

Immigration Law for Dependency Attorneys

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Presented by

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Topics for Today

- Immigration Basics
- Immigrant Families in the Dependency System
- ICE Enforcement Priorities & Detention Process
- California Laws
- Selected forms of Immigration Relief

Getting to Know You

- What is your job? (examples: represent children in dependency court, represent parents in dependency court, social worker, judge, CASA)
- Have you ever represented a non-citizen client?
- Have you had any clients who have been detained by ICE or fear detention?

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Part I: Immigration Basics

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Immigration Status 101

- Citizens
- Different Statuses for Non-Citizens:
 - Lawful Permanent Resident (LPR, “green card” holder)
 - Asylees, Refugees
 - Temporary Protected Status (TPS)
 - Nonimmigrants:
 - Visa holder (tourist, business, student, etc.)
 - Others granted temporary status (U visa, T visa, SIJS, etc)
 - Deferred Action (e.g. DACA)
 - Undocumented

Immigrant Families

National Statistics:

- 24% of children in U.S. come from an immigrant family (have at least one foreign born parent)
- 88% of children under 18 living in immigrant families are U.S. citizens, 6% are undocumented and the remaining 7% have some other kind of lawful status
- Many children live in “mixed status” families where different family members have different immigration statuses
 - 48% of parents of children in immigrant families are U.S. citizens, 21% are undocumented and 31% are LPRs or have some other legal status.
- The overwhelming majority (95%) of children in immigrant families live with parents who have been in the country for more than 5 years. In fact, most have parents who have been in the United States for 20 years or more.

* Annie E Casey Foundation, Race for Results Policy Report, 2017.

Immigrant Families

National Statistics:

- Young people growing up in immigrant families are overwhelmingly (84%) children of color.
- Median income for immigrant families with children is 20% less than U.S.-born families. More than half of children living in immigrant families are low income, and one in four (4.5 million) is poor.

* Annie E Casey Foundation, Race for Results Policy Report, 2017.

Immigrant Families in California

California Statistics:

- 48% of all children in California have at least one immigrant parent (2/3 from Latin America, 1/5 from Asia)
- 4.368 million children in California live in an Immigrant Family

Immigrant Children

- Many immigrant children come to the U.S. with family or to join family
- May have entered at a very young age and be very acculturated in U.S.
- Unaccompanied children
 - Sharp increase in unaccompanied children detained by immigration in recent years
 - From FY2003-2011, average of 6,775 per year
 - 2012 – 13,625, 2013 – 24,668, 2014 – 57,496
 - 2015- 33,726, 2016 – 59,170
 - Primarily from 3 countries: In 2016, Guatemala (34%), El Salvador (27%) and Honduras (27%), though include children from all over the world
 - 67% male and 33% female in FY2016
 - In FY2016, 32% were under 15 years old

Threat of Deportation

- Any non-citizen can be put into removal proceedings
- Removal proceedings are civil proceedings. Immigrants have the right to have an attorney but not to have one appointed for them.
- In general, immigrants are entitled to hearings before being ordered removed.
- Hearings involve two inquiries:
 - (1) Does the individual fall under a ground of removal?
 - Immigration and Nationality Act allows someone to be deported for many reasons: including being out of status, committing certain offenses relating to fraud/ misrepresentation, being convicted of certain crimes, and other reasons. 8 USC § § 1182, 1227.
 - (2) If so, is the individual eligible for a form of relief from removal?
 - Many different types of relief with various eligibility requirements.

Immigration Court Process

- Hearing and appeal process can take many years. In some cases, the individual may be subject to detention during part of the case.
- Immigration law also includes summary removal procedures for certain categories of immigrants.
- If a person has already been ordered removed, she may not be entitled to a hearing. ICE will simply execute or reinstate the prior order.

Children in Immigration Court

- Children are subject to grounds of removal.
- Under various Acts, regulations, and lawsuits, children have certain special rights.
- These rights do not include the right to counsel in immigration proceedings. (*JEFM v. Lynch*)
- By court order, detention of children has been limited but some children continue to be subjected to prolonged detention in ORR custody.

