



## LANGUAGE, CULTURE AND IMMIGRATION RELIEF OPTIONS

By Yali Lincroft, MBA and Wendy Cervantes

Despite the fact that children of immigrants represent the fastest growing segment of the child population, their unique needs are often overlooked in child welfare public policy discussions at the local, state, and federal level. It is essential that public child welfare agencies assess their ability to serve children of immigrants and their families, including providing linguistically and culturally appropriate services and understanding immigration relief options. This policy brief discusses some of the key challenges that face the child welfare system in serving immigrant children and families and provides recommendations to promote effective practice and positive child welfare outcomes.

### Language Access Issues

The dramatic growth of the immigrant community in the United States poses significant challenges for the ability of child welfare systems to meet the diverse linguistic needs of their clients. In 2006, 19% of children of immigrants' ages 5-17 were Limited English Proficient (LEP), and over 60% had at least one parent that was LEP.<sup>1</sup> Many of the new immigrant growth states, such as Nebraska, South Dakota, North

Carolina, and Nevada, have very limited experience serving LEP families.<sup>2</sup>

Title VI of the 1964 Civil Rights Act requires any recipient of federal funding (including state and local social service agencies) to make its services or programs reasonably accessible to eligible LEP individuals. Yet, despite federal law and the increasing demand for language accessible services, there remains a severe shortage of interpretation/translation services or bilingual or bicultural staff members throughout the child welfare system, including hotline staff, caseworkers, volunteers, psychologists, and attorneys.

The inability of families to communicate with child welfare system personnel in their primary language can result in investigations, assessments, and case plans based on insufficient and inaccurate information which can ultimately have a devastating impact on families. In addition to verbal communication, written materials such as guide books on understanding the investigation

## Parents Without a Voice

A panel of judges in Iowa's Court of Appeals upheld a lower court ruling to terminate the parental rights of an immigrant couple to their two children, both of whom had special medical needs. Attorneys for the couple, who spoke the Chatino language, said they were not afforded translation services and had been unable to adequately defend their rights as parents.

SOURCE: Joyner, Chris (June 15, 2009). Immigrant fights to keep baby girl – Group says child taken away because of language barriers. <http://www.clarionledger.com/article/20090615/NEWS/096150320/1001/news>.

process, and important legal documents with timelines and court dates, are often only provided in English.

Interviews with frontline caseworkers reveal the concern that children of immigrants often remain in care far longer than non-immigrant families due to the complicated nature of the cases as well as the shortage of language access services.<sup>3</sup> Adequate legal representation is difficult if the court appointed attorney does not speak the parent's language, is unfamiliar with their families' cultural practices, or does not understand basic issues in immigration law. Additional language barriers within the child welfare system include a lack of linguistically or culturally appropriate services such as parenting classes or drug treatment programs targeted to immigrant adults, and a limited number of linguistically matched foster homes. Foster care is difficult enough for any child, but when immigrant children are placed in an unrelated home where the caretakers do not speak their language or is of a markedly different religious or cultural background, the sense of alienation can only heighten the fear and traumatic impact to the child. All these issues contribute to possible service delays and threats to child well-being, ultimately compromising permanency goals and timelines.

In some cases, family members or friends are used as translators which raises confidentiality concerns. There are alarming stories of minors asked to translate for a parent, creating the risk for additional trauma, especially in cases of suspected abuse or neglect. Furthermore, the use of untrained interpreters unfamiliar with child welfare concepts or immigrant culture can result in the intentional or unintentional censoring or filtering of information.

## Cultural Competency Issues

Access issues for non-English speakers go beyond language, and include the culture, values and faith of the immigrant community, as well as understanding events and experiences that may have an impact on the family's mental, physical and emotional state. Other unique aspects of the immigrant experience include family structure, socialization, migratory experiences, acculturation stress, and help-seeking behaviors.<sup>4</sup> It is widely recognized that culturally informed practices help foster good child welfare outcomes, especially among immigrant families where cultural norms and child rearing practices in the home countries are often very different from those in the United States.<sup>5</sup>

Unfortunately, there remains a shortage of cultural competency training specifically on immigrant culture for those who work in the child welfare system. In many cases, immigrant families come from countries where corporal punishment is generally accepted, or where authoritarian parenting styles require that children do not challenge their elders. Many immigrant families also live in multi-generational households where grandparents and other extended relatives play a substantial role in the rearing of a child, and older children often share responsibility for the care

of younger siblings. A caseworker or interpreter who does not fully understand a family's distinct culture or migratory experience may make inaccurate assumptions about a parent's interest in the well-being of his or her child.

