

Rapid Response Needed:

Ensuring Access to Justice for Immigrant Families in CA State Courts



Immigrants are welcome here

歡迎移民 이민자들을 환영합니다

Inmigrantes son bienvenidos aquí

IMMIGRANTS ARE
California
WELCOME

←↑↓→ HERE ←↑↓

Imigrante ay maligayang pagdating dito

Learning Objectives:

- ◆ Understand the legal and social challenges facing our immigrant community members in an era of increased enforcement;
- ◆ Assess local efforts to provide access to justice for immigrant victims, witnesses, and other community members;
- ◆ Develop tools and strategies for increasing access to justice for immigrant victims, witnesses, and other community members.

Presenters:



◆ **William Birnie**

◆ Deputy County Counsel, Los Angeles County Counsel's Office



◆ **Michael Kaufman**

◆ Senior Staff Attorney, American Civil Liberties Union of Southern California



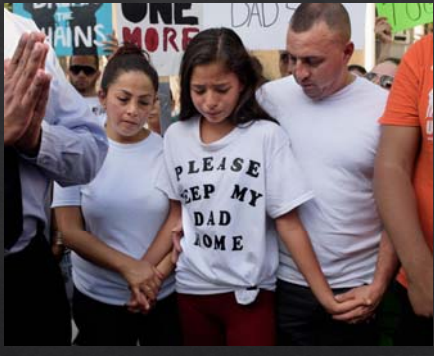
◆ **Lindsay Toczyłowski**

◆ Executive Director, Immigrant Defenders Law Center

Roadmap of Presentation:

- ◆ Who is impacted by immigration enforcement in California?
- ◆ Understanding the Legal Framework: ICE enforcement at local courthouses and other sensitive locations
- ◆ Los Angeles as a case study: County government and local efforts to safeguard immigrants' rights historically and in the current era
- ◆ Knowledge is power: what immigrant families need to know (and how Courts can help disseminate this information)!

2017 Trend: Increased ICE Enforcement



- ◆ New enforcement priorities announced January 25, 2017
- ◆ The memo prioritizes immigrants who:
 - ◆ Have been convicted of ANY criminal offense
 - ◆ Have pending criminal charges
 - ◆ Have committed acts that would be a crime
 - ◆ Have committed fraud before a government agency
 - ◆ Have abused public benefits programs
 - ◆ Have a final order of removal
 - ◆ Are deemed to be a “risk to public safety or national security” by an immigration officer
- ◆ Potential targeting of the family members of unaccompanied minors

What are advocates recommending that families do to prepare?

- ◆ Arm themselves with knowledge of their constitutional rights:
 - ◆ **Coalition for Human Rights of Los Angeles (CHIRLA):** Hotline 1-888-6CHIRLA, www.chirla.org (Video resources online)
 - ◆ **Asian Americans Advancing Justice:** 888.349.9695, www.wdvancingjustice-la.org (Hotline with multiple languages)
 - ◆ **National Immigration Law Center:** www.nilc.org (Lots of online FAQs and Resources)
- ◆ Create a Family Preparedness Plan: <https://www.ilrc.org/family-preparedness-plan>
- ◆ Consult a Local, Non-Profit Legal Services Agency and Find out Your Immigration Options
 - ◆ Beware of Notario Fraud!

Who is impacted by immigration enforcement in CA?

- ❖ Statewide, between 2.3 and 2.6 million undocumented immigrants
- ❖ 1 in 10 workers
- ❖ 200,000+ DACA recipients
- ❖ Los Angeles County has 7 times more undocumented immigrants than any other locality in the state
- ❖ 17% of children in CA have at least one undocumented parent



**Statistics obtained from the Public Policy Institute of California & the Migration Policy Institute.

Concrete Examples of Impact:

- Fear of calling law enforcement to report crimes
- Fear of affirmatively giving information to courts
- Apprehension about entering state court houses
- Reluctance to report domestic violence
 - Reluctance to step up in dependency/guardianship cases

“Los Angeles Police Chief Beck said that reports of sexual assault and domestic violence made by the city’s Latino residents have plummeted this year amid concerns that immigrants in the country illegally could risk deportation by interacting with police or testifying in court. Beck said reports of sexual assault have dropped 25% among the city’s Latino population since the beginning of 2017 compared with the same period last year, adding that reports of domestic violence have fallen by 10%. Similar decreases were not seen in reports of those crimes by other ethnic groups, Beck said.”

-Los Angeles Times, March 21, 2017

ICE Sensitive Locations Policy

- ◇ Overview of Sensitive Locations Policy under the Obama Administration
- ◇ What changes have transpired in 2017?
- ◇ What have we seen here in CA?