Immigration Detention

- The U.S. maintains the largest immigration detention infrastructure in the world, detaining approximately 380,000 to 442,000 persons per year.
- ICE detains people in over 200 county jails and for-profit prisons nation-wide.
 - There are 5 jails in California that contract with ICE and 4 private prisons where immigrants are detained
 - But people detained in California can also be sent out of state because it's a federal system

Statistics regarding removal proceedings

- In FY 2016, ICE conducted 240,255 removals.
- The California Immigration Courts are some of the largest in the U.S. In FY 2016,
 - The San Francisco Immigration Court had 17,513 new cases
 - The Los Angeles Immigration Court had 21,132 new cases
 - The San Diego Immigration Court had 2,139 new cases
 - The Adelanto Immigration Court had 8,009 new cases
 - The Imperial Immigration Court had 4,015 new cases
 - The Otay Mesa Immigration Court had 3,521 new cases
- The courts encompass large areas. SF Immigration Court's jurisdiction is from Oregon border to Bakersfield.

Impact on Children

- Arrests, deportation, detention result in children being separated from their parents
- Family may lose the primary breadwinner and also suffer from the increased costs relating to the detention and deportation proceedings
- Children suffer social isolation / stigma
- U.S. born children may need to leave with parents
- Whole families may be detained and deported to situations of increased risk and poverty
- The threat of deportation is causing high levels of anxiety in children – also described as “toxic stress”
 - Can impede the ability to learn and develop social skills while posing long-term health consequences

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Part II: Immigrant Families in Dependency System

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Why are immigrant families vulnerable?

- Complex immigration laws and policies, costly services
- Increased immigration enforcement with no sight of legalization
- Dependence upon others for information
- Language skills
- Overall levels of education
- Discrimination (ethnic, religious, socio-economic, gender, sexual orientation)
- Limited work opportunities
- Ineligibility for public benefits
- Other factors: living arrangements, cultural practices

Other Issues for Immigrant Parents

- Negative experiences with authoritarian regimes
- Child-rearing practices that differ from those in the U.S.
- Stressors of the immigrant experience & acculturation
- Lack of support systems
- Differing understandings of physical and mental health/illness

Why do immigrant children enter the child welfare system?

- 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 non-immigrants
- Young children of immigrants are less likely to receive public benefits
- More likely to be uninsured, lack of preventive health care *(but note new Health4All bill in California)*
- Same reasons as U.S. citizens - domestic violence, substance abuse, health, and mental health issues

Source: "Undercounted, Underserved: Immigrants and Refugee Families in the Child Welfare System" Annie E Casey Foundation (2006) <http://www.aecf.org/resources/undercounted-underserved/>

Part III. ICE Enforcement Priorities & Detention Process

Executive orders/memos – President Obama

- Prioritized removal of recent arrivals (including families and children) and persons with criminal convictions
- Extended the categorical use of prosecutorial discretion for certain groups (e.g. non-criminal offenders, DACA, undocumented parents-DAPA).

Executive orders/memos – President Trump

- Eliminates priorities and calls for full enforcement under immigration law
- Discourages prosecutorial discretion
- Encourages use of summary removal procedures
- Calls for expanded use of detention, especially at the border
- Calls for examination of UAC designation, and use of alien smuggling grounds of removal for parents
- Orders building of a wall on southern border with Mexico

Executive orders/memos – President Trump, cont.

- Calls for hiring over 15,500 additional immigration officers and judges
- Limits entry to citizens of certain countries and refugees (Travel Ban)
- Encourages use of state/local law enforcement to enforce immigration law
- Withdrawal of federal funding from jurisdictions that do not cooperate
- Termination of DACA program

Broad New Enforcement Priorities

- Convicted of any criminal offense
- *Charged* with any criminal offense where the charge is “not resolved”
- *Committed “acts”* that constitute a “chargeable criminal offense”
- Covered by any deportation ground related to crimes, criminal behavior (e.g. prostitution, drug sales), allegations of terrorism or national security
- Other immigration violations
- A threat to public safety and security in the “judgment” of an “immigration officer”

People who have immigration status can only be deported if they are removable under current immigration laws. The Executive Orders did not and cannot change immigration laws.

