental Interests Directive

- **Covered Individuals:** Noncitizen parents or legal guardians who are primary caretakers or have custody of minor children or incapacitated adults in the U.S., or those involved in family or probate court proceedings (Section 3.1, Page 1).
- **Identification:** ICE personnel must inquire about parental or legal guardian status during encounters with noncitizens (Section 5.1, Page 5).
- **Enforcement Actions:** ICE should accommodate efforts to make alternative care arrangements for minor children or incapacitated adults before arrest or detention (Section 5.2, Page 5).
- **Detention and Transfers:** Covered individuals should be detained as close as practicable to their minor children or incapacitated adults and relevant court proceedings (Section 5.3, Page 6).
- **Court Participation:** ICE must facilitate the participation of detained covered individuals in family court or child welfare proceedings, including in-person or virtual appearances (Section 5.4, Page 7).
- **Visitation:** Regular visitation between detained parents or legal guardians and their minor children or incapacitated adults must be accommodated (Section 5.5, Page 8).
- **Child Welfare Services:** ICE must coordinate with child welfare agencies to facilitate the participation of detained covered individuals in required services or programs (Section 5.6, Page 10).
- **Removal Procedures:** ICE must facilitate the care or travel arrangements for minor children when a covered individual is subject to removal (Section 5.7, Page 10)

Engaging Detained Parents in Court Proceedings

- Use the ICE detainee locator to determine where the adult is being held: <https://locator.ice.gov/odls/#/search>
- If there is an open child welfare case, notify the Parental Interests unit via the Contact Form: <https://www.ice.gov/webform/ero-contact-form>
- The Parental Interests unit can assist in:
 - Facilitating participation in court & visitation
 - Getting documentation signed by parent
 - Understanding parent and child's immigration history

Type of Inquiry, Issue or Concern

Concern or Complaint Type:

✓ - None -

Case Concern / Status

Complaint against ICE or contractor personnel

Detention Concern

Detainee Health and Safety

Facilitation of Return to the U.S. for Court Proceedings

Facility Services / Maintenance Issue

Illegal Activity

Legal Access

Parental Interests

2000 characters remaining

Considerations if a Parent is in ICE Custody

- Where is the parent or guardian detained?
- Is the parent/guardian subject to mandatory detention?
- Is the parent/caregiver eligible for ICE parole or an immigration court bond?
- How can visitation with children be arranged?
- How can connection to court-appointed legal counsel be facilitated?
- How can the parent's participation in court hearings be ensured?
- Connecting a child to this legal screening early on informs a child's wishes and an agency's case plan

Maria and Carlos: A Case Study (cont'd)

When Carlos learns that Maria has been taken into protective custody, he leaves his work site and begins the drive home. On his way, he is pulled over for speeding, taken into custody, and turned over to ICE.

He is placed in an ICE detention center in Georgia.

What questions do you have as you assess what comes next for Carlos and Maria?

Family Finding & Engagement Strategies

Considerations for Placement of Immigrant Children

- Are the parents in the U.S. or in home country?
- What kinship care placements are available in the U.S.? In home country?
- What are the child's wishes with respect to placement? To pursuing immigration status?
- How may immigration status impact permanency planning?
- Does the child require any specialized supportive services and where can they best access those?

Language Access

- Under Title VI of the Civil Rights Act, recipients of federal funding must take “reasonable steps” to ensure that limited English proficient people have “meaningful access” to services
- Not limited to interpretation services at court proceedings; caseworker services, educational services, and written documentation.
 - Not best practice to use family members as interpreters
- Intentional exploration—rather than assumption—of what is a child’s best language
 - Guatemala recognizes 25 languages; Mexico has over 6



Placement & Cultural Connection

- Placement with kin, first and foremost
- Foster parents can play a critical role in connecting a child to members of their community locally, opportunities to speak their preferred language, and celebrations of culturally significant occasions
- Training Resources
 - Mi Cielo – Cultural Sensitivity Trainings
 - Comunidad Maya Pixan Ixim – Trainings on culturally appropriate care of indigenous peoples



Family Finding & Kinship Care



- Family Finding
 - Domestic: Supporting children in talking about their community
 - International: identifying family members abroad and support bond
- Immigration Status for Kinship Caregivers
 - Engage families around caring for children knowing they may be especially fearful of system involvement
- Resources
 - Eligibility for public benefits vs. other community resources

International Family Finding & Document Gathering

- For international communication, use of WhatsApp is essential
- International organizations for documentation support
 - GetheDocs – translations of documents, obtain international documents, etc.
 - Vance Center – partnership with international firms
- International organizations to support family finding
 - Justice in Motion – partnership with attorneys in Mexico, Guatemala, Honduras, El Salvador, and Nicaragua



International Home Studies & Repatriation Supports

- **International Social Services - USA (ISS):** provides international services such as home study assessment, community resource assessment, and child welfare checks
- **Kids in Need of Defense (KIND) Child Migrant Return and Reintegration Project:** Supports children's reintegration into communities in Guatemala and Honduras
- **Consulates:** Can support with home studies, obtaining documents, locating family, and language and culture
 - Carlotta Dixon at DSS can support outreach



Maria and Carlos: A Case Study (cont'd)

Maria's mother, Rosa, remained in Guatemala with Maria's two young siblings. Rosa and Maria talk on the phone every day, and have a loving relationship. Rosa's sister, Magdalena, lives in North Carolina too and is willing to care for Maria. She is also undocumented, but has a pending asylum application.

Maria has said from the beginning that if her father is deported, she wants to go home too.

What considerations might inform case planning around placement for Maria?

Questions



**Thank you for participating
in this training.
Please scan this QR code to
take part in a quick survey
about your experience.**

