

DSS Policy and Procedure Guide

Division 03: Child Welfare

Chapter 01: Director's Policies

Item 007: Immigrant Children and Family Program

Suggested changes send to: [DSS PSOA Mailbox](#)

Issued: **March 23, 2012**

References: Welfare and Institutions Code [§303](#),
[§309](#); [§368](#); [§391](#); [Manual of Policies and
Procedures- Child Welfare Services \(Division 31\)](#)

Replaces Issue: **New**

Policy

The Department of Social Services (DSS) Child Welfare staff shall assist detained undocumented/foreign minors with their return to their country of origin or in obtaining legal residency. The DSS will collaborate with local community organizations to assist undocumented/foreign parents in the strengthening of the family unit. The Immigrant Child and Family Liaison (Liaison) shall document all contacts in CWS/CMS.

Purpose

To ensure that the needs of undocumented/foreign minors are met when their families are temporarily or permanently unavailable. This shall be done by addressing procedures that will facilitate the early coordination of legal and social services to children, parents and their relatives that may be necessary to achieve permanency for the child. This includes providing the least restrictive placement and supportive services to maintain family ties, ensure appropriate visitation and maintain the child's ethnic, religious and cultural identity.

To inform all social worker staff (SW) of the procedure for working with the Liaison on behalf of undocumented/foreign minors and parents who become involved with the child welfare system and juvenile court.

This procedural guide is applicable to all new and existing referrals and cases. Children and families do not need to have an open case with DSS Child Welfare or be dependents of the court to be eligible for the immigration programs listed in this policy.

Definitions

See Definition section in this document

Procedure

All Programs

- The Liaison shall arrange for translation of documents through contracted interpreters and distribute the documents to the case managing social worker (CM SW) for appropriate distribution. The Liaison shall send the translated documents to parents residing outside of the United States via available courier services (i.e., Fed Ex, Estafeta, UPS, DHL)

- The Liaison shall assist undocumented/foreign parents with coordination of services to assess whether the family may qualify for Special Immigrant Juvenile Status (SIJS), U Visa or T Visa.
 - The Liaison shall assist in obtaining the U Visa law enforcement certification and refer the client to DSS Employment and Temporary Assistance (E&TA) available services in accordance with [ACL 06-60](#) and SB1569 of 2006. (See [CDSS Manual Letter No. FS-09-01](#) and [No. EAS 09-01](#)).
 - If a family is found to be eligible for a U-Visa, the Liaison shall facilitate obtaining an [I-918 law enforcement certification](#) and refer the client to Centro La Familia (302 Fresno St. #102, Fresno, CA 93706; 237- 2961).
- The Liaison shall request information pertaining to the detention of an undocumented/foreign parent with local Immigration and Customs Enforcement (ICE) officials; acknowledging that it is **not** DSS policy to alert ICE officials to undocumented clients.

Emergency Response (ER) and Voluntary Family Maintenance (VFM)

- Social Workers may request the attendance of the Liaison at Team Decision Making (TDM) meetings by indicating this on the TDM request form. The CM SW shall complete the form and submit it to the TDM Facilitators' unit OA.
- If the TDM decision is to file a petition on behalf of the child, the CM SW shall complete the Immigrant Child and Family Referral (form 6375) and email it to CWS Referral In-box.
 - The ER OAs shall forward the completed Immigrant Child and Family Referral form (6375) to the Liaison and assign the Liaison secondary worker status in CWS/CMS.
- When a referral is closed because there are no safety concerns, but the family may qualify for any of the following immigration options, the CM SW shall contact the Liaison:
 - U visa;
 - Violence Against Women Act (VAWA);
 - Special Immigrant Juvenile Status (SIJS) through Trafficking Victims Protection Reauthorization Act (TVPRA);
 - T visa; or
 - Refugee
- The CM SW shall also email the [CWS Referrals](#) in-box to request a list of legal service organizations that can assist the family in their area.