Enforcement Priorities

- Does contact with the child welfare system make a parent an enforcement priority?
 - Information related to substantiated cases of physical abuse, sexual abuse, mental/emotional abuse, and/or severe neglect of a child that have been reported to the Child Abuse Central Index (CACI) may be accessed by ICE
 - Although ICE isn't a listed party, we have been advised that ICE does have access to the CACI database
 - Although a substantiated child welfare report that does not result in a conviction would likely not make a permanent resident deportable, it could be used in any discretionary decisions (like naturalization), or to prioritize undocumented parents for deportation

ICE Parental Interests: Background

Issues detained parents have faced:

- Lack of notice of dependency court hearings
- Inability to attend dependency court hearings
- Inability to speak with counsel
 - Or no counsel appointed because cannot attend hearings
- Inability to visit with children or comply with court-ordered plans given lack of services

ICE Parental Interests Directive

- ICE instituted a Parental Interests Directive August 23, 2013: Policy 11064.1, “Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities”

- Trump’s Executive Order on Interior Enforcement essentially overruled a portion of the PID

- PID has been “archived” and a new Directive will be issued by the Trump Administration shortly, but most practices remain the same

ICE Parental Interests Directive

- Treat parents differently if responsible for the care of minor children
- Consider exercising ICE prosecutorial discretion, for example:

- Dropping the ICE detainer
- Withholding initiation of deportation proceedings, or not detaining an individual
- Terminating the deportation case or having it administratively closed

*This portion of the Directive
is no longer in place*

ICE Parental Interests Directive

Aid detained parents in involvement with state courts.

Whenever possible, detain parents close to children & near court proceedings.

Facilitate parental attendance at hearings unless undue logistical, safety, or security concerns (or use alternative means).

Facilitate visitation when required for reunification.

ICE Parental Interests Directive

Deport in a way that permits parents to make arrangements for their children, including:

- Coordination of the child's travel
- Providing time to obtain a legal guardian for a child remaining in the U.S.
- Coordinate a parent's need to access attorney, consulate, court, and family members before deportation
- Help the parent make guardianship arrangements, file child passport applications, and arrange child's travel

What can help?

ICE Parental Interests Directive

- Locate and contact parents in ICE custody
- Make certain parents receive notice of hearings and a reunification plan, scheduling letter, or other document stating visitation requirement
- Ensure parents have evidence of hearings to request physical transportation; arrange phone or video participation if ICE will not transport
- Notification and involvement of foreign consulate can help ensure the parents' (and perhaps child's) interests are represented (take special care though if parents are pursuing asylum)

What can help?

ICE Parental Interests Directive

- Start by reaching out to local ICE office
- If you encounter issues, contact parental.interests@ice.dhs.gov

Locating a Detained Individual

- If you are trying to locate a person in in immigration detention, you will need:
 - Alien # (on green card, employment authorization or any other immigration documents)
 - Legal name of detainee (sometimes wrong)
 - Date of Birth
 - Country of birth
- Website: <https://locator.ice.gov/>

Online Detainee Locator

U.S. Immigration and Customs Enforcement

Report Crimes: Email or Call 1-866-DHS-2-ICE

Home Who We Are **What We Do** Newsroom Information Library Contact ICE

ERO

Select a different language:
 English [v] [x]

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:

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:

Related Information

Quick Links

Search [x]

Helpful Info

Status of a Case [x]

About the Detainee Locator / FAQs [x]

Brochure [x]

ICE ERO Field Offices [x]

ICE Detention Facilities [x]

Privacy Notice [x]

Community and Detainee Helpline [x]

External Links

Bureau of Prisons Inmate

ICE Parental Interests Directive: Confidentiality

Child welfare proceedings are protected
by strict confidentiality laws in CA

What
information can
be shared with
ICE from the
juvenile case file
without an order
from the juvenile
court?

