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Immigrant Children and Families in the Foster Care System

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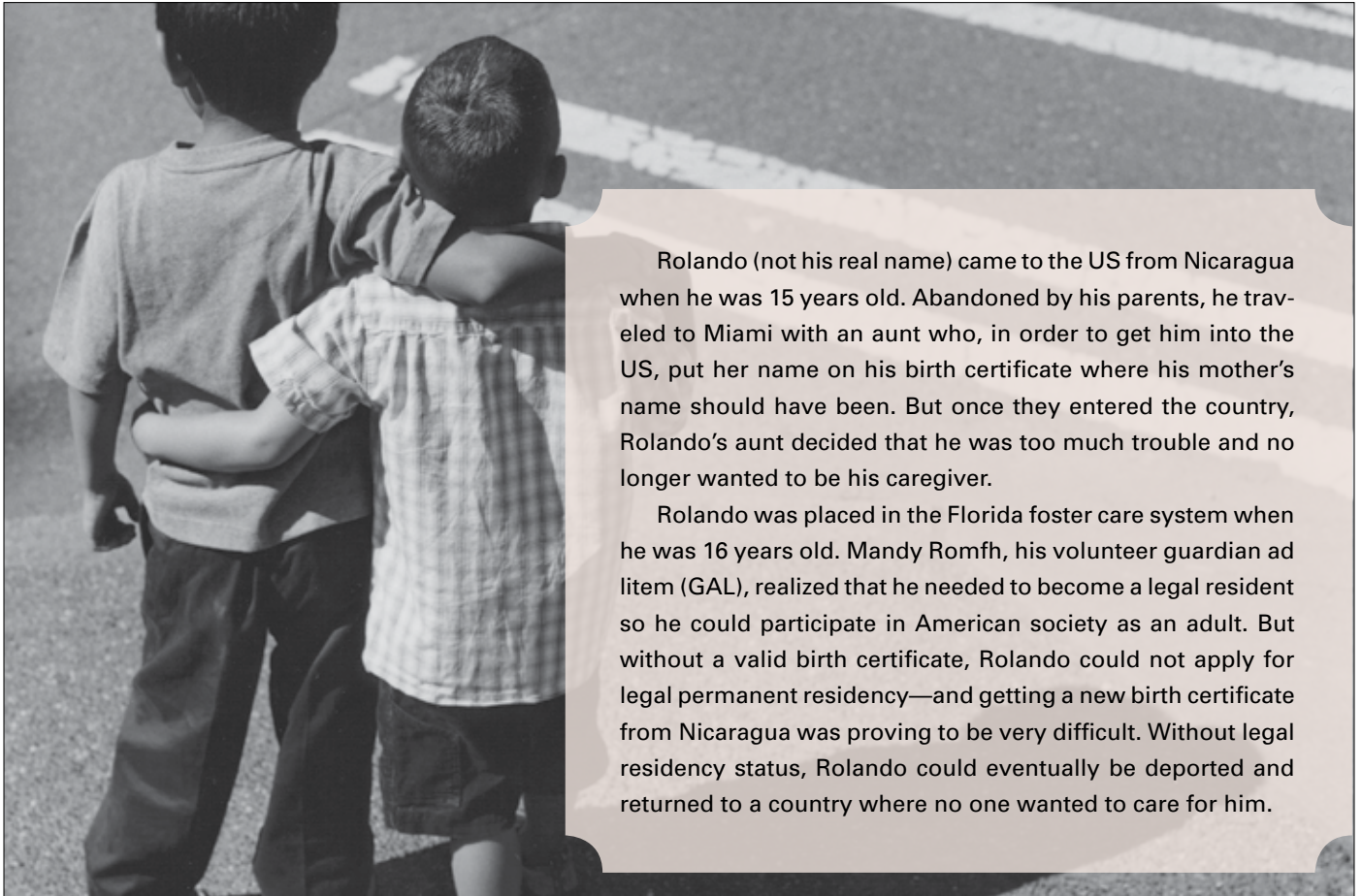


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Immigrant Children and Families in the Foster Care System

By Lisette Austin



Rolando (not his real name) came to the US from Nicaragua when he was 15 years old. Abandoned by his parents, he traveled to Miami with an aunt who, in order to get him into the US, put her name on his birth certificate where his mother's name should have been. But once they entered the country, Rolando's aunt decided that he was too much trouble and no longer wanted to be his caregiver.