Family Reunification

- The Liaison shall complete the Permanently Residing Under the Color of the Law (PRUCOL) form ([form G-845](#)) for every court dependent minor that is or may be an undocumented non-US citizen within 30 days of notification and receipt of the Immigrant Child and Family Referral Form 6375.
 - The Liaison shall provide the original PRUCOL to the assigned Foster Care Intake Eligibility Worker and a copy to the CM SW.
 - The Central Desk OAs shall scan and import the PRUCOL into the child's CWS/CMS case.
- The PRUCOL process shall be renewed by the Liaison on an annual basis until residency is established or the child exits through successful reunification or parental custody.
- Liaison shall contact and communicate with the appropriate Consulate in the following ways:
 - By certified mail notification of the detention of undocumented/foreign minors, and /or U.S. citizen children of undocumented/foreign parents.
 - Consular staff may request to conduct an interview of the minor/s to assist in facilitating the identifying of parents and relatives; this may be conducted with the prior approval of the minor's attorney.
 - To request a parent search be administered through available resources, when requested by the CM SW.
 - To Request verification of birth certificates, marriage certificates, adoption certificates.
 - To request a home evaluation be administered through the available Social Service agencies in the foreign country, when requested by the CM SW.
 - To request the coordination of services necessary to facilitate the placement and/ or custody of dependent minors outside of the United States and collaborate with the consulate to ensure that the services are in place.

Travel and Safety Issues

Responsibilities of the CM SW

- For placement of a child under five years old or a child that is non-ambulatory, the CM SW shall consult with his/her supervisor to request that a second social worker (SW) accompany the CM SW to assist during travel. (A second SW may be necessary in other situations on a case-by-case basis. For these situations, the CM SW shall consult his/her supervisor).

Responsibilities of the Liaison

- If the minor is to be returned or placed outside of the United States, the Liaison shall assist the CM SW to facilitate the release of the minor to appropriate caretakers/relatives in accordance to the Hague Convention (see definitions section in this document).
- Notification of contacts abroad (Consulates, Exterior Relations, local municipality and state Social Service agencies).
- Coordination of the travel plans and itinerary
 - Obtain proper travel documents (passports, Legal Residency Cards and letters from the consulate, as appropriate)
 - The Liaison shall ensure travel documents are valid prior to travel in accordance with the [Western Hemisphere Travel Initiative](#) and are in the correct spelling of the names indicated on the travel itinerary.
 - Create a contact list prior to the date of travel which will be disseminated to all parties concerned (the consulate and the country's equivalent of the Department of State). This contact list will contain: Specific dates and times of travel, method of travel, full names, phone and cell phone numbers of persons traveling and contacts abroad, relationship to the child, description of the purpose of travel (length of stay, visit, guardianship, release to the custody of)

Permanency Planning Living Arrangement (PPLA)

Responsibilities of the Liaison in PPLA

- The Liaison shall pursue obtaining SIJS for the minor once the Juvenile Dependency Court has ordered termination of family reunification services.
- According to the (William Wilberforce) Trafficking Victims Protection Reauthorization Act of 2008, ([TVPRA](#)) an undocumented/foreign minor may be eligible for SIJS if the minor:
 - Has been declared dependent of a juvenile court located in the United States or when such a court has:
 - Determined that reunification with one or both of the immigrants parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law, **and**
 - Determined that it would not be in the minor's best interest to be returned to the minor's or parent's previous country of nationality or country of last habitual residence.
- The Liaison shall complete the following tasks to obtain the SIJS status for a dependent undocumented/foreign minor:

- Request a Service plan on [form 65](#), *Service Plan and Memo*, for monies for the immigration services from the appropriate funding source. If the minor is under the age of 14, the funding source is Child Welfare funds if the minor is eligible under Independent Living Planning Program funding.
- Coordinate with the CM SW to obtain court ex-parte consent for the SIJS applications, and free exchange of information.
- Coordinate with the care provider to obtain the following immigration services:
 - a certified copy of the minor's birth certificate;
 - the immigration medical exam;
 - the Apostille from the Secretary of State, 1500 11th St., Sacramento, CA 95814;
 - a valid passport from the minor's country of origin; and
 - necessary photographs for the passport and immigration applications.
- Notify the CM SW of any medical follow-up necessary for the immigration medical exam, and request a copy of the immunization records.
- Complete the immigration forms necessary for the successful SIJS application which includes USCIS forms: [G-28](#), [G-325](#), [I-360](#), [I-485](#), [I-765](#), [I-864W](#), dependent minor fee waiver, and County of Fresno fee waiver.
- Meet with the dependent undocumented/foreign minor, explain the forms in age appropriate terms and request the minor's signature.
- Mail the completed SIJS application to the USCIS Service Center, Attn: FBASI 131, South Dearborn 3rd Fl, Chicago, IL 60603, via the county Fed Ex account
- Coordinate with the care provider the minor's the attendance at any necessary biometric (fingerprinting) or interview appointments requested by USCIS.
- Inform the CM SW of the outcome of the SIJS immigration application within 2 business days of receiving notification and recommend that the CM SW discuss the issue with his/her supervisor or Program Manager (PM).
- If the SIJS is approved the Liaison shall request a copy of the Legal Permanent Resident (LPR) card, enter the A#, and update the Demographics tab as necessary in CWS/CMS.
 - To access the Demographics tab open the Client Management section ([blue section](#)) and select the Open Existing Client icon. Select the minor's name from the drop-down menu and then click on the Demographics tab.
- When closing the immigration case (**not** the family's case on CWS/CMS) the Liaison shall request a closing staffing with the CM SW and the minor to inform the minor of the services provided discuss the responsibilities in maintaining the LPR status.

