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Child Protection and Custody

IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE

TIPS FOR CHILD WELFARE WORKERS AND ADVOCATES

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GUIDING PRINCIPLES FOR CHILD WELFARE WORKERS AND ADVOCATES

Humanity – Child welfare workers should be sensitive to the unique needs of victims of domestic violence who experience trauma from migration (Sangalang et al., 2019). Immigrant and refugee populations may have experienced severe trauma during migration (Perreira & Ornelas, 2013), including physical and sexual violence, extreme poverty, abuse from government authorities, or trafficking. This trauma is in addition to, and exacerbates, the trauma of domestic violence. Whenever possible, child welfare workers and advocates should attempt to preserve the integrity of the relationship between the non-abusive parent and children, while working swiftly to protect the victims from further abuse and integrate tailored, culturally appropriate services.

Humility – Child welfare workers and advocates should recognize the institutional and cultural power imbalance when supporting immigrant victims of family violence. They should strive to integrate cultural

humility into all aspects of their work and understand that immigrant victims and their families are different. Workers and advocates should be mindful that the experience of migration, victimization, trauma, and removal is individualized, and that a worker's own culture and institutions affect how they see victims and families, analyze cases, and make decisions. Likewise, workers should recognize that the cultural background of victims and families affects the way they communicate and engage with services. Workers and advocates should strenuously combat implicit bias in decision making by making active efforts to acknowledge individual and structural biases in the child welfare system, including inequities in reunification, case planning, and decision making.

Choice is a luxury that can be limited by an abuser. The lack of options for immigrant survivors is an important piece of information to convey to the court when advocating or authoring child welfare reports.

Compassion – Workers and advocates with immigrant victims should acknowledge the risk families have taken to protect their children, the experience of cumulative adversity (NeMoyer, Rodriguez, & Alvarez, 2019), and the courage and resilience of immigrant victims and their families. At the same time, they should be sensitive to their own needs and actively engage in self-care to prevent compassion fatigue. Workers and advocates should be careful to avoid communicating judgment about a victim’s choices to migrate or escape and acknowledge that a victim’s lack of choices may be compounded by immigrant status. Workers and advocates should aim to communicate a broad picture of protective factors and the resilience of both children and victims to decision makers.

TIPS FOR ADVOCATES AND CHILD WELFARE WORKERS WHEN WORKING WITH IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE

01 Use victim-centered case planning – Victim-centered case planning is critical for immigrant survivors of domestic violence. A child welfare worker should ensure that an immigrant victim’s safety and security are prioritized, recognizing and addressing specific barriers to protection and services that immigrant survivors face such as language, isolation, fear of law enforcement or court intervention, and abuser retention of documents. Advocates and workers should conduct a comprehensive analysis of the survivor’s protective and supportive factors including extended family and relatives in other countries. A strength-based approach to case planning, which highlights the resilience and perseverance of victims and their families, is recommended (Branco & Rana, 2018). Child welfare

workers should avoid judgmental analysis, gender bias, and stigma, particularly when immigrant survivors may be severely isolated. Advocates should pay close attention to community connections and support systems that can prevent re-abuse. Further, child welfare workers should remember that a victim-centered model is not incompatible with child welfare principles or child safety and indeed is a best practice (Capacity Building Center for States, 2017).

02 Think about intersectionality – Intersectionality means acknowledging the way a victim’s barriers interact with each other. This may include aspects of gender identity, race, culture, class, minority and socio-economic status, education level, poverty, disability, nationality, geography, and privilege. Rather than view these factors as separate, child welfare workers should understand how these dimensions can challenge survivors and affect protective and supportive factors (Ragavan et al., 2018). Pre-existing barriers such as language, economic status, background, race, and education require specific and tailored responses. In particular, language access is critical not only for the victim and her family, but for all important parties in court proceedings (United States Department of Justice, Civil Rights Division, 2016). Advocates and workers should always remember that communicating these complex layers to court decision makers helps paint an accurate picture of the survivor’s needs.

Child welfare workers should ask themselves: “How does intersectionality help me identify an immigrant survivor’s challenges and chart a case plan and goals that will lead to effective recovery?”