ICE Enforcement in CA: 2017



- ◇ Trends
 - ◇ Places of Enforcement
 - ◇ "Ruses"
- ◇ Sensitive Locations Enforcement
 - ◇ Courthouses
 - ◇ Other Sensitive Locations
- ◇ CA Response to Courthouse Enforcement
- ◇ Legal Framework for Regulation of ICE Enforcement Activities at Courthouses

What happens if someone is detained by ICE?

- ◆ What happens to a person who is picked up by ICE?
 - ◆ ICE will transport the person to B-18 (the basement of 300 N Los Angeles Street)
 - ◆ Processing there can take several hours
 - ◆ The person may not show up in ICE's detainee locator at this time
 - ◆ From B-18, ICE will either
 - ◆ Release the person
 - ◆ Transfer the person to a detention center
 - ◆ Deport the person (if he or she has an outstanding order or is subject to expedited removal)
- ◆ It may be difficult for family to contact someone at B-18 but the person should ask for attorney access

Immigration Detention: The Basics

- ◆ Some immigrants placed in removal proceedings are held in detention while their cases are being decided
 - ◆ Immigration detention is technically civil (non-criminal), but conditions can be similar to criminal custody
 - ◆ Local detention centers are in Adelanto, Santa Ana, and Irvine
- ◆ Many immigrants detained after living in the United States will be eligible to ask for release on bond
- ◆ Immigrants who remain in detention will usually have cases that move faster than cases on the non-detained docket
- ◆ Automated immigration hearing information is available by calling 1-800-898-7180 and entering the person's A# (nine digits)



Locating Detainees: Searching with A number on <https://locator.ice.gov/>

Select a different language:

English

Use this page to locate a detainee who is currently in ICE custody, or who was released from ICE custody for any reason within the last 60 days.

NOTE: Online Detainee Locator System cannot search for records of persons under the age of 18.

Search by A-Number

If you know the detainee's A-Number, ICE recommends you use the A-Number search. The A-Number must be exactly nine digits long. If the A-Number has fewer than nine digits, please add zeros at the beginning. You are also required to select the detainee's correct Country of Birth.

* A-Number: (e.g., 012345678)

* Country of Birth:

Searching with Biographic Information on <https://locator.ice.gov/>

Search by Biographical Information

When searching by name, a detainee's first and last names are required and must be an exact match (e.g., John Doe will not find Jon Doe or John Doe-Smith). You are also required to select the detainee's Country of Birth. It is optional to enter the detainee's Date of Birth to further narrow the search. Note that all value input below are evaluated for exact matches.

* First Name:

* Last Name:

* Country of Birth:

Date of Birth:

* Required field

ICE Parental Interests Directive

- ◆ Hearing attendance
 - ◆ ICE is required to transport parents to dependency or other child custody court hearings “if practicable” – in reality, often only by phone or videoconference
- ◆ Visitation
 - ◆ When required by court order, ICE must facilitate parent-child visitation (if not available, either by video or will transfer facilities)
- ◆ Prosecutorial discretion/release
 - ◆ ICE should evaluate primary caregivers for prosecutorial discretion or release from detention when dependency case is pending
 - ◆ In most cases, an immigration attorney needs to advocate for this form of relief or release
- ◆ Parole back into the country for court hearings

ICE Parental Interests Directive

- ◆ ICE Contacts?
 - ◆ Contact Parental Interests Directive mailbox-
Parental.Interests@ice.dhs.gov;
Julie.Plavsic@ice.dhs.gov
 - ◆ Contact Assistant Field Office Director at facility where detained is being held
 - ◆ If detainee is denied access to visitation or court attendance, should report to DRIL line- 1-888-351-4024
- ◆ For individual case advice, instruct families to contact an immigration attorney
- ◆ For unrepresented detainees, consider referral to qualified non-profit organization in your area



CA Law: Reuniting Immigrant Families Act



- ◇ California law provides certain protections for immigrant parents facing removal, including:
 - ◇ Cal. Welf. & Inst. § 361.5(a)(3)&(4)— possible extension of the family reunification period when immigration issues have prevented successful reunification
 - ◇ Cal. Welf. & Inst. § 361.5(e)(3)— preventing courts from requiring the completion of services that are not available in a parent’s detention facility or country of deportation
 - ◇ Cal. Welf. & Inst. § 361.5(e)(1)— preventing the disqualification of caregivers based only on a lack of immigration status
 - ◇ Cal. Welf. & Inst. § 361.5(e)(1)(E)— requiring the provision of “reasonable services” to detained and deported parents in light of the barriers to contact and services

Los Angeles County : Case Study in Protecting Access to Justice for Immigrants

Initiatives to Respond to Increased ICE Enforcement:

- Special Immigrant Status Unit at the Los Angeles County Department of Children and Family Services
- Dependency Courthouse Immigration Taskforce
- Countywide Immigration Taskforce
- Los Angeles Raids Rapid Response Network
- Los Angeles Justice Fund

Special Immigrant Status Unit, Los Angeles County Department of Children and Family Services