Who should file a
petition
requesting
permission to
share
information re:
the proceedings
with ICE?

How will parent
get notice of
proceedings if
they have not
been assigned an
attorney?

How to Help Detained Families

- Assist with transferring information from the detained parent to their family outside since undocumented family members may not be willing to visit jails or detention facilities for fear of apprehension.
- Assist in emergency planning, including child care planning (both short and long term).
- Collect vital documents.
- Link with community- or faith-based organizations with experience in working with the immigrant community.
- Assist the family in applying for eligible services for their U.S. citizen children.

Part IV: California Law

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SB 1064: The Reuniting Immigrant Families Act

- On Oct 1, 2012, Governor Brown signed SB 1064 into law, making it the first bill in the country to address the barriers to family reunification for detained and deported immigrant families



SB 1064: Background

- Between July 1, 2010 and Sept. 31, 2012, nearly **23 percent** of all **deportations**—or, 204,810 deportations—were issued for **parents with U.S. citizen children**
- In 2013, ICE reported 72,410 deportations of parents with U.S. citizen children
- As of 2011, there were at least **5,100 children** currently living in foster care as a result of detained or deported parents

SB 1064: Background

ICE enforcement separates families, and children may end up in the child welfare system

ICE detention limits parental participation in the reunification process

Immigration proceedings can result in parents' removal (though not always)

SB 1064: Background

Challenges facing immigrant parents in detention include:

- trauma exposure for children at time of arrest;
- abandonment of children/children coming home to empty homes
- difficulty in locating and staying in communication during detention
- logistical challenges at deportation
- immigration judges often have no discretion to consider the adverse impact of parental deportation on U.S. citizen children

Five Areas of Focus of SB 1064

1

- An adult's undocumented status alone cannot bar her from placement consideration.

2

- Workers are required to make & document reasonable efforts to aid detained & deported parents in receiving reunification services.

3

- Courts have special case continuance options that take immigration issues into account.

Five Areas of Focus of SB 1064

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- Encourages agencies to enter into MOUs with foreign consulates to help facilitate information-sharing and cooperation regarding children in the child welfare system.

5

- Encourages efforts to assist undocumented children in DSS custody obtain immigration relief.

Undocumented Status & Placement

SB1064 requires DSS not to discriminate in placements simply based on the parent, guardian, or relative's immigration status.

- Immigration status does not disqualify a person from receiving custody or petitioning for guardianship.
- Relatives remain preferred placements for children regardless of immigration status.
- When the court orders removal, child can be placed in care of a non-custodial parent or approved relative regardless of immigration status.
- A child removed from parents' custody may be placed with a relative outside the U.S. if the court finds that placement to be in the best interest of the child.

Aiding Detained & Deported Parents

Workers are required to make and document their reasonable efforts to aid detained and deported parents in receiving reunification services.

- Assure “reasonable efforts” are made to help parents comply with case plans, and get reports from out-of-country child welfare agencies.
- Court shall consider barriers to parents getting court-mandated services as well as parental ability to maintain contact with their child (and assure these are documented).
- Detained or deported parents can be court-ordered to participate in reunification services – unless services are unavailable in the facility or country.

Aiding Detained & Deported Parents (cont)

Deported Parents

- Help parents contact child welfare authorities in their country to identify services that would substantially comply with case plan requirements, document the parents’ participation in those services, and accept reports from local child welfare authorities on parents’ living situation, progress, and participation in services.

Detained Parents

- Help parent and child maintain contact.
- Detained parent may be required to attend services if available in facility.