Rolando was placed in the Florida foster care system when he was 16 years old. Mandy Romfh, his volunteer guardian ad litem (GAL), realized that he needed to become a legal resident so he could participate in American society as an adult. But without a valid birth certificate, Rolando could not apply for legal permanent residency—and getting a new birth certificate from Nicaragua was proving to be very difficult. Without legal residency status, Rolando could eventually be deported and returned to a country where no one wanted to care for him.

The number of immigrant children and youth has grown dramatically across the US. According to the Urban Institute, the US foreign-born population was 35.7 million in 2004, or nearly 12% of the total US population, with the largest numbers coming from Latin America and Southeast Asia. According to the Census Bureau, children of immigrants are the fastest growing segment of the US child population—roughly one of every five children in the US is an immigrant or a child of immigrant parents.

As the number of immigrants in the US continues to increase, so does the number of immigrant children entering foster care. The challenges that immigrant children and youth already face are often compounded once they enter the child welfare system. As illustrated in Rolando's case, they frequently have complicated needs that can be difficult to address. Unfortunately, with limited information and resources, child welfare workers are often poorly equipped to address immigration-related needs. Cultural

differences and language barriers only further complicate the issue.

Similarly, CASA programs across the country are struggling to understand and meet the needs of the immigrant children that enter their caseloads. With very little literature or research available about this topic, it is often hard to know where to begin. However, an increasing awareness about the issues that immigrant children face, coupled with the growing experience of many CASA programs, is leading to more information for CASA volunteers. The goal

of this article is to provide an overview of these issues along with tips and resources for the most effective advocacy.

Challenges for Immigrant Families and Children

Immigrant families and children face numerous challenges once they arrive in the US. There are language barriers and cultural differences to navigate. Many face psychosocial and mental health problems due to traumatic migration experiences and adjusting to a new environment. Some immigrants also have special health problems and educational needs. All of these issues can make it difficult for immigrants to find work and create stable living arrangements.

One of the greatest barriers that immigrants frequently have to navigate is their

own immigration status. In 1996, Congress enacted the Personal Responsibility and Work Opportunity Act, which, among other things, created the Temporary Assistance to Needy Families (TANF) program. It also established that only “qualified” immigrants could get help from federal programs. Generally speaking, this means that immigrants must be legally authorized for permanent residence, or have been granted refugee or asylee status, in order to qualify for benefits. This however does not include many individuals who are legally in the US but whose status is in transition, such as students, visitors and temporary workers. And when someone does obtain legal permanent status, they now have to wait five years before they can access federally funded benefits.

This policy means that “unqualified” immigrants are effectively cut off from benefits that could help them meet basic needs. According to the US Census, roughly 60% of immigrants in the US are either legal permanent residents or naturalized citizens, 7% are refugees and asylees, and nearly 29% are undocumented immigrants. This translates to over 10 million immigrants being unable under any circumstances to access federal benefits such as TANF, Medicaid and the Child Health Insurance program.

There are some limited exceptions where TANF provides benefits regardless of status (e.g., emergency disaster relief or treatment for emergency medical conditions), but for the most part, individual states are left to decide what they will provide for undocumented immigrants.

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Immigration Status Definitions

Following is a list of common immigration status definitions that child welfare workers may encounter with children and youth in care. Also included are descriptions of how each status impacts services.

Legal Permanent Resident: These are immigrants who have been granted permission to live and work in the US permanently; they possess a “green card” and have a social security number. They are still citizens of their country of origin but can exercise most of the rights of American citizenship. They can be deported or denied permission to re-enter the country if they are convicted of certain felony crimes or in other special circumstances. They may be considered “qualified aliens” and be eligible for federally funded government benefits after they have had a green card for five years. This status has no implications for permanency planning.

