

CHILDREN AND IMMIGRATION

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PRESENTED TO THE
WASHINGTON COALITION OF
SEXUAL ASSAULT PROGRAMS



ABOUT ME

- Currently: Staff attorney on the Children's Representation Project Team at Immigrant Defenders Law Center in Los Angeles, CA
- From 2016-2020, worked at Northwest Immigrant Rights Project in Tacoma, WA
- Represented immigrant children and adult survivors of violence who lived on the Olympic Peninsula and Southwestern Washington

OVERVIEW

- Current border situation
- How do immigrant children end up in our communities?
- Immigration Court basics
- Common immigration relief options for child survivors of violence
- Immigrant children and your practice
- Questions?

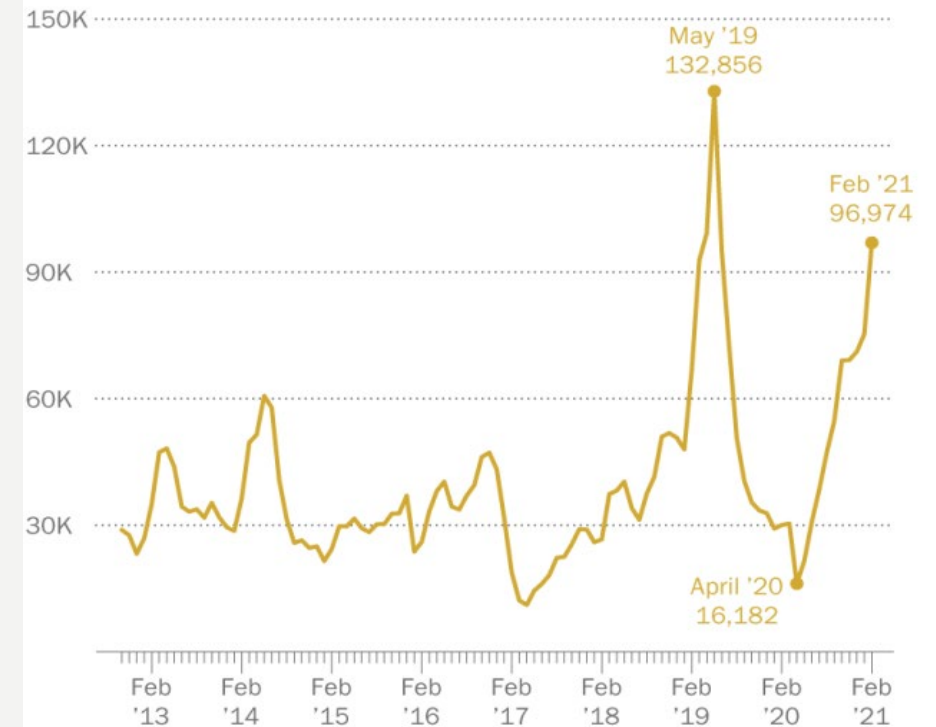
- Bonus– Know your rights in ICE encounters

MIGRATION TRENDS AND THE SOUTHERN BORDER

- There is currently a surge of migrants at the southern border.
- This surge includes many minors traveling without their parents
- Why?
 - 1) Pent up demand from 2020
 - 2) Spring/summer is peak time of year for migration at the southern border
 - 3) Worsening “push” factors in home country

Monthly migrant apprehensions at U.S.-Mexico border are approaching the highs of 2019

Apprehensions at southwest border, by month



Note: Beginning in March 2020, monthly totals combine apprehensions and expulsions into a new category known as encounters. Monthly totals before March 2020 include apprehensions only.

Source: U.S. Customs and Border Protection.

PEW RESEARCH CENTER

PUSH FACTORS FOR MIGRATION

- With child migrants from Central America, we generally see that more children are being “pushed” from their country rather than “pulled” to the United States.
- Most commonly fleeing:
 - Gang violence, extortion, or recruitment
 - Domestic violence
 - Severe poverty, exacerbated by climate change and the pandemic
 - Gender based violence
 - Persecution based on ethnicity, familial ties, political opinion

Central American minors make up the majority of the unaccompanied minors entering the U.S.