Contact with Foreign Consulates

- When foreign national parents have a court case where their children are in DSS custody, the parents' consulate may be contacted.
- The state child welfare agency is mandated by law to guide county DSS agencies in best practices for establishing MOUs with foreign consulates when parents are detained or deported.
- These MOUs must address a number of elements, including:
 - Contacting the consulate
 - Accessing foreign documentation
 - Locating the detained parent(s)
 - Facilitating family reunification after deportation
 - Aiding child's safe transfer to other country,
 - Communicating with other country's DSS (including reports on parent's living situation and participation in service plans)

Working with the Consulate

The Consulate can assist with:

- Helping parents contact relatives for possible placement
- In depth search for relatives in foreign country
- Preliminary assessment of relatives in foreign country via telephone
- Exploring the willingness/ability to have a permanent placement (legal guardianship, adoption)
- Exploring relatives' willingness to cooperate with child welfare agency in home country in the home study process
- Interviews w/ incarcerated parents pending deportation
- Linking birth parent(s) with services if deported
- Help with dual-citizen registration and other documents
- Facilitating visitation with incarcerated parent(s) as indicated in case plan
- Facilitating visitation abroad as indicated in case plan

Pursuing Immigration Relief Options

- The state child welfare agency must guide county DSS agencies on best practices for assisting children in obtaining SIJS and other forms of immigration relief.
- That guidance must also address:
 - Procedures for helping children apply for SIJS before they reach age 21 or get married.
 - For any child in DSS custody who is 16 or older, reminder that the law requires that their case plan include whether an in-progress application for SIJS or other immigration status exists AND whether an active dependency case is required in support.

Other New California Laws

- California Values Act (SB 54 De Leon): ensures California is not complicit in the business of deportation, including limiting cooperation between local and state law enforcement and federal immigration authorities
- Dignity not Detention Act (SB 29 Lara): keeps local governments out of the business of contracting with private prison corporations for private immigration detention; requires all other detention facilities to follow the National Detention Standards

Part V: Selected Forms Of Immigration Relief

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Special Immigrant Juvenile Status

In 1980's, Santa Clara County Social Services Agency and Los Angeles County Department of Children and Family Services identified a problem – undocumented children aging out of foster care system or being adopted out without any avenue for obtaining lawful immigration status

1990 – Congress created SIJS → a pathway to lawful permanent residency for children under “juvenile court” jurisdiction

The Special Immigrant Status Unit

- Specialized Unit within Los Angeles County DCFS dedicated to the processing of Special Immigrant Juvenile Status (SIJS) applications on behalf of qualifying undocumented children
- Unit provides countywide services
- Unit serves 19 DCFS regional offices, including Adoptions
- Unit has its own budget
- Unit of social workers and eligibility workers

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The Special Immigrant Status Unit

- Relies mostly on referrals received by DCFS social workers who identify children eligible for possible immigration relief
- Receives referrals from attorneys at the Children's Law Center of Los Angeles, CASA workers, FFAs, group home social workers, and occasionally from foster parents
- SIS Unit has its own tracking system (Child Welfare System/Case Management Services also known as CWS/CMS demographics page, PRUCOL, General Relief Ineligibility or GRI) and generates additional referrals

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Special Immigrant Juvenile Status

SIJS requirements (8 USC § 1101(a)(27)(J)):

- **“Legally committed to, or placed under the custody of, an agency or department of the State” by a juvenile court or “placed under the custody of an individual or entity appointed by a State or juvenile court”**
- **Reunification with 1 or both parents not viable due to abuse, neglect, abandonment, or similar basis**
- **Not in child’s best interest to return to her home country**
- Unmarried, and under 21
- Under juvenile court jurisdiction until approved, unless jurisdiction terminated due to age

Special Immigrant Juvenile Status

- When the SIS Unit has a client that seems to meet the eligibility requirements for SIJS, the SIS Unit reaches out to the Court Liaison's Office to have the matter walked on for the purpose of getting the JV-356 and JV 357 reviewed and signed by the Court.
- The JV-356 and JV 357 list the three main SIJS eligibility requirements and ask the Court to confirm that the youth meets each.
- If the Court has no objection to signing the form, does so in a timely manner, and the completed/signed form is given to the Court officer/DCFS.

