

Special Immigrant Juvenile Status

Presentation to Judicial Council

October 27, 2014

1926

Why Current Focus?

- Recent surge in unaccompanied children crossing the southwestern U.S. border.
- From **6775** in FY 2011 to **68,541** FY 2014 ending 9/30/14
- 45,029 children released to sponsors (adult relatives, family members, friends) from Jan. to Sept. 2014
 - 4905 in California, most in LA and Bay Area



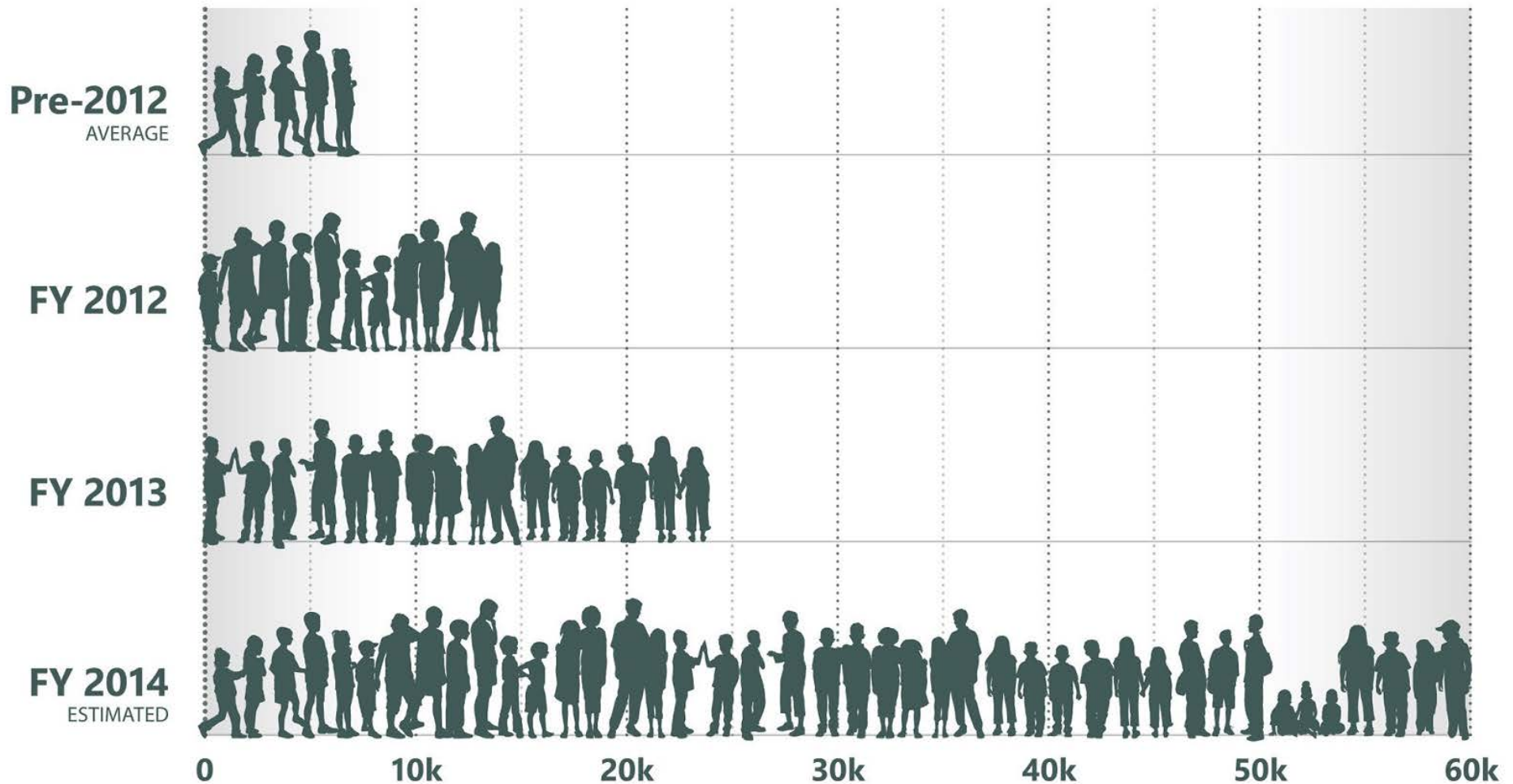
Children's Country of Origin

- El Salvador: 16,404 (24%)
- Guatemala: 17,057 (25%)
- Honduras: 18,244 (26.5%)
- Mexico: 15,634 (23%)
- Other: 1202 (1.5%)