2019/2020 BORDER POLICIES

- President Trump's border policies in 2019/2020 impacted the flow of migrants through the southern border and forced thousands to live in refugee camps in Mexico
- “Remain in Mexico Policy” (Migrant Protection Protocols) began Jan 2019
- Pandemic Delays
- Refugee camps have emptied out after this policy was reversed by Biden

JOURNEY TO THE UNITED STATES

Means of transportation varies.

- “La Bestia”
- Bus
- Coyotes
- “Migrant Caravans”

The trip from Central America through Mexico is incredibly dangerous, especially for a child.



CROSSING THE BORDER

“Arriving Aliens”

- Immigrant presents themselves to Customs and Border Patrol at a port of entry and requests asylum
- Immediately taken to a CBP holding facility

“Entered without Inspection”

- Immigrant crosses the border over the wall, through the desert, or through the river
- Is apprehended within the United States by CBP agents
- Taken to CBP holding facility

CBP CUSTODY

- Held in “La Hielera” (The Icebox)
- Parents with children:
 - Generally released on own recognizance with their children
 - Will be given ICE check in dates
- Children traveling alone or with non-parent relatives:
 - Designated “Unaccompanied Alien Children” (“UCs”)
 - May only be held for 72 hours in CBP facilities



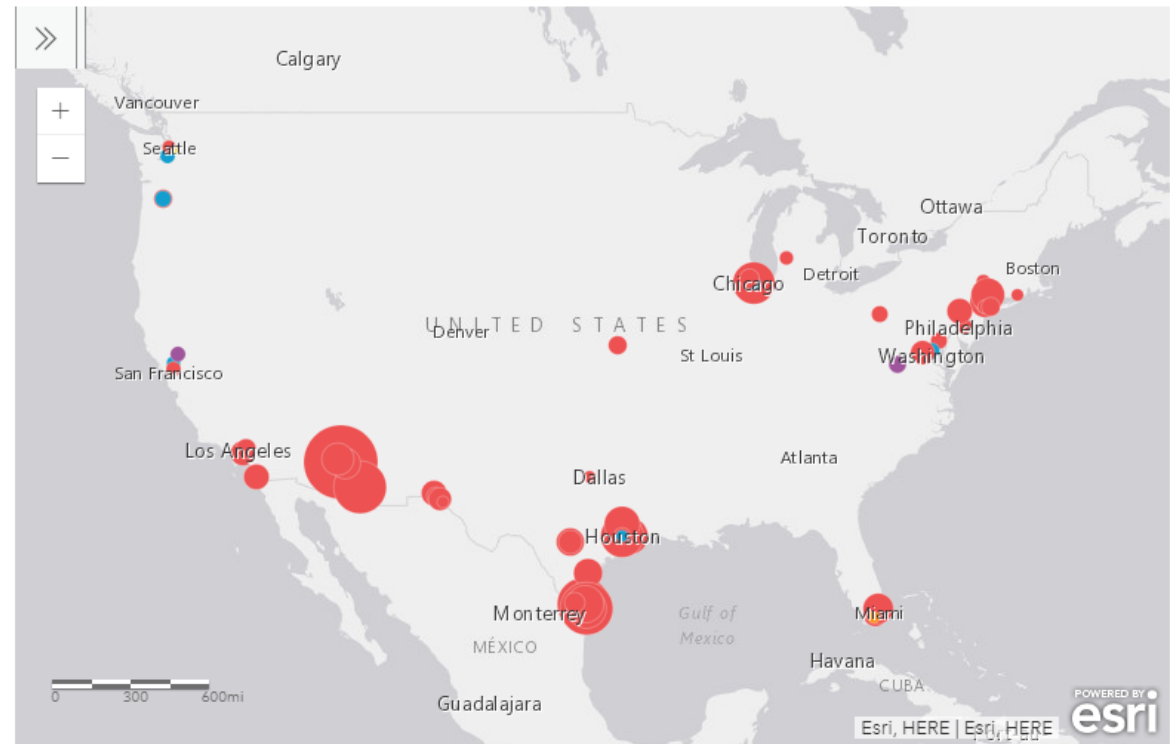
TEMPORARY EMERGENCY SHELTERS

- Children are supposed to be transferred out of CBP custody to a shelter run by the Office of Refugee Resettlement within 72 hours.
- ORR shelters are too full and do not have the space for new children.
- Temporary emergency shelters are popping up to bridge the gap.
- Children will be provided with education, legal screenings, recreation, and medical care



OFFICE OF REFUGEE RESETTLEMENT SHELTERS

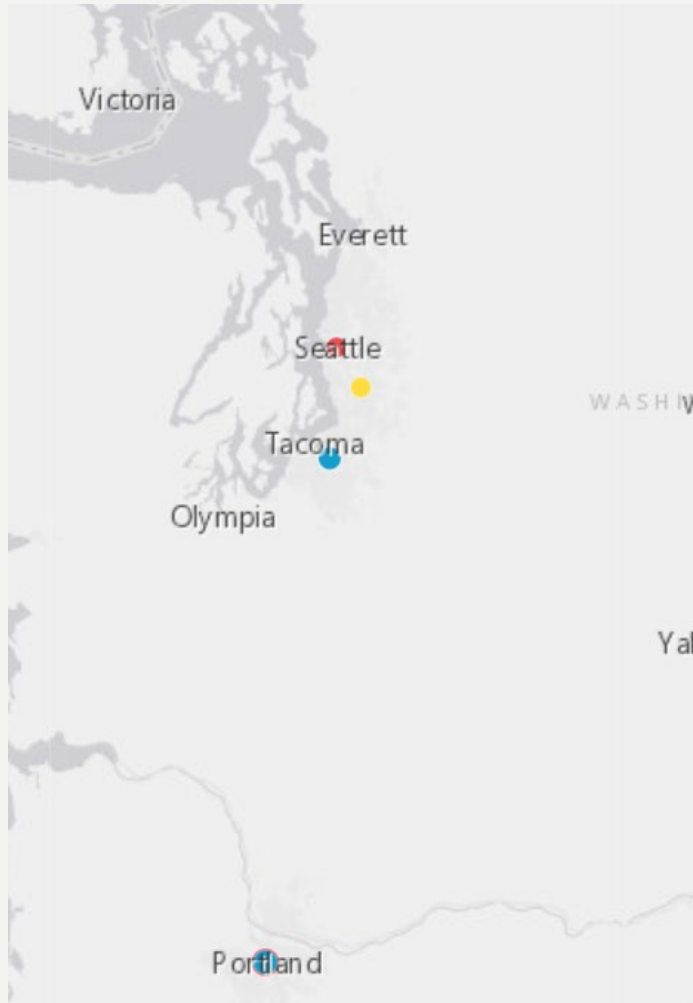
- Children are detained in ORR shelters after leaving CBP custody. Some stay for a few days, others stay for months or years
- Shelters range from secure detention facilities to children being placed in foster families
- Map to the right is from www.revealnews.org, each dot represents children in ORR custody at each location



Credits: Dan Kempton/Associated Press and Aura Bogado, Will Evans, Vanessa Swales and Michael Corey/Reveal

Sources: Reveal analysis of records released by the Office of Refugee Resettlement, updated with information from The Texas Tribune, other news media reports and the Texas Health and Human Services Commission.