- ◆ Specialized Unit within Los Angeles County DCFS dedicated to processing of Special Immigrant Juvenile Status (SIJS) and other immigration relief applications on behalf of qualifying undocumented children
- ◆ Unit first created as “Amnesty Unit” in 1987, changed focus and name to Special Immigrant Status Unit in 1991
- ◆ Unit provides countywide services serving 19 DCFS regional offices, including Adoptions
- ◆ Unit has its own budget and is comprised of social workers and eligibility workers
- ◆ Activities:
 - ◆ SIJS
 - ◆ Facilitating other legal relief and assistance for undocumented children

Special Immigrant Status Unit, Los Angeles County Department of Children and Family Services

- Unit members are bilingual and culturally competent to work with immigrant families;
- Unit has its own written policy and procedures;
- DCFS management is supportive of Unit’s mission and goals;
- Unit has working agreements with USCIS;
- Unit has working agreements with local Consulates;
- Unit has agreements with Edelman’s Children’s Dependency Court/Office of the County Counsel.



County Counsel's Advisory Role

- ◆ Legal Advisors to the Unit
- ◆ Charged with assisting SIS Unit to Obtain Predicate Order for Special Immigrant Juvenile Status
- ◆ Special Immigrant Juvenile Status Overview:
 - ◆ The youth is found to be within the jurisdiction of the juvenile court under Welfare and Institutions Code section §300 or §602;
 - ◆ Reunification of the youth with one or both of the youth's parents was deemed not to be viable because of abuse, neglect, or abandonment;
 - ◆ It is not in the best interest of the youth to be returned to his or her previous country of nationality, country of last habitual residence, or his or her parents' country or countries.

CA Specific Law and Procedure for SIJS Findings in State Courts

- ◆ Process for Obtaining SIJS Findings / JV356/357
- ◆ In Re Leslie H
 - ◆ 224 Cal.App.4th 340 (2014)
 - ◆ "While the federal government has exclusive jurisdiction with respect to immigration...state juvenile courts play an important and indispensable role in the SIJ application process."
 - ◆ "A state court's role in the SIJ process is not to determine worthy candidates for citizenship, but simply to identify abused, neglected, or abandoned alien children under its jurisdiction who cannot reunify with a parent or be safely returned in their best interests to their home country."
- ◆ In Re Israel O.
 - ◆ 233 Cal. App. 4th 279, 291 (2015)
 - ◆ "We therefore conclude that an eligible minor under section 1101(a)(27)(J) includes a juvenile for whom a safe and suitable parental home is available in the United States and reunification with a parent in his or her country of origin is not viable due to abuse, neglect or abandonment."
- ◆ California Code of Civil Procedure (CCP) § 155
 - ◆ [i]f an order is requested from the superior court making the necessary findings regarding special immigrant juvenile status pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code, and there is evidence to support those findings, which may consist solely of, but is not limited to, a declaration by the child who is the subject of the petition, the court *shall* issue the order"

Countywide Immigration Taskforce

- ◆ Tasked with developing countywide strategy for protecting rights of immigrants;
- ◆ Creation of Office of Immigrant Affairs with mission to advance the well-being of all immigrants in the County of Los Angeles by providing and connecting you with support services to help you in all aspects of your life;
- ◆ Bringing together various County entities to develop policies and procedures to protect immigrant families.



Dependency Court Immigration Taskforce

- ◆ Collaborative effort spearheaded by the Los Angeles County Counsel's Office and comprised of partners from Los Angeles Dependency Lawyers Inc., Children's Law Center of California and the Immigrant Defenders Law Center.
 - ◆ How and why did this initiative start?
 - ◆ What steps has task force taken to protect immigrant families at the LA Dependency Court?
 - ◆ Trainings
 - ◆ Dissemination of information at courthouses
 - ◆ What are the plans for the taskforce as we move into 2018?

LA Raids Rapid Response Network and the Los Angeles Justice Fund

- ◆ LA Raids Rapid Response Network re-established in 2017 following increased ICE enforcement;
 - ◆ Comprised of non-profit organizations ready to provide legal and other support in the event of an ICE raid locally;
 - ◆ Reports of raids in Los Angeles can be made to: CHIRLA at 213-353-1333
- ◆ LA Justice Fund is new initiative to provide \$10 million over two years (combined funds of County, City and Philanthropy) to ensure access to deportation defense attorneys for community members picked up by ICE;
 - ◆ Advocacy ongoing to ensure access to deportation defense for dependent children in LA County via WIC 317(e).

Ideas for Next Steps:

- ◆ Create a task force at your courthouse!
- ◆ Look for ways to ensure Special Immigrant Juveniles are supported in your County and have access to relief that they qualify for;
- ◆ Distribute information at help-desks or through attorneys at the courthouse;
- ◆ Engage with local non-profits who are on the front lines of the immigrant rights movement.



QUESTIONS?