Furthermore, many immigrant families may be reluctant to provide information to the child welfare agency based on their experiences in their country of origin with oppressive governments, increased immigration enforcement within the U.S., or discrimination they may have faced in the United States. Many immigrants assume that any information they provide to the child welfare agency will be used against them and possibly relayed to immigration authorities or to the police. The child welfare concept of client confidentiality may not exist in their language or culture and must be carefully explained.<sup>6</sup>

### Immigration Relief Options

Since many immigrant families include undocumented family members, it is important that child welfare workers understand immigration relief options and develop partnerships with immigration legal agencies that can provide consultation to their clients. Case workers and court staff are sometimes the first and only persons an immigrant child or family encounters who may be able to identify their eligibility for certain immigration relief options. Careful screening of a case may also reveal that the client may be a U.S. citizen without knowing it (such as through derivative citizenship) or is able to petition for legal status or citizenship based on a number of factors.

Identifying the immigration status of a client and family member is a controversial issue and must be handled sensitively and, if possible, in a way that

### Understanding Cultural Differences

"Many immigrant parents think that a 9- or 10-year-old child can assume the responsibility for taking care of younger children, but here [in the U.S.], it's considered neglect if you leave children home alone. Sometimes parents keep teens home from school to take care of siblings. Or, when the family arrives in the U.S., they're struggling financially and they want their 13- or 14-year old children to work. That's accepted in other countries, but if your child is under 16 and not attending school, you can be charged with educational neglect."

SOURCE: RISE Magazine Interview with social worker from New York City's Administration for Children's Services, [http://www.risemagazine.org/issues/Issue\\_9/issue\\_9.html](http://www.risemagazine.org/issues/Issue_9/issue_9.html).



The use of certain traditional medicinal practices (going to a traditional healer rather than an emergency room) may be construed as medical neglect. Certain medicinal practices like "coining" or "spooning" which involve rubbing a coin or spoon firmly on the skin to relieve illnesses may leave marks on children. These marks may lead to reports of abuse.

SOURCE: "Connecting the Dots – Improving Neighborhood-Based Child Welfare Services for Asian Pacific American Families" from the Coalition for Asian American Children and Families

assures confidentiality. The following is not an exhaustive list, but provides an overview of some of the most common forms of immigration relief options applicable to undocumented children who are involved in the child welfare system:<sup>7</sup>

- **Special Immigrant Juvenile Status (SIJS) and the Violence Against Women Act (VAWA).** These two relief options are for youth who are victims of family violence and abuse. A child is eligible for legal permanent residency under SIJS if the all following requirements are met: 1.) the child is either under dependency court jurisdiction

## A Brighter Future: Securing Immigration Relief

Jaime\* had once been a street child in Guatemala City who was mentally, physically and sexually abused, abandoned and neglected by all, including his own family members. After frequent child welfare agency meetings with Jaime to gain his trust, meetings with the Consulate of Guatemala, and preparation of multiple documents demonstrating evidence of the abuse, neglect and abandonment of Jaime, a petition for adjudication of his dependency in court was filed and Jaime was deemed a dependent of the State of Florida. On Friday, Dec. 8, 2006, three days before Jaime turned 18, the Miami District Office of USCIS granted Jaime Special Immigrant Juvenile Status, a form of immigration relief which affords many youth in the foster care system lawful permanent residency.

SOURCE: Case description by Holland and Knight and Florida Immigrant Advocacy Center, <http://bibdaily.com/pdfs/HK%20L.A.pdf>

\*name changed to protect privacy

(including delinquency) or committed to the custody of the agencies, departments of a State, or to court-appointed individuals or entities 2.) the child's "reunification with one or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law" and, 3.) the child's return to his or her country of nationality or last habitual residence is not in their best interest. Until further guidance is given, the child should remain under juvenile court jurisdiction until the entire SIJS application is adjudicated. Therefore, it is critical that child welfare and court staff screen children for eligibility for this relief early in the process. A child is eligible for permanent residency under the immigration provisions of VAWA if he or she has been "battered or subject to extreme cruelty" (including purely emotional abuse) by a U.S. citizen or permanent resident spouse, parent, or

stepparent. The parent or step-parent must have the required immigration status, but there is no requirement that the child remain under juvenile court jurisdiction. The youth may also qualify if his/her parent was a victim of domestic violence.