SIJS: State Court Predicate Order

- Request for SIJS findings is made by filing a petition with the court:
 - Juvenile dependency or delinquency: Form JV-356
 - Family court: Form FL-356
 - Probate court: Form GC-220
- Form Petitions provide space for child to declare facts in support of each of the requested findings.
 - Additional evidence, such as declarations from others, or evidence of conditions in the home country, may also be submitted.
 - Evidence to support the three findings may also already exist in the record.

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SIJS: State Court Predicate Order

- The SIJS findings/order is made on Judicial Council Form: GC-224/FL-357/JV-357.
- We recommend:
 - Including a short statement of the factual basis for the findings on the SIJS findings/order itself (USCIS will want to see this to ensure the state court made a "reasonable" and "informed" decision)
 - Including citations to California law that support the findings (e.g. WIC provisions on abuse, neglect, or abandonment, or citations to Family or Penal Code or other state law)
 - NOT including citations to federal immigration law
 - Including the child's parents' names on the form

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JV-356		FOR COURT USE ONLY
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: CASE NAME:		
REQUEST FOR SPECIAL IMMIGRANT JUVENILE FINDINGS		CASE NUMBER:

I allege the following:

- The child (name): " _____ (date of birth): _____
is a national of (name of country): _____
- The child's parents are (name each):
 Mother Father Other legal parent
 Mother Father Other legal parent
 Mother Father Other legal parent
- The court found that the child was described by Welfare and Institutions Code section 300 602 other (specify): _____
and assumed jurisdiction over the child on (date): _____
The child is currently under the court's jurisdiction.
- The child was (check all that apply):
 declared a dependent child of the court on (date): _____
 ordered committed to a state agency or department (name): _____
 on (date): _____ for a term of _____ months. The commitment order remains in effect.
 ordered placed under the custody of an individual or entity (name, unless confidential): _____
 on (date): _____ . The placement or custody order remains in effect.
- The court (check and complete all that apply):
 ordered the child removed from the custody of (name(s)): _____ on (date): _____
 declined to place the child in the custody of (name(s)): _____ on (date): _____
 denied services to (name(s)): _____ on (date): _____
 terminated services to (name(s)): _____ on (date): _____
 appointed (name): _____ as the child's guardian on (date): _____

FL-357/GC-224/JV-357		FOR COURT USE ONLY
CONFIDENTIAL		
PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: CASE NAME:		
SPECIAL IMMIGRANT JUVENILE FINDINGS		CASE NUMBER:

- Child's name: _____ Date of birth: _____
- The petition or request for Special Immigrant Juvenile (SIJ) findings was heard
 - Date of hearing: _____ Time: _____ Dept.: _____ Room: _____
 - Judicial officer (name): _____
 - Persons and attorneys present (names):

The court has reviewed the evidence and finds the following:

- Notice of the underlying proceeding was given as required by law.
- a. The child was declared a dependent of the juvenile court of the county of (specify): _____
on (date): _____ and remains under the court's jurisdiction.
OR
 b. The child was
 - placed under the custody of an individual (name, unless confidential): _____
 - placed under the custody of an entity (name): _____
 - committed to a state agency or department (name): _____
appointed by this court or another California court on (date): _____
The custody or commitment order remains in effect.

Supporting legal conclusions or factual findings, if necessary:

SIJS - Benefits

- Creates pathway to permanent residency – children eligible to adjust status under INA 245(h)
- Many common forms of immigration-related inadmissibility don't apply or are waived
- Once apply for adjustment of status, eligible to get employment authorization
- Once youth become LPRs, are eligible for federal financial aid (FAFSA), travel, public benefits, etc.