ORR SHELTERS IN THE PACIFIC NORTHWEST



Washington

City	Facility name	Type	Capacity for unaccompanied children
Renton	Friends of Youth	Therapeutic Staff-Secure	16 June 2017
Fife	Selma R. Carson Home	Staff-Secure	23 June 2017
Seattle	Casa de los Amigos	Shelter	16 June 2017

Oregon

City	Facility name	Type	Capacity for unaccompanied children
Portland	Morrison Child & Family Services Downtown Shelter	Shelter	40 June 2017
Portland	Morrison Child & Family Services Mount Scott Paso Staff Secure	Staff-Secure	28 June 2017

*Highly likely that these numbers have changed in the last four years

Tables from www.revealnews.org

RELEASE TO FAMILY MEMBERS AND FRIENDS!

- Ultimately, most unaccompanied minors will be released to live with their family members or friends in communities around the country
- The guardian will be vetted in order to ensure the child is being released to a safe home
- Children are required to appear at immigration court hearings in immigration courts around the country. Although they are living freely in the community, they are also actively in the process of being deported.



HIDDEN IMMIGRANTS IN OUR COMMUNITIES

- A second category of immigrant children lives in our communities: those who have been living in the US for most of their lives.
- Don't judge a book by its cover. Just because a child speaks with no accent and doesn't appear to fit the stereotype of an undocumented person, doesn't mean they have lawful immigration status.



IMMIGRATION COURT BASICS

Immigration court is the process a non-citizen goes through to determine if they should be deported from the United States

- Two questions:
 - Is the individual deportable?
 - Do they have a defense to deportation?
- Courts in our region:
 - Seattle and Portland: For non-detained cases;
 - Tacoma: Detained cases at NW Detention Center
- **Important: There is NO right to an appointed attorney at government expense in immigration court if the person cannot afford private attorney. This is true even if the respondent is a child. 9 out of 10 children without attorneys are ordered deported.**
- Many people are forced to represent themselves:
 - Approximately 35 % of removal cases in Seattle and 92% of those completed in Tacoma are unrepresented
- Process is incredibly slow. People will wait years before they have their final trial.



HOW TO GET LAWFUL STATUS

- In order to become a resident of the United States or otherwise get lawful status, you must qualify for a visa or otherwise be found eligible for another protection from deportation.
- Defensive v. Affirmative
 - Defensive forms of relief are adjudicated by an immigration judge at a hearing in immigration court. You are defending yourself from the judge ordering you removed to your home country.
 - Affirmative forms of relief are filed with US Citizenship and Immigration Services. An immigration officer in an office will adjudicate your application. Sometimes an interview is required.

ASYLUM



- Protection for individuals who are unable to return to their country of origin because of **persecution on account of their race, religion, nationality, political opinion, or membership in a particular social group**
 - Inside the U.S.: “asylee”
 - Outside of the U.S.: “refugee”
- **DEADLINE:** Must generally file within one year of entry into the U.S.
 - Exception for minors under 18
- Both refugees and asylees are eligible to apply for lawful permanent residence (“Green Card”) starting one year after you were admitted.

SPECIAL IMMIGRANT JUVENILE STATUS

- Protective status for children based on parental maltreatment
- Visa approval enables child to apply for Lawful Permanent Residency
- Doesn't matter what state or country the abuse occurred in— available to all youth who have experienced abuse/abandonment/neglect/similar treatment from a parent
- There are five requirements:
 1. Under 21;
 2. Unmarried;
 3. Dependent on court, or legally committed to or placed in custody of state agency or department, or placed under the custody of an individual or entity appointed by the Court;
 4. Reunification with one or both parents not viable on account of abuse, abandonment, neglect, or similar basis under State law
 5. Not in best interest to return to home country.



SPECIAL IMMIGRANT JUVENILE STATUS

- Step 1: State Court Order
 - Dependency, Non-parental custody, vulnerable youth guardianship, parenting plan, divorce, etc.
- Step 2: File I-360 application for Special Immigrant Juvenile Status
 - Wait for approval– ~6 months
- Step 3: Wait until a visa is available – two to three years or more
 - Visas currently available for children who filed their I-360 in Sept 2018 for Central American youth and March 2019 for Mexican youth, all others current
- Step 4: Apply for permanent residency and work permit
 - 5-13 month wait
- Step 5: Green Card approved!