03 Get help with immigration – Immigration advocacy is not easy. Immigration laws are dynamic, complex, and can change rapidly. While workers and advocates should be aware of immigration protections available to survivors and children, they should also advocate for the appointment of immigration attorneys for survivor parents and victimized children. In child welfare proceedings, immigration attorneys may be eligible for funding through Title IV-E or through local court funding (Hardin, 2019). In domestic violence proceedings, advocates can connect with local bar associations for pro bono services and seek non-profit assistance for immigration representation. Workers and advocates should remember that a minor in state child welfare proceedings may have significantly more rights and resources than an unaccompanied minor in federal immigration proceedings. In addition, a minor in state child welfare proceedings will always be appointed an attorney or guardian ad litem.

04 Advocate for safe family integrity – Advocates and workers should strive to preserve the integrity of a safe family by working toward placement and visitation with a non-abusive parent. If the parent and child are separated and physical visitation is impossible, advocates and workers should immediately work to set up communication and virtual visitation. Advocates should ensure that visitation orders with abusive parents are safe, supervised, and do not exacerbate further trauma to the child, while also remaining

mindful that immigrant families may have limited social support. In cases of separation, state advocates and child welfare workers should utilize administrative channels with federal authorities such as the Border Patrol (Young Center for Immigrant Rights, 2019), Homeland Security, and Immigration and Customs Enforcement (ICE) Parental Interests Coordinator¹ to ensure that parents, particularly survivors, are provided adequate notice and an opportunity to be present at state and child welfare hearings. Workers should investigate placement of children with relatives in the immigrant family's country of origin, taking into account the parent's wishes. Placement with foreign relatives in border areas may even result in faster and more effective reunification with parents.² Finally, advocates and child welfare agencies should be extremely careful to balance the mandatory adoptive permanency provisions under federal law³ (42 U.S.C. 675(5)(E)) with the severely inhibited ability of parents to engage in reunification services if detained by immigration authorities or deported.

TIPS ON CULTURAL HUMILITY AND RESILIENCE

01 What is cultural humility? – Cultural humility recognizes that workers and advocates should be mindful of an individual survivor's culture, while striving to address the complex lives and experiences of victims. A worker or advocate practicing cultural humility recognizes that although a person can never be competent (completely knowledgeable) in another person's culture, the person can work to mitigate the power

1 The Department of State Bureau of Consular Affairs handles international child abduction through the Office of Children's Issues. In addition, DOS representatives can assist with Letters Rogatory issues. The International Social Services-USA is a private organization which can also assist with inter-country issues; further if parents are incarcerated in immigration detention centers, state child welfare workers should utilize the ICE Parental Interests Coordinator.

2 See, e.g., *In re Sabrina H.*, 149 Cal. App. 4th 1403.

3 42 U.S.C. 675(5)(E) mandates that states receiving Title IV-E funding shall seek termination of parental rights and adoption after a certain time in foster care.

imbalances and biases associated with cultural differences (Yeager & Bauer-Wu, 2013). Cultural humility encompasses the modern and critical definition of culture as “shared experiences and commonalities” of a survivor and their families, including their “values, norms, attitudes, expectations, and customs” (National Resource Center on Domestic Violence, 2012). Workers also should understand that an immigrant victim’s culture is not static (always the same), but “dynamic and evolving in relation to changing social and political contexts” (National Resource Center on Domestic Violence, 2012). Finally, cultural humility means that workers and advocates know that a victim’s culture does not merely align with ethnicity, birthplace, or nationality.

02 Why is cultural humility important? –

Services that are sensitive to an immigrant survivor’s culture, particularly with children, are more effective (Rana, 2012) and provide a more accurate assessment of risk and danger (Messing, 2013).⁴ Conversely, services that are insensitive to a survivor or the survivor’s family may be ineffective, legally insufficient, or exacerbate trauma. Most importantly, cultural humility helps advocates, workers, and court decision makers better understand the beliefs, values, and norms of the families they work with and communicate the needs of families to decision makers. On the other hand, services that are culturally insensitive will cause miscommunication, faulty analysis of a victim’s decisions and beliefs, and ultimately drive a wedge between a survivor and an advocate or worker. Such services will impede

further recovery, place the victim at higher risk, and impede communication between both the survivor and community. These missteps can be devastating for local agencies that are building bridges to collaborative work.