- **T- and U-Visa.** The T- and U-Visa are options for children who are victims of human trafficking or a serious crime. Child and adult victims of certain serious crimes may be eligible for the U visa, which is designed to protect the victims and provide them with lawful status. The victim must suffer substantial physical or mental abuse resulting from a wide range of criminal activity, possess information concerning the activity and be helpful to the investigation and prosecution of the criminal activity.<sup>8</sup> In order to qualify for the U visa, a judge, prosecutor, investigator or similar official must sign a certification regarding this requirement.<sup>9</sup> The T-Visa is more specialized and is available to victims of severe forms of trafficking (i.e. for sexual acts or involuntary servitude). Eligible victims must comply with reasonable requests for assistance in investigation or prosecution of the offense (unless they are under the age of 16) and must show they have suffered extreme hardship.<sup>10</sup>
- **Asylum.** People who fear returning to their home country because of an individualized fear of persecution can apply for asylum or withholding of removal. A person who fears torture by the home government for any reason can apply for benefits under the Convention Against Torture.
- **Temporary Protected Status (TPS).** Congress, via the Immigration Act of 1990, created

temporary protected status (TPS) so that persons from certain countries affected by civil strife or natural disaster may remain legally, through temporarily, in the U.S. and receive temporary work authorization. After the January 12, 2010 earthquake in Haiti, the U.S. government designated Haiti as a TPS country. Applicants need to prove they are nationals of the TPS designated country, not have past criminal convictions, and must prove that they have been in the U.S. since a certain required date.

- **Citizenship and Family Immigration.**

Sometimes a child in the child welfare system may be a U.S. citizen without knowing it. A U.S. citizen is anyone born in the U.S., Puerto Rico, Guam, American Samoa, or Swain Island. Some children may be derivative citizens based on the U.S. citizenship of parents and in some cases, grandparents. They can also gain legal residency if certain U.S. citizen or permanent resident family members (e.g., parent or spouse) are willing to petition for the child. The child may qualify through one natural or adoptive parent (as long as the adoption is completed by the child's 16<sup>th</sup> birthday). It is also important to note that when the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption applies in any given case, it complicates the case.

### **Conclusion: Serving All Children**

Given the significant growth in the number of children of immigrants in the past decade, it is imperative that the child welfare system respond to this demographic shift by ensuring that all children and families receive

appropriate services. For immigrant children and families, such services must be language accessible and culturally appropriate. Furthermore, child welfare agency staff must be provided with support in navigating the complicated immigration system so that children or parents who might be eligible for some form of immigration relief do not fall through the cracks.

Many child welfare agencies have had success in improving services to immigrant families through partnerships with immigrant serving community-based agencies, including legal organizations. Depending on the number of cases involving immigrant families, child welfare agencies have adopted different models of services, such as dedicated staff/bilingual units or service contracts with agencies that specialize in working with immigrant families. Regardless of the models adopted, it is clear that as the U.S. child population continues to diversify the child welfare system must prepare to meet the needs of all children and families it encounters.

## Policy Recommendations:

### *Language Access:*

- **Child welfare agencies should implement comprehensive language access policies.** These policies should provide for the immediate assessment of clients' English abilities and ensure that all verbal and written communication is provided in the client's preferred language.
- **If interpreters and language telephone lines must be employed, contractual agreements should be made with qualified bilingual interpreters.** Interpreters should not only be familiar with the child welfare field but also knowledgeable about the values and cultures of the immigrant group for whom they are interpreting.
- **Child welfare agencies should maintain a linguistic and demographic profile of the community they serve as well as conduct a needs assessment to accurately plan for and implement culturally and linguistically appropriate services.**<sup>11</sup> In order to be effective in serving immigrant populations, systems must address the specific needs of their client population, and policies and practices must be revisited on a regular basis to ensure that they address relevant demographic changes.

### *Staffing & Training:*

- **Child welfare agencies should implement strategies to recruit, retain and promote at all levels bilingual child protection staff and identify additional relevant resources to support them.**<sup>12</sup> Job descriptions for bilingual and non-bilingual staff should be clearly stated so that the overall workloads of bilingual staff remain comparable to non-bilingual staff. Too often, bilingual child welfare staff is overburdened by agencies requiring they provide translation services to their colleagues in addition to their regular workload, leading to worker burnout and inequality.<sup>13</sup>
- **Child welfare agencies should consider establishing Specialized Immigration Units either within the agency or contract with community-based agencies to act as a cultural bridge to immigrant families.** For example, California child welfare jurisdictions with large immigrant populations such as Los Angeles, Riverside, Fresno, and San Diego Counties have created international liaison units or positions that provide internal technical assistance including translation help, document searches, repatriation inquiry assistance, aid in placements abroad, and requisite coordination with foreign consulates.<sup>14</sup>
- **Child welfare agencies should review current assessment and investigation procedures to see if there are any structural biases against immigrant families.** In addition to removing barriers to services, such

an assessment can help ensure that those who work with immigrant clients have an understanding of the immigrant experience. Diversion programs that emphasize prevention and maximize the use of culturally consistent services should also be developed and supported.