U-VISA

- Protection for victims of certain crimes, including domestic violence and sexual assault
- Must have:
 1. Suffered substantial physical or mental abuse
 2. Been helpful or be willing to be helpful in investigation or prosecution of the crime
 3. Occurred in the US (or violated US law)
- No relationship with perpetrator necessary
- Application must include Law Enforcement/Prosecutor/ Judge/CPS Certification of Helpfulness
- U-Visas are taking 8-10 years to process at this point
- After getting U status, can apply for green card after three years of continuous presence

U-VISA QUALIFYING CRIMES

- Abduction
- Abusive Sexual Contact
- Blackmail
- Domestic Violence
- Extortion
- False Imprisonment
- Female Genital Mutilation
- Felonious Assault
- Fraud in Foreign Labor Contracting
- Hostage
- Incest
- Involuntary Servitude
 - Kidnapping
 - Manslaughter
 - Murder
- Obstruction of Justice
 - Peonage
 - Perjury
 - Prostitution
 - Rape
- Sexual Assault
- Sexual Exploitation
- Slave Trade
- Stalking
- Torture
- Trafficking
- Witness Tampering
- Unlawful Criminal Restraint
- Other Related Crimes
- Attempt, conspiracy, or solicitation to commit any of the above

VAWA SELF-PETITION

- Protection for Spouses and Children of Abusive U.S. Citizens and Lawful Permanent Residents (Green Card Holders)
- Must be married or divorced within past two years
- Abuser must be USC or LPR
- Does not require police to have been called
 - No certification needed!
- If approved, can obtain green card right away – no limit to number of visas, unlike U-visa
- Much faster than U-Visa, generally processed in under two years.

T-VISA

- Protection for **victims of trafficking**;
 - Victim of severe form of commercialized sex or labor trafficking
 - Force, fraud, or coercion
 - Must be present in U.S. on account of trafficking
 - Complied with reasonable requests for assistance in investigation or prosecution
 - Reporting not required for children under 18
 - Law enforcement certification helpful but **not required**
 - Would suffer extreme hardship involving unusual and severe harm upon return
 - Currently 17-month processing time

DACA

- Program created by an executive action by the Obama Administration in 2012 to defer deportation and provide work permits to undocumented individuals who:
 - Entered the U.S. before the age of 16
 - Have lived in the U.S. since June 15, 2007
 - Were born on or after June 16, 1981
 - Were in school, completed H.S., obtained G.E.D.
 - Did not have disqualifying criminal offenses
 - Meet other requirements
- Receive 2-year work permit, SSN; can be renewed
- New applications and renewals are currently being accepted



TIPS FOR WORKING WITH IMMIGRANT CHILDREN

- Make your office or workspace a welcoming place for immigrants
 - Provide language services
 - Put up signs and posters that say that immigrants are welcome
 - Share Know Your Rights information with clients
- Insist to your organization that they create a policy of immigrant friendly practices
 - Don't limit services based on immigration status
 - Never report immigrants to ICE
 - Train your staff NOT to talk to ICE agents and not to give permission to enter your business
- Clearly explain (and reiterate!) the contours of confidentiality as it applies to the work you do
 - Are you a mandated reporter?
 - Do you have other obligations to share information?



FLAGS THAT YOUR CHILD SHOULD SPEAK TO AN IMMIGRATION ATTORNEY

- Ask them about their immigration status. Anything other than permanent resident or citizen, it is worth it for them to speak to an attorney.
- If the child has been in the US for a long time, they may never have spoken to anyone about their options— and even if they aren't eligible for a visa, they might be eligible for DACA!
- Your client should call an immigration attorney if:
 - They have been the victim of any sort of crime, including domestic violence.
 - They have ever been forced to work (sex or labor trafficking)
 - They are afraid to return to their home country
 - They have criminal history
 - They have prior contact with immigration authorities
 