Refugee/Asylee: Individuals who must flee their country to avoid persecution may be granted refugee or asylee status. The difference is that refugee status is conferred upon individuals while they are still outside of the US; asylees are granted status after arrival. The Office of Refugee Resettlement (ORR), a division of the US Department of Health and Human Services, is responsible for resettlement of refugees, including unaccompanied refu-

gee minors who receive foster care and other services and benefits. Because of their status and the special circumstances surrounding their entrance to the US, these individuals are entitled to certain services not otherwise available to other immigrants in foster care. The Office of Refugee Resettlement should be notified when individuals with this type of status are identified.

Trafficked Person: US law recognizes an individual as having been a victim of “trafficking” if they can prove that they were brought across international borders for the purpose of forced labor or prostitution. The Victims of Trafficking and Violence Prevention Act of 2000 grants these individuals the possibility of obtaining legal permanent status if they met these criteria and agree to cooperate in criminal investigations of their traffickers. Presently there are only ad hoc procedures in place to address the needs of minor children who are identified as victims of trafficking, including placing them in state foster care rather than federal immigration detention facilities. The Office of Refugee Resettlement has been designated as the lead organization to address this situation and should be contacted if you suspect you are dealing with someone who meets the criteria of a trafficked person.

Undocumented Alien: These are individuals who either entered the US unlawfully or overstayed a visa. Undocumented minors often may not know their status because their parents or relatives never told them. Undocu-

mented immigrants are eligible for limited services and benefits, such as emergency Medicaid and some state-funded programs. Undocumented immigrants, especially children, may be eligible to apply for lawful immigration status and should be referred to appropriate immigration legal services as soon as possible. Undocumented immigration status has significant implications for permanency planning because of the limits it places on an individual’s ability to live independently upon leaving out-of-home care.

VAWA: Under a collection of federal laws known generally as the “Violence Against Women Act” of 1994, battered immigrant spouses or their children can obtain legal immigrant status without the abuser’s knowledge or permission. In order to be eligible, the batterer must either be a legal permanent resident or a US citizen. If you think a child or parent might qualify, make a referral for domestic violence-related legal services immediately. Each state has an Office on Violence Against Women, and further information can be accessed from the National Domestic Violence Hotline at (800) 799-SAFE.

Excerpted with permission of the author from “Immigrant Children and Youth in the Child Welfare System,” by Ilze Earner, PhD, a chapter in Child Welfare in the 21st Century: A Handbook of Practices, Policies and Programs.

Although some states do provide benefits to “unqualified” immigrants, such as prenatal care or other medical assistance, benefit eligibility varies by state and sometimes even county—making it difficult for immigrants to understand and access services.

Dr. Ilze Earner, assistant professor at the Hunter College School of Social Work in New York and director of the Immigrants and Child Welfare Project, feels that these restrictions are a serious problem often overlooked by immigration policy makers. Earner has spent much of her academic career researching and exploring the issues that immigrant children and youth face in the child welfare system in particular.

“While a great deal of attention is often given to laws and systems governing

the entrance of new immigrants into the US, there is little coordination between federal and state policies for addressing the human service needs of these newcomers,” Earner writes in a recent book chapter on immigration status and special needs in permanency planning. “The result is an ad hoc, patchwork approach to federal, state and local services that can leave new immigrants, especially children and youth, falling between the cracks,” she explains.

Indeed, children of immigrant families are particularly vulnerable to having unmet needs. Undocumented parents and caregivers cannot legally work or access federal services. As a result, many immigrant children live in poverty. “According to some studies, immigrant families and their children are

disproportionately poor and lack adequate health care, food and shelter,” says Earner. Statistics from the Urban Institute show that nearly 22% of children of immigrants do not have health care and that 25% live in poverty, as compared to 14% of children in US-born families. And although many immigrant families have US-born children who are entitled to benefits as US citizens, they frequently do not take advantage of these programs. This is usually due to fear of bringing attention to undocumented family members or lack of knowledge about eligibility criteria.

Immigrant Children and Youth in the Foster Care System

Although solid data is scarce, Earner says there is evidence that an increasing number of children of immigrant families are entering the foster care system. Under federal law, any abused or neglected child is eligible for short-term emergency medical care, shelter or other services necessary to address an emergency—regardless of immigration status. This includes placement in foster care.

