

Human Rights **Update****THE IMPACT OF IMMIGRATION DETENTION
ON CHILDREN AND FAMILIES**NASW International Committee • Amy Bess, MSW, Senior Practice Associate, abess@naswdc.org

The number of immigrants in Immigration and Customs Enforcement (ICE) custody on an average day is well over 30,000.ⁱ Many of these individuals are parents and primary caregivers of U.S. citizen children and have no criminal record. Social workers are often responsible for ensuring the welfare of the children who must live without one or both parents due to immigration enforcement. As immigration enforcement increases and comprehensive immigration reform remains on the distant horizon, social workers must actively promote policies that are designed to keep family units together and preserve the quality of life for all children growing up in America.

Background

There are approximately 5.5 million children in the United States with at least one undocumented parent. 73% of these children are U.S. citizens.ⁱⁱ A growing concern among many social workers is that too many undocumented parents are being sent to immigration detention facilities and separated from their children. Agreements between local police departments and the Department of Homeland Security (DHS), under a set of programs called ICE ACCESS, allow police to carry out federal immigration laws. While these agreements are facilitated to target “high-risk” criminal immigrants, depending on the jurisdiction, from 55% to 87% of arrests through these programs stem from misdemeanors such as traffic violations.^{iii, iv} Once arrested, many parents are transferred from the area in which they were apprehended to an immigration detention center without knowing what care arrangements have been made for their children and without being able to contact their children. For these parents, it has been difficult if not impossible to locate and reunite with their children at the conclusion of their immigration case. There have

been instances in which children have been placed in the child welfare system after their parents have been detained and subsequently determined to be available for adoption. This occurs because the system is often not able to locate the parents or the parents are unable to participate in family court proceedings because of immigration detention.

Facts on Detention

Since 1994, the immigration detention system has expanded five-fold, from 6,785 beds per night to over 33,400. Although staying in the United States without proper documentation is a civil violation, immigrants are often held in facilities with and treated as criminal offenders. In fact, over 58% of immigrant detainees being held in ICE facilities have no criminal record.

- Immigrants have become the fastest growing population in federally-funded detention facilities.
- Across the United States, the Department of Homeland Security holds immigrant detainees in over 175 facilities, half of which are privately operated.
- Private prison corporations vie for federal contracts to hold immigrants, charging on average \$122/night for each detainee, costing taxpayers \$1.7 billion in 2009.

Kerwin, D. & Lin, S.Y. (2009). *Immigrant Detention: Can ICE meet its legal imperatives and case management responsibilities?* Washington, DC: Migration Policy Institute.

Detention Watch Network. (2011). *The Influence of the Private Prison Industry in Immigration Detention*. Retrieved from www.detentionwatchnetwork.org/privateprisons

Impact on Children

When parents are held in detention, the subsequent family separation poses great risks for their children. Whether as a result of witnessing their parents’ arrest or simply not understanding why their parents cannot come home, children are likely to face multiple consequences

when separated from their primary caregivers. Children experience emotional trauma, safety concerns, economic instability, and diminished overall well-being. This can lead to interruptions in these children's schooling, depression, aggression and rebellion.^v

The intersection of the two disciplines: immigration law and family and child welfare services

The complicated intersection of the immigration and child welfare systems presents often insurmountable barriers for detained parents to locate and know where their children are, to make child care plans and to participate in reunification case plans. This situation is compounded by language barriers that exacerbate communication difficulties between families, immigration and child welfare systems. The Immigration and Customs Enforcement (ICE) agency holds parents for long periods, far from home, their children, their children's caretakers, and even far from caseworkers and lawyers, and provides parents little way to communicate with or contact their children or children's caretakers. Child welfare workers often have not been trained in how to navigate the detention system to locate a parent. Family court officials do not understand that parents might not appear at custody proceedings because they are in detention and the systems do not interface. Equally important, immigration judges are not afforded the necessary discretion to keep parents and children together. And workers in both systems may frequently find themselves battling discrimination and bias against immigrants.