Communication and culture – The flow of information between the court, child welfare worker, and advocates is a critical part of maintaining safety for an immigrant victim and their family. However, advocates and child welfare workers will analyze cases through the lens of their own culture, biases, and institutional practices. When analyzing cases for child welfare decision-making as well as crafting reports and memoranda that recommend decisions by court officers, it is important for advocates to work actively to avoid implicit bias. This is not easy without significant preparation and education. Identification of implicit bias requires introspection and learning, as well as training on how to apply these techniques in a clinical environment.⁵ Additionally, it is important for advocates and workers to educate court decision makers sensitively on the cultural differences that may explain a survivor’s choices. Communicating culture to decision makers can include contextualizing a survivor’s decisions that may appear risky, a child’s wishes and needs, the severity of trauma when immigrants lose contact with siblings, godparents, and neighbors, and the importance of maintaining familial connections through frequent visitation. By providing a broad picture of the victim, court decision makers and

⁴ See generally, National Resource Center on Domestic Violence, Cultural Competence.

⁵ There are many resources for learning about implicit bias in the child welfare system. One of the best starting points is the *Addressing Bias in Delinquency and Child Welfare Systems: Eliminating Racial and Ethnic Disparities in Juvenile and Family Courts Is Critical to Creating a Fair and Equitable System of Justice for All Youth* which is available through the National Council of Juvenile and Family Court Judges.

providers can make more effective decisions and avoid implicit bias and stereotyping. An advocate should be mindful, however, to ensure that the victim's confidentiality and dignity are respected at all times.

SUPPORT SYSTEMS IN IMMIGRANT COMMUNITIES

01 What should I know about help-seeking and support in immigrant communities? – All immigrant communities are unique, but it is common for structural and cultural barriers to inhibit an immigrant victim's help-seeking and support systems (Derr, 2015). Workers and advocates should partner with advocates who have experience working within the immigrant victim's community to provide the most effective support for victims. In addition, it is critical for child welfare workers and advocates to identify and communicate with agencies that work within the community, including those that provide "culturally-focused services" (Family Violence Prevention Fund, 2009, p. 13). Mainstream agencies without these connections "may lack sociocultural understanding" or even have preexisting bias (Family Violence Prevention Fund, 2009, p. 5). Additionally, immigrant victims may have negative experiences with law enforcement or government agencies, either in the United States, their home country, or during the migration process. Finally, ensuring effective language access is imperative for both child welfare services and domestic violence advocacy.

02 Can faith communities help support victims? – Faith communities, particularly rural faith communities, can be strong partners when working with an immigrant victim of domestic violence.⁶ As noted by one organization, "Faith leaders play an important role not only as guides and confidantes, but as voices of moral authority in supporting victims of domestic violence and assisting them in seeking help. They can also hold offenders accountable for their abusive behaviors" (New York State Office for the Prevention of Domestic Violence, n.d.). Faith communities, especially in rural areas, may have pre-existing support networks that can be leveraged to assist victims and families. However, it is critical that workers and advocates connect with community-based domestic violence organizations to ensure that a consistent, trauma-informed response to the victim and their family is safe.⁷

6 The term "faith communities" encompasses both western, non-western, formal and informal organizations and agents such as healers, elders, as well as mosques, and faith-based support groups.

7 For more information, contact Safe Havens: Interfaith Partnership on Domestic Violence.

WHO CAN I GO TO FOR MORE INFORMATION?

For immigration resources:

- The Young Center on Immigrant Children's Rights, www.theyoungcenter.org
- Tahirih Justice Center, www.tahirih.org
- Kids in Need of Defense, <https://supportkind.org>
- National Latin@ Network: Casa De Esperanza, www.nationallatinonetwork.org
- Battered Women's Justice Project, www.bwjp.org

For culturally specific advocacy:

- The Asian Pacific Institute on Gender Based Violence, www.api-gbv.org
- National Indigenous Women's Center, www.niwrc.org
- Ujima Inc. (National Center on Violence Against Women in the Black Community), www.ujimacommunity.org
- National Latin@ Network: Casa De Esperanza, www.nationallatinonetwork.org

For child welfare and domestic violence:

- Resource Center on Domestic Violence: Child Protection and Custody, www.rcdvcpc.org
- Child Welfare and Information Gateway, www.childwelfare.gov
- National Center on Domestic Violence, Trauma and Mental Health, www.nationalcenterdvtraumamh.org
- Futures Without Violence, www.futures.org

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