The reasons these children end up in foster care are similar to children of US-born families: neglect, abandonment, violence, substance abuse and other issues. “However, in the case of immigrant children and youth, family and environmental stressors may be exacerbated by a number of experiences unique to this population,” says Earner. The trauma of migration and adjusting to a new culture can add to family stress. Undocumented immigrants have the added element of fearing discovery and cannot access services that could help them positively cope with stress, such as mental health counseling.

When immigrant parents lack resources to properly care for themselves or their children, there is an increased risk that their children will be placed in foster care. Sometimes cultural misunderstandings lead to immigrant children being removed from their families. A small

Web Resources for Foster Youth Immigration Issues

National Organizations

American Immigration Lawyers Association (aila.org)

National association of over 8,000 attorneys and law professors who practice and teach immigrant law. Look on the AILA home page for a project they co-sponsor along with the US Committee for Refugees and Immigrants: the National Center for Refugee and Immigrant Children project aims to provide pro bono services to unaccompanied children released from detention in the United States.

Bridging Refugee Youth and Children’s Services (brycs.org)

Advocacy group’s website has extensive resources, including archives of numerous articles related to foster care.

National Immigration Law Center (nilc.org)

NILC’s mission is to protect and promote the rights and opportunities of low-income immigrants and their family members. Their website contains links to sites maintained by government agencies, other advocacy organizations and research institutes that may interest immigrant rights advocates and social service agency staff.

National Resource Center for Family-Centered Practice and Permanency Planning (hunter.cuny.edu/socwork/nrcfcpp)

Website contains information devoted to immigration and child welfare.

Office of Refugee Resettlement (acf.hhs.gov/programs/orr)

The mission of the Office of Refugee Resettlement is to help refugees, Cuban/Haitian entrants, asylees and other beneficiaries to establish a new life founded on economic self-support and building upon refugees’ aspirations.

US Citizenship and Immigration Services (uscis.gov)

The USCIS bureau supports the Department of Homeland Security in improving the administration of benefits and immigration services for applicants by focusing on immigration and citizenship services.

Resources in Specific States

Northwest Immigrant Rights Project (WA) (nwirp.org)

The Door (NY) (door.org)

Florida Immigrant Advocacy Center (FL) (fiacfla.org)



awareness about the needs of immigrant families and youth in the child welfare system and to develop training programs and policy initiatives to promote their well-being. In 2002, the project conducted a needs assessment of immigrant families in the child welfare system in East Harlem and found that most of them reported a lack of access to interpreters, cultural insensitivity and an inability to access resources due to their immigration status.

“These factors combined to promote the separation of families and resulted in what appeared to be longer stays in foster care,” says Earner. Although the ICWP study was conducted in New York, she believes the findings suggest similar situations in other states.

Special Immigrant Juvenile Status

A very serious issue for undocumented immigrant children in foster care is the lack of attention given to immigration status. While in foster care, undocumented children will usually receive all necessary services, but once they age out of the system they lose all benefits. As undocumented adults, they cannot live permanently in the States, travel freely, get financial aid for college or be legally employed—even if they have lived in the US for most of their lives.

Because many child welfare service providers are unfamiliar with immigration laws, they may fail to recognize the importance of this issue. Judge Linda Chew of El Paso, Texas, a former immigration attorney, has seen many of these cases over the years. “Immigration status is something that people often wouldn’t ask about,” she remembers. “So many kids go through the system without anyone realizing they don’t have legal resident status. Then what happens is when these kids age out of foster care, they have no legal status at all and can even be deported.” The threat of deportation can be traumatic for a young adult who may not be familiar with the language and culture of their native country—or even remember living there.

number of cases involve unaccompanied minors who entered the US without an adult caregiver. An even smaller number are identified as victims of prostitution or employment trafficking.

Regardless of how they get to foster care, once immigrant children and families are in the system they face a host of unique barriers. Some immigrant parents cannot meet service plan requirements because they are ineligible for necessary services like mental health or substance abuse treatment. In some cases, parents may even be ordered to become a citizen before having their child returned to them—the idea being that they can only provide a stable home if they are able to work legally.

Another major issue is kinship care. Although a child can legally be placed with undocumented relatives, negotiating the requirements for kinship care (for example, obtaining income verification documents) can often be insurmountable because of immigration status. Family members without legal residency status are sometimes afraid

to step forward for fear of being deported. In these cases, immigration status alone can lead to permanent separation from family—even if that family could provide a stable and loving environment.