- Complete USCIS form [N-600](#) if a dependent undocumented/foreign minor may qualify for U.S. Citizenship through Acquisition or Derivation.

Adoption/Dismissal

- The CM SW shall ensure that the undocumented minor has received his/her Legal Permanent Resident card prior to requesting court dismissal of dependency.
- The Adoption social worker shall ensure each qualifying undocumented minor has received his/her Legal Permanent Resident Card prior to the finalization of the adoption.
- The Adoption social worker shall inform the adoptive parents of a minor that has received his/her Legal Permanent Resident Card that the minor may qualify to obtain U.S. Citizenship through the adoption. The required parent/child relationship can be established through adoption only if:
 - The minor is adopted under the law of the minor's state of residence while under the age of 16, **and**
 - The child has been in the legal custody of and has resided with the adoptive parent for at least two years while under the age of 21.

NOTE: If natural siblings are adopted, only one sibling's adoption must be completed before the age of 16. The other sibling or siblings' adoption may be completed any time up to their 18th birthday. The two-year lawful custody requirement still applies.

- The Adoption CM SW shall inform the adoptive parents of the need to change the legal name of the child on the Legal Permanent Resident card upon the finalization of the adoption.

Statutes and Regulations

[8 CFR, Part 214.11](#)- Alien Victims Of Severe Forms Of Trafficking In Persons: Provides eligibility requirements for T visa.

[8 CFR, Part 244](#): Provides information and eligibility requirements for Temporary Protected Status for Nationals of Designated States.

[8 C.F.R., Part 212](#) (*Documentary Requirements: Non-immigrants; Waivers; Admission Of Certain Inadmissible Aliens; Parole*); [8 C.F.R., Part 235](#) (*Inspection Of Persons Applying For Admission*); [22 C.F.R., Part 41](#) (*Visas: Documentation Of Non-immigrants Under The Immigration and Nationality Act, As Amended*) and [22 C.F.R., Part 53](#) (*Passport Requirement And Exceptions*):

Provide information regarding required re-entry travel documents. The Western Hemisphere Travel Initiative (WHTI) requires U.S. citizens and nonimmigrant aliens from Canada, Bermuda, and Mexico departing from or entering the United States by air, land or sea ports-of-entry to have WHTI compliant documents.

[Immigration & Nationality Act: Act 101\(a\) \(15\) \(U\)](#): Provides eligibility requirements for a U visa.

[Immigration & Nationality Act: Section 204\(a\) \(1\) \(A\)](#): Provides eligibility requirement for the Violence Against Women Act.

[Immigration & Nationality Act: Act 208](#): Provides information and eligibility requirements for Asylum.

[Violence Against Women Act \(VAWA\)](#)- Under this act, the spouses and children of United States citizens or lawful permanent residents may self-petition to obtain lawful permanent residency. VAWA allows certain battered immigrants to file for immigrant relief without the abuser's assistance or knowledge, in order to seek safety and independence from the abuser.

[All-County Letter \(ACL\) No. 08-15](#): Department of Homeland Security Interim Final Rule on New Classification for Victims of Criminal Activity: Eligibility for "U" Nonimmigrant Status.

[All-County Letter \(ACL\) No. 06-60](#) Eligibility for Aid and Services for Noncitizen Victims of Human Trafficking, Domestic Violence, and Other Serious Crimes.

Immigration Definitions

Acquisition- Birth to U.S. Citizen Parents- In many circumstances, even though a child is born outside the United States, if at least one parent was a U.S. citizen at the time of the child's birth, the child automatically "acquires" citizenship. When this child marries and has children, those children may also acquire U.S. citizenship at birth

Apostille- Since October 15, 1981, the United States has been part of the 1961 Hague Convention. This agreement provides for the simplified certification of public (including notarized) documents to be used in countries that have joined the convention. Documents destined for use in participating countries and their territories should be certified by one of the officials in the jurisdiction in which the document has been executed. Said official must have been designated as competent to issue certifications by "Apostille" (usually in the office of the State Secretary of State of his/her counterpart) as provided for by the 1961 Hague Convention. With certification by the Hague Convention Apostille, the document is entitled to recognition in the country of intended use, and no certification by the U.S. Department of State, Authentications Office or legalization by the embassy or consulate is required.