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U Nonimmigrant Status

- Suffered substantial physical or mental abuse as a result of having been a victim of certain serious crimes which took place in the United States
 - Qualifying crimes listed at 8 USC § 1101(a)(15)(U)
 - include felonious assault, abusive sexual contact, sexual assault, domestic violence, rape, prostitution, kidnapping, among others
 - crimes do not have to have been prosecuted
- Possesses information concerning the crime and helpful in the investigation or prosecution

U Nonimmigrant Status - Benefits

- Four years nonimmigrant status
- Employment authorization
- Possibility of nonimmigrant status for derivative family members
 - Children (under 21) can apply for parents and unmarried siblings under 18
 - Adults (over 21) and children can apply for spouse and children
- Possibility of applying for lawful permanent residency after 3 years of U nonimmigrant status
- More inadmissibility waivers
- Eligibility for some public benefits
 - But note, minors with U status are still not eligible for federal financial aid (FAFSA) for school

U Nonimmigrant Status – How to Help Clients

- Client needs certification to prove they were the victim of a qualifying crime and were helpful in the investigation or prosecution (other person can fulfill role if victim under 16)
 - certification can be from a federal, state or local law enforcement official, prosecutor, judge, or other authority investigating criminal activity (includes CPS)
 - <http://www.uscis.gov/sites/default/files/files/form/i-918supb.pdf>
- Once the law enforcement certification (“Supp B”) is obtained, client files application with USCIS
- Advocates currently speaking with SF Superior Court about certifications by court, if there was no criminal prosecution

T Nonimmigrant Status

- Victim of sex trafficking or labor trafficking
- Sex trafficking in which a commercial sex act is induced by force, fraud or coercion or in which the person has not yet obtained 18 years of age.
- Labor trafficking is the recruitment, harboring, transportation, provision or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude or debt bondage.

T Nonimmigrant Status

- Most children won't self-identify as trafficking victims – it's a fact based determination
 - Did the child have to work?
 - Was there force, fraud or coercion?
- In applying for a T visa, it is helpful, but not required for minors, to file certification from law enforcement (similar to the U visa certification)
 - <http://www.uscis.gov/sites/default/files/files/form/i-914supb.pdf>
- Child trafficking victims are eligible for additional benefits from the federal government
 - See <http://www.acf.hhs.gov/programs/orr/resource/child-trafficking>

T Nonimmigrant Status - Benefits

- Four years nonimmigrant status
- Employment authorization
- Possibility of nonimmigrant status for derivative family members
 - Children (under 21) can apply for parents and unmarried siblings under 18
 - Adults (over 21) and children can apply for spouse and children
- Possibility of applying for lawful permanent residency after 3 years of T nonimmigrant status or after investigation complete
- More inadmissibility waivers
- Eligibility for many public benefits, even before T visa application is filed

Resources

- Race for Results, Annie E Casey 2017 Policy Report, <http://www.aecf.org/m/resourcedoc/aecf-2017raceforresults-2017.pdf>
- Family Preparedness Plan, <https://www.ilrc.org/family-preparedness-plan>
- Know Your Rights & What Immigrant Families Should Do Now, https://www.ilrc.org/sites/default/files/resources/kyr_two_pager_v2.pdf
- Reuniting Immigrant Families Act, <https://www.ilrc.org/reuniting-immigrant-families-act-sb-1064>
- Applying the ICE Parental Interests Directive, <https://www.ilrc.org/applying-ice-parental-interests-directive-child-welfare-cases>
- Immigrant Youth Resources, <https://www.ilrc.org/immigrant-youth>

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Contact Information

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 - Immigrant Legal Resource Center
 - Email: rprandini@ilrc.org
- **Hayley Upshaw**, Attorney
 - San Francisco Public Defender's Office
 - Email: hayley.upshaw@sfgov.org
- **Cecilia Saco**, MSW, Supervising Social Worker
 - LA County Department of Children and Family Services, SIJS Unit
 - Email: sacoce@dcss.lacounty.gov

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Thank you for attending!

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