To further compound the situation, non-English-speaking children are rarely placed with foster parents who speak their native language. The child’s stress and anxiety at being separated from their biological family may be further augmented by their inability to communicate with their foster parent. Language barriers can make it difficult to find the proper educational setting for the child. Other potential barriers include cultural insensitivity on the part of child welfare workers, lack of access to interpreters and lack of funding to cover immigration-related expenses such as specialized lawyers or obtaining documents across international boundaries.

The Immigrants and Child Welfare Project (ICWP), housed at the Hunter College School of Social Work, is a coalition of family service providers who seek to raise

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If a child welfare worker discovers that a child is undocumented, there are steps they can take to obtain legal status. If they can show it is in the best interest of the child to stay in the US, they can submit an application for special immigrant juvenile status (SIJS) to US Citizenship and Immigration Services. The SIJS law was created in 1990 as a way for immigrant children in long-term foster care to legally participate in American society. "SIJS allows the child to eventually receive permanent legal resident status," explains Judge Chew. "Then they can get all the benefits that go along with being a legal permanent resident." (See the editorial on page 5 for more information about special immigrant juvenile status.)

Children who age out of the foster care system at 18 have until the end of their 20th year to apply for SIJS; however, the process is costly, complicated and can take up to 36 months. "Even if the child has enough time, where are they going to get the money?" asks Judge Chew. Finding resources to help with the process can be difficult for service providers, let alone for the youth in question. This is why it is important to begin the process well before the child leaves foster care.

Challenges of Advocating for Immigrant Children in Foster Care

Clearly the barriers that immigrant children and families face in foster care are numerous and complex. How can CASA volunteers best advocate for these children? Advocates and program directors may find it difficult to know where to start—especially if immigrant children are a recent addition to their caseloads. "Unfortunately, there is no handbook for how to find resources or for what to do," says Earner.

Stacie Arends, program director of the 15th Judicial Circuit CASA program in Marshall, Missouri, knows first hand about the challenges. After many years as a primarily Caucasian rural community, Marshall's demographics are changing with a recent influx of mostly Latino immigrants.

Tips for Advocates Working With Immigrant Families

The Immigrant Child Welfare Project (ICWP) recommends the following for successful advocacy by child welfare service providers when working with immigrant families:

1. Ensure that immigration status is not used as a reason to deny families and children preventive services or kinship placement of children in foster care.
2. Permanency planning for undocumented youth in foster care placement must include legalization of immigration status.
3. Translators who speak the family's native language must be made available during child protection investigations, family court proceedings, and meetings between service providers and families.
4. Minor children must never be used as translators for their parents or guardians.
5. Family, youth and children's services providers must ensure that staff receives training on immigration and immigration status and how they affect families' ability to access services.
6. Family, youth and children's services providers must ensure that staff receives cultural sensitivity training in order to work effectively with immigrant populations.
7. Family and children's services providers must make greater efforts to recruit and hire bilingual and bicultural staff representative of immigrant populations served.
8. Additional community based outreach must be done to recruit foster families from diverse immigrant populations.
9. Family, youth and children's services providers must develop programs and services to meet the needs of immigrant families.
10. Greater outreach must be made to immigrant families to make them aware of what services are available to them.

Reprinted with permission from the Winter 2002 issue of the National Resource Center for Foster Care and Permanency Planning Newsletter.

Additional Tips for CASA Volunteers

- When starting a case, talk with your supervisor about potential barriers—particularly those related to immigration status.
- If pursuing legal resident status, help children and youth stay out of trouble (through counseling, support, education, etc.). Getting into legal trouble can greatly jeopardize obtaining permanent residency.
- Find an immigration attorney who fully understands the issues involved. If a child cannot obtain special immigrant juvenile status, a qualified legal expert may be able to obtain legal status another way (see editorial on page 5 for more information on this status).
- Develop relationships with organizations that deal with immigration issues. Explore various resources.
- Talk to families about their pre-migration life, their experiences and their current family situation. Discover family strengths.
- Stress confidentiality. Inquiring about immigration can bring up fear and confusion in the child's family—undocumented family members could be exposed.
- Research available services for undocumented immigrants in your county and state. Encourage families to seek services if needed.
- Be patient—trying to solve immigration status issues can often take months or years.