Asylee- is someone who is granted refugee status after entry into the United States.

Asylum- is for undocumented people who fear persecution in their home country because of their race, religion, nationality, political opinion or membership in a particular social group.

Derivation-Naturalization of Parents-When a parent naturalizes, his or her children may "derive" U.S. citizenship automatically, provided they have green cards and are under the age of 18 and are living with the parent at the time. Becoming a U.S. citizen in this way has a special benefit: A child

who gets U.S. citizenship through the naturalization of either or both parents does not have to participate in a naturalization ceremony.

DIF- Desarrollo Integral de la Familia means the Agency for Integral Family Development. This is the agency in Mexico charged with ensuring the welfare of minors. There are different levels of DIF offices; municipal and state. State DIF offices are charged with compliance with the Hague Convention.

Green Card- also known as the legal permanent residency (LPR) card. An identification card issued to lawful permanent residents by USCIS.

Hague Adoption Convention: an international agreement to safeguard inter-country adoptions entered into force for the United States in April 2008. Applies to all adoptions between the United States and the other countries that have joined it. It requires that countries who are a party to the Convention establish a Central Authority to be the authoritative source of information and point of contact in that country. The Department of State is the U.S. Central Authority for the Convention. It aims to prevent the abduction, sale of, or traffic in children, and it works to ensure that inter-country adoptions are in the best interests of children. It recognizes inter-country adoption as a means of offering the advantage of a permanent home to a child when a suitable family has not been found in the child's country of origin. It enables inter-country adoption to take place when:

1. The child has been deemed eligible for adoption by the child's country of birth
2. Proper effort has been given to the child's adoption in its country of origin

It provides a formal international and intergovernmental recognition of inter-country adoption, working to ensure that adoptions under the Convention will generally be recognized and given effect in other party countries.

Immigrant- A person who leaves one country to settle permanently in another.

Legal Permanent Resident- (LPRs or green card holders) are non-citizens/ immigrants who have been lawfully admitted for permanent residency and accorded the privilege to reside permanently in the United States. Generally, they are eligible to become citizens in 3-5 years.

Naturalized Citizens- are immigrants who have become U.S. Citizens.

PRUCOL- Permanently Residing Under the Color of the Law refers to a person who is residing in the U.S. under "color of law." PRUCOL is a term defined by regulations and court decisions to describe categories of undocumented non-citizens who are potentially eligible for certain public benefits in California.

PRUCOL allows undocumented non-US citizen minors under court dependency to access full-scope Medi-Cal benefits. PRUCOL must be re-applied for each undocumented minor on an annual basis. Without an annual PRUCOL application, the county cannot utilize state funds to pay for foster care nor will the minors be eligible for full scope Medi-Cal benefits. See [County Fiscal Letter \(CFL\) 01/02-42](#).

Refugee-someone legally admitted to the United States who can not return to his or her country because of a "well-founded fear of persecution." Refugees are eligible to adjust to lawful permanent

resident status after one year of continuous presence in the United States. Refugees and Asylees are eligible for services that are not available to other types of lawful permanent residents.

Severe form of trafficking in persons- Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act is under 18 years of age. 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, peonage, debt bondage, or slavery.

SIJS-Special Immigrant Juvenile Status, Section 153 of the Federal Immigration Act of 1990 provides Special Immigrant Status to undocumented children who are dependents of the juvenile court and deemed eligible for a Planned Permanent Living Arrangement (aka long-term foster care) and for whom the court has declared that it is not in the child's best interest to be returned to their country of origin. Special Immigrant Juvenile Status is a grant of lawful permanent resident status. Legal status will afford these children the right to remain in the United States thus eliminating the fear of deportation, provides the tools to legally work and/ or pursue higher education in the United States upon emancipation from the child welfare system.

Temporary Protected Status (TPS)-Undocumented people from certain countries that have experience devastating natural disaster, civil war or other unstable circumstances may be able to obtain TPS.

Nationals of the following designated countries are eligible for TPS:

- Burundi
- El Salvador
- Honduras
- Liberia
- Nicaragua
- Sierra Leone
- Somalia
- Sudan
- Bosnia and Herzegovina

For updated information about which countries are currently designated TPS and what requirements nationals of those countries must meet to qualify, go to the [USCIS website](#).

Smuggling of Migrants: the movement of **consenting** people across an international border for a fee. The migrant's relation with the smuggler ends upon arrival at the migrant's destination.