- **Cultural and linguistic competency in working with immigrant families should be operationalized through training, consultation, hiring of staff, and program design.** The internal staff training should also include attorneys, judges, court appointed special advocates (CASA) and other court personnel.

#### *Community Partnerships:*

- **Child welfare agencies should develop participatory, collaborative partnerships with community-based agencies, including faith-based groups, to provide critical outreach to the immigrant community to educate them about the child welfare system and vice versa.** Some jurisdictions have developed a “cultural broker” model, hiring brokers who have the same ethnicity as their clients to help caseworkers understand cultural differences.<sup>15</sup>
- **Child welfare agencies should consider developing formal partnerships with foreign consulates to provide ongoing technical support and sharing of resources with child welfare agencies.** Mexico has taken a leadership role in many localities where there are large settled populations of Mexican nationals, and several child welfare agencies have established best practice protocols or memorandums of understanding with Mexico.<sup>16</sup> The consulate may help as a broker between the child welfare agency and the immigrant parent/family, finding translators and other resources.
- **Child welfare agencies should connect more closely with immigrant communities to develop the knowledge and skills needed to work with them.** This could include field placement of social work students or targeted recruitment to increase the number of linguistically/culturally appropriate staff and licensed foster care homes, and increased funding to support and develop prevention and intervention services in newer and emerging immigrant communities.

#### *Immigration Relief:*

- **Child welfare agencies should screen all children who enter the child welfare system as early on as possible to determine whether they are eligible for a form of immigration relief and document agency efforts to assist eligible children in applying for immigration relief.** Child welfare agencies need to

develop assessments and information collection mechanisms for their immigrant clients and be knowledgeable about the various immigration relief options.

- **Court improvement funds should be used to educate and train judges, lawyers, and case workers on immigration relief options available to foster youth.** In order to prevent the tragedy of children exiting the child welfare system without receiving legal status for which they qualify, it is important for judges, lawyers, and case workers to receive training on immigration relief options so that there are multiple entities ensuring no eligible child falls through the cracks.
- **Child welfare agencies should assist eligible children and parents in obtaining immigration relief by developing partnerships with local immigrant serving legal providers or other community-based organizations.** Due to the complicated nature of immigration law, child welfare agency staff often require the assistance of immigration experts to assist clients with their immigration applications.

## ENDNOTES:

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- 2 Mather, M. (2009). *Reports on America: Children in Immigrant Families Chart New Path*, Population Reference Bureau.
- 3 Ibid.
- 4 Wilmot, L., Gerald, R., Harper, C. J. (2005). *The Influence of Culture and Cultural Competence on Child and Family Well-being*, Denver, CO: American Humane Association.
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- 6 “Bridging Refugee Youth and Children Services.”(2009). Washington DC: Bridging Refugee Youth & Children Services. [www.brycs.org](http://www.brycs.org)
- 7 Excerpt with permission from Lincroft, Y (June 2009). *A Social Worker’s Tool Kit for Working with Immigrant Families: Immigration Status and Relief Options*. Denver, CO: Migration and Child Welfare National Network – American Humane Association.
- 8 INA § 101(a)(15)(U), 8 USC § 1101(a)(15)(U).
- 9 For information on the U visa see [www.ilrc.org](http://www.ilrc.org) and [www.nationalimmigrationproject.org](http://www.nationalimmigrationproject.org)
- 10 For information on the T visa see [www.lafla.org](http://www.lafla.org) (the Legal Aid Foundation of Los Angeles)
- 11 Ibid.
- 12 *National Standards on Culturally and Linguistically Appropriate Services (2001)*. Office of Minority Health, office of Public Health and Science, U.S. Department of Health and Human Services.
- 13 Information about implementing language access programs in social services is available at the Migration and Policy Institute website, [http://www.migrationinformation.org/integration/language\\_portal/](http://www.migrationinformation.org/integration/language_portal/)
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- 15 ABC/KFSN-TV Fresno (August 14, 2009), *Cultural Brokers*. <http://abclocal.go.com/kfsn/story?section=news/local&id=6966091>
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**About the Migration and Child Welfare National Network (MCWNN):** MCWNN is a coalition of leading child welfare organizations interested in the intersection of immigration and child welfare issues. Formed in 2006, the network has four main areas of focus: advocacy and policy, promising practices, research, and transnational relations. Members share knowledge and strategies with colleagues throughout the country to improve services for immigrant families in the child welfare system. MCWNN's fiscal and program agent is the American Humane Association. Salient activities developed by American Humane Association on behalf of the network include three policy roundtables, two journals, several research projects, numerous state and national technical assistance and dissemination efforts, and specialized toolkits. Further information can be found at <http://www.americanhumane.org/migration>

Funding for this series was provided by the Annie E. Casey Foundation.