Their program is now working with two immigrant children. “The language barrier has been a big issue—things sometimes get lost in the translation,” Arends explains. “When we are assessing parents who don’t speak English, we have to find a psychologist who knows their culture and can assess them in their language. It’s hard to get a good evaluation or even find an immigration attorney when you live in a rural community,” she says.

Aprile Goodman, program director of the 8th Judicial District CASA program in Ottumwa, Iowa, is also struggling to understand how to best serve the growing number of immigrant children in their program. “It’s more than just trying to understand another culture,” says Goodman. “Many of the families are undocumented, which adds another dimension to the whole case.” Goodman gives the example of one mother, living in a rural area without adequate public transportation, who could not legally drive due to her undocumented status. “If this were a non-immigrant case and mom was driving illegally, we would automatically tell her not to do it,” says Goodman. “But how do we handle this case?

There are many unique problems created by immigration status that are very hard to navigate.”

The sheer complexity of some immigrant cases can also be daunting. In 1997, Bob Wegrzen, a CASA volunteer in El Paso, took a unique case involving a 6-year-old boy who was born in Germany but who ended up living in homeless shelters across the US with his US-born, schizophrenic mother. The case quickly became very complex, with extended family in Germany who wanted to adopt him, a Jamaican father who could not easily be found, Native American parentage that meant he might be eligible for tribal custody and a mother who did not want to relinquish custody to any of these parties.

Figuring out the best placement for this child involved immigration and international family lawyers, embassies, German and American psychologists, international travel, treaty law and countless hours of detective work to locate people and documents in foreign countries. Meanwhile there were difficulties finding the proper educational setting for the young boy, who spoke a unique blend of Jamaican patois,

German and English. He also had been traumatized by his experience with his mother and needed counseling and other special services.

Ultimately the boy was adopted by a family in El Paso and is now a happy, well adjusted 15-year-old. This positive ending was due in large part to Wegrzen’s dedication to the case and willingness to expend a tremendous amount of time and energy to explore all possible placements. For many CASA volunteers, a case like this would be overwhelming; volunteers may not always have the necessary resources to navigate such a complex and expensive process.

Where to Start

The good news is that there are a growing number of individuals and organizations dedicated to the immigration issue—as well as an increasing number of experienced CASA volunteers and programs, particularly in border states. Advocates located in rural communities, or areas newer to immigration issues, can begin to learn from these resources and experiences.

Mandy Romfh, the Miami volunteer mentioned at the beginning of this article

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and now a GAL supervisor, feels the most important advice she can give is to find out about immigration status and take immediate action if needed. “There is nothing more important for many of these kids than getting special immigrant juvenile status—and you don’t know how long it’s going to take,” she says. “Even if the case manager is being 100% cooperative, these things just take time.”

Earner agrees and adds that immigration status issues may not initially be obvious. “Even if the child thinks they know if they are legal or not—do they know the truth? If you aren’t sure where the child was born, you need to look into it. This is primary information—and has very serious implications for the child.”

It is also important to seek help from a knowledgeable immigration attorney. “There are a lot of agencies that do immigration work, but that doesn’t mean they know everything they need to benefit the child,” says Judge Chew. “It is preferable to find someone who is a member of the American Immigration Lawyers Association (AILA) and who can do pro bono work,” she advises. Since the child welfare system is rarely able to cover legal expenses, finding an attorney who will waive fees can be crucial. “AILA is a wealth of information and can help find someone to work with,” says Chew.

Whether or not immigration status is an issue, it is essential to learn as much as possible about the family’s history and culture. “One of the first things I want my advocates to do is sit down and talk with the family about their life in their native country,” says Goodman of Iowa. “This is incredibly important—as it gives a context to their current situation.” She also encourages advocates to find out about the family’s long-term plans. “Do they plan to remain in the US? Or do they plan to make money and return to their native country?” she asks. “Their plans can shift what our advocacy priorities are.”