Entire surge attributable to immigrants from El Salvador, Guatemala, and Honduras



FIGURE 1: Influx of Unaccompanied Children into the United States



Special Immigrant Juvenile Status (SIJS)

- A form of federal humanitarian relief for immigrant children who have been abused, neglected, or abandoned
- Created by Congress in 1990; amended in 2008.
- Three-step federal process
 - Success at each step required



Overview of SIJS Process

1: Request predicate findings from state court

2: Petition US Citizenship & Immigration Services (USCIS) for classification as SIJ

3: Remain in U.S. and apply to USCIS for lawful permanent resident (LPR) status



A Typical Arrival in the U.S.

- Detained by U.S. Customs and Border Protection (CBP)
- Transferred to custody of U.S. DHHS Office of Refugee Resettlement (ORR)
- Placed in temporary shelter
- Released to sponsor or placed in foster care





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Total Children Released from ORR Custody to Sponsors in CA, Jan. 1 to Sept. 30, 2014

• Statewide	4905
• Los Angeles County	2474
• Alameda County	305
• Orange County	251
• San Francisco County	223
• San Mateo County	201
• Santa Clara County	170
• Riverside County	163
• San Bernardino County	125
• Contra Costa County	120
• Other	873



Senate Bill 873

- *Signed September 27, 2014; effective immediately*
- Codifies superior court jurisdiction to make SIJS predicate findings
- Imposes duty to make findings if supported by evidence
- Incorporates language of findings from federal law



SB 873—other provisions

- Evidence in support of SIJ findings may consist of declaration of child seeking the findings
- Records of proceedings to request findings confidential and sealable
- Court interpreters available per current law and policy
- Judicial Council shall adopt rules and forms needed to implement
- CDSS authorized to contract for provision of legal representation to children in ORR custody



“Juvenile court”?

- For SIJS purposes, a “juvenile court” is “a court in the United States having jurisdiction under State law to make judicial determinations about the care and custody” of children.
- 8 C.F.R. § 204.11(a)



“Juvenile court”

- SB 873 clarifies that
 - The superior court is a court of general jurisdiction
 - The family, probate, and juvenile court divisions make determinations about the care and custody of children
 - Therefore, these divisions, at least, may make the SIJ findings in response to a proper request



SIJ Predicate Findings

1. The child has been
 - a. Declared a dependent of the court
OR
 - b. Legally committed to or placed under the custody of
 - i. A state agency or department OR
 - ii. An individual or entity appointed by the court



SIJ Predicate Findings

2. Reunification of the child

a. With one or both parents

b. Is not viable because of

i. Abuse

ii. Neglect

iii. Abandonment

iv. A similar basis under California law



SIJ Predicate Findings

3. It has been determined in administrative or judicial proceedings that it would not be not in the child's best interest to be returned to the child's, or his or her parent's, previous country of nationality or country of last habitual residence



Issues

- Subject matter jurisdiction (UCCJEA; underlying state law actions)
 - Effect of temporary emergency jurisdiction and orders
- Personal jurisdiction (notice, service of process, Hague Convention on Service Abroad, Inter-American Convention on Letters Rogatory)
- Hearings and quantum of evidence
- Confidentiality



Resources

1. *Immigration Considerations in Juvenile Court* Video
2. Guardianship Roundtable, 2014 Advanced Issues in Probate and Mental Health Program, materials available at CJER Online
3. Memorandum distributed to PJs and CEOs
4. Materials available on *California Dependency Online Guide (CaIDOG)* website
5. SIJS web page on *Online Self-Help Center* in English and Spanish



Next Steps

1. Advisory committees coordinate to draft and circulate proposed rules and forms, for recommendation to the Judicial Council, to facilitate request, judicial inquiry, and determination
2. CJER staff include SIJS as topic in Primary Assignment Orientations and Institutes for Probate, Family, and Juvenile Law
3. CFCC staff develop SIJS-focused educational programs, webinars, and materials
4. Monitor workload impact on trial courts; seek additional resources if needed





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