T visa- is available for victims of severe form of trafficking in persons. The T visa is a temporary "nonimmigrant" visa, but a person awarded a T nonimmigrant visa may apply three years later to become a lawful permanent resident. Another benefit of the T visa is that it allows the recipient to receive some public benefits.

Trafficking of Victims: Trafficking is **ongoing exploitation**. Travel is not always involved. In general, victims have either never consented to their conditions, or their initial consent is rendered meaningless by the victims age or by coercive, deceptive or abusive actions on the part of the traffickers.

TVPRA-William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (P.L. 110-457; “TVPRA”). The TVPRA clarifies and expands the definition of Special Immigrant Juvenile. A Special Immigrant Juvenile is now defined as an immigrant who is present in the United States:

(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to or placed under the custody of, an agency or department of a State, or

an individual or entity appointed by a State or juvenile court located in the United States, and whose 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; (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence.

TVPRA requires the expeditious adjudication of Special Immigrant Juvenile applications, requiring that the Secretary of Homeland Security process these applications within 180 days after the application is filed.

TVPRA also expands the Special Immigrant Juvenile definition to allow for a juvenile court to consider family reunification with one or both of the child’s parents. The plain language of this statutory revision says that family reunification need only be “not viable” with one parent, not both parents. Further, the juvenile court may consider whether family reunification is viable due to abuse, abandonment, neglect or a similar basis under state law. The plain language of the provision is that a juvenile court would only need to find abuse, abandonment, neglect, or a similar basis under state law with one parent, not both, when considering family reunification. For example, in the case of a child who has experienced abuse, abandonment or neglect at the hands of his father, the juvenile court need only consider whether family reunification with the father is viable. It appears that reunification possibilities with the child’s mother would not bar the child from qualifying for Special Immigrant Juvenile status. As such, the expansion in the definition of Special Immigrant Juvenile allows for more vulnerable and mistreated children to qualify for this form of legal relief.

U visa- is available to undocumented people who:

- Have suffered substantial physical or mental abuse resulting from a wide range of criminal activity
- Have been helpful, are being helpful or are likely to be helpful with the investigation or prosecution of the crime.

The U visa is a temporary “nonimmigrant” visa, but a person awarded a U nonimmigrant visa may apply three years later to become a lawful permanent resident.

USCIS- United States Citizenship and Immigration Services, formerly known as INS, a government agency responsible for the admission, control and status of all immigrants in the United States.

Undocumented- Also known as an “illegal alien,” is a person who has entered the US illegally and is deportable if apprehended, or a person who entered the U.S. legally but who has fallen “out of status” and is deportable.

Violence Against Women Act VAWA-- permits an abused (domestic violence, battery and extreme cruelty) undocumented spouse or child of a U.S. citizen or lawful permanent resident to self-petition

for a green card without the cooperation of the abuser. An undocumented child can receive VAWA benefits even if he or she was not abused, as long as the child's parent qualifies for VAWA due to abuse.

Vienna Treaty- Vienna Convention on Consular Relations of 24 April 1963 -It includes a description of the Consulate's functions, performances of Diplomatic Acts, and requirements related to detainees. The Consulate's (article 2) functions include protecting the interest of foreign nationals, furthering relations between countries, issuing passports and other travel documents, safeguarding interest of minors who are foreign nationals and representing or arranging for preservation of rights and interest of foreign nationals.

The Consulate may perform various diplomatic acts including the following:

- Act as a representative of foreign national in any intergovernmental organization (article 17),
- Visit a foreign national who is in prison, custody, or detention (article 36c),
- Receive information and participate in deciding who is to be appointed as the guardian(s) or trustee(s) in the interest of minor(s) (article 37b).

The following are requirements related to detainees:

- Foreign nationals must be told of their rights of consular notification and access.
- The detaining official should determine whether consular notification is the option of the foreign nation or whether it is mandatory.
- In cases of mandatory notification, the notice must occur immediately.
- Detaining agency should keep records of the notification.
- Consulate officers must be allowed to visit, converse, and correspond with the detained person.
- Consular officers must be notified of the death or accident of a foreign national.
- If a person has dual citizenship, he/she will be treated simply as a U.S. citizen.
- Court notification to the consulate is not mandatory, but it may be an option if it helps promote compliance.
- Notification does not need to be in writing.
- Agency should use discretion if reason for detention is disclosed to the consular officers.
- The consular officers may speak to the detainee, may assist in legal representation arrangements, and may check on the conditions of the facility, and may notify the detainee's family.