Publications Related to Immigration and Foster Youth

Immigration Benchbook for Juvenile and Family Court Judges

By Sally Kinoshita and Katherine Brady, Immigrant Legal Resource Center

Although state court judges do not have jurisdiction to make decisions on immigration issues, the decisions they make can affect a person’s immigration status and have implications for children adopted through inter-country adoptions. This January 2005 publication provides guidance to state court judges and other legal professionals on the intersection of federal immigration law with many of the cases a state court may decide.

Free download: ilrc.org/resources/sijs/ (from this web page, click on the link “2005 SIJS benchbook.pdf”)

Serving Foreign-Born Foster Children: A Resource for Meeting the Special Needs of Refugee Youth and Children

By staff from Bridging Refugee Youth and Children’s Services

This guidebook emphasizes the need for refugee families to serve as foster parents. Such families may be challenging for public agencies to locate or develop as foster care resources, but they may provide an unequalled service to refugee foster children with special linguistic and cultural needs.

Free download: brycs.org/documents/fostercare.pdf

Cultural Sensitivity with Immigrant Families and their Children

By Inga Feldman, MSW, National Resource Center for Foster Care & Permanency Planning

This information packet provides fact sheets, best practices, model programs, websites, references and suggested readings.

Free download: hunter.cuny.edu/socwork/nrcfcpp/downloads/cultural-sensitivity-with-immigrants2.pdf

Child Welfare for the 21st Century: A Handbook of Practices, Policies, & Programs

By Gerald P. Mallon and Peg McCartt Hess

This comprehensive resource by leaders in child welfare reflects the impact of the Adoption and Safe Families Act (ASFA) of 1997. The October 2005 publication serves as a single-source reference for a wide array of professionals who work in children, youth and family services in the United States—policymakers, social workers, psychologists, educators, attorneys, guardians ad litem, CASA volunteers and family court judges—and as a text for students of child welfare practice and policy. The chapter “Immigrant Children and Youth in the Child Welfare System—Immigration Status and Special Needs in Permanency Planning” was written by Ilze Earner, PhD.

To purchase: \$95.00, Columbia University Press, columbia.edu/cu/cup/catalog



Education is another key piece. Getting connected to resources and supportive organizations will help advocates build knowledge about these issues. Advocates should also research what local resources, if any, are available to undocumented immigrants and educate families about available services. They can also help child welfare workers understand barriers that may prevent families from meeting service plan requirements as well as how immigration status could seriously impact the child's future.

Rolando, the boy from Nicaragua, is one of the more fortunate cases. His immigration status case is pending, and it looks as if he will have enough time to resolve it. He has knowledgeable providers who are working to address the needs that stem from his immigration experience. But not every child is so lucky. It is easy for the needs of immigrant children to go unmet in a system that frequently does not recognize the difficulties of being in a new country or barriers within the system itself.

This is where CASA volunteers can help to shift the tide. By educating themselves about the issues that immigrant children face in this country and in the foster care system, advocates can become more effective for this population and edu-



cate others. "There are things you can do, and there are things that are beyond your scope," says Romfh. "But being educated about what needs to be done can help you to move things forward more quickly." And for a child caught between cultures and families, with their future hanging in the balance, that can make all the difference in the world.

Lisette Austin is a freelance writer who regularly contributes to local and national publications on a wide range of topics. She also works part-time as a communications specialist for Children's Hospital and Regional Medical Center. She lives in Seattle with her husband and 4-year-old son.

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GET CONNECTED!

The National CASA Association hosts several websites of interest to anyone who values promoting and supporting quality volunteer advocacy to help assure each child a safe, permanent, nurturing home. Visit one of the following sites to learn more.

NationalCASA.org

The National CASA website is one of the strongest resources for recruiting new volunteers and supporters for state and local CASA/GAL programs. The recently redesigned website contains volunteer stories along with information on recruitment, public relations activities, news and donating to National CASA.



CASAnet.org

CASAnet is designed to meet the needs of CASA program staff and volunteers, including the advocate's library, program tools, updated information on national initiatives and other material for download.

NationalCASA.org/JudgesPage

A webpage dedicated to judges who hear child welfare cases.

ShopCASA.org

A broad assortment of support materials and CASA/GAL promotional items is available through the ShopCASA site.