What Can Social Workers Do

NASW supports policies that uphold equity and human rights for immigrants, while at the same time protecting national security.^{vi} According to the *NASW Code of Ethics*^{vii}, social workers:

- *Should engage in social and political action that seeks to ensure that all people have equal access to the resources, employment, services, and opportunities they require to meet their basic human needs and to develop fully. Social workers should be aware of the impact of the political arena on practice and should advocate for changes in policy and legislation to improve social conditions in order to meet basic human needs and promote social justice.* – 6.04 (a)
- *Should act to prevent and eliminate domination of, exploitation of, and discrimination against any*

person, group, or class on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical disability. – 6.04 2(d)

Advocate, Educate, Initiate

As advocates and practitioners, social workers can take the following actions:

1. Challenge yourself to see how this issue holds relevance in your everyday practice as a social worker. Learn as much as you can about the issue and take a look at the resources referenced in this update.
2. When working with families, learn whether children have been separated from their parents by immigration policies and investigate with the appropriate agencies to determine whether additional efforts are necessary to provide resources and services that will protect the rights of the parents and ensure the best interests of the child.
3. Actively educate and raise awareness in the community at large and engage and mobilize grassroots support to help families remain united while navigating the immigration/child welfare systems. Forward this document or hand it out to colleagues in the community. Blog, write letters to editors, share your thoughts via social media outlets, and talk to people about the issue.
4. Join NASW's Advocacy list serve to receive alerts to take action on current legislation on this topic. Write to or call your Members of Congress and ask them to ensure that immigration laws protect children impacted by the detention and deportation of their parents and that parents retain their parental rights while in detention and are afforded opportunities to plan for the care of their children. Sign up here: <http://capwiz.com/socialworkers/home/>
5. Join coalitions that call for improved immigration protocols that support family unification. National coalitions supported by NASW include: Detention Watch Network, Migration and Child Welfare National Network, Bridging Refugee Youth and Children's Services, among others. Your NASW chapter may have information on state-level coalitions in which you can become involved.

RESOURCES

NASW Practice Update: Meeting the Needs of Immigrant Children and Youth in Child Welfare

www.socialworkers.org/assets/secured/documents/practice/clinical/WKF-MISC-45510.ChildrenPU.pdf

Maintaining Parental Rights During Immigration Enforcement Actions and Detention

www.womensrefugeecommission.org/reports/cat_view/68-reports/71-detention-a-asylum

The Women’s Refugee Commission, the Florence Immigrant and Refugee Rights Project and the Applied Research Center provide an overview and recommendations regarding maintaining parental rights during immigration enforcement actions and detention.

The Impact of Immigration Enforcement on Child Welfare

www.firstfocus.net/sites/default/files/CaughtBetweenSystems.pdf

This policy brief examines the intersection of immigration enforcement and child welfare and the difficulties facing immigrant families caught between the two systems.

Torn Apart by Immigration Enforcement: Parental Rights and Immigration Detention

<http://womensrefugeecommission.org/programs/detention/parental-rights>

This report by the Women’s Refugee Commission outlines the loss of parental rights when immigrant parents are detained or deported and risk losing their U.S. citizen.

Disappearing Parents: A Report on Immigration and the Child Welfare System

www.law.arizona.edu/depts/bacon_program/disappearing_parents_report.cfm

This report from the University of Arizona presents findings from interviews with personnel in the child welfare system and makes recommendations for reforms of both the federal immigration enforcement system and the state child welfare system.

A Social Worker’s Tool Kit for Working With Immigrant Families

www.americanhumane.org/children/professional-resources/program-publications/child-welfare-migration/tool-kits.html

Written by the Migration and Child Welfare National Network, this tool kit provides public child welfare

and community-based agencies working with immigrant families with guidelines for integrating child welfare practice — from engagement to case closure — with trauma-informed care and trauma-specific services.

ENDNOTES

- i Chaudry, A., et al. (2010). *Facing Our Future: Children in the aftermath of immigration enforcement*. Washington, DC: The Urban Institute. http://carnegie.org/fileadmin/Media/Publications/facing_our_future.pdf
- ii Ibid.
- iii Capps, Randy, M. Rosenblum, C. Rodriguez, and M. Chishti. (2011). *Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement*. Washington, DC: Migration Policy Institute.
- iv Nguyen, M.T. & Gill, H. (2010). *The 287(g) Program: The costs and consequences of local immigration enforcement in North Carolina communities*. North Carolina: The University of North Carolina.
- v Chaudry, A., et al. (2010). *Facing Our Future: Children in the aftermath of immigration enforcement*. Washington, DC: The Urban Institute. http://carnegie.org/fileadmin/Media/Publications/facing_our_future.pdf
- vi National Association of Social Workers. (2009). *NASW Policy Statement on Immigrants and Refugees*. In *Social work speaks* (8th ed.). Washington, DC: NASW Press.
- vii National Association of Social Workers. (2008). *Code of Ethics of the National Association of Social Workers*. Washington, DC: NASW Press.

Learn more about our work:

NASW International Committee

SocialWorkers.org/practice/intl/Issues/immigration.asp or 202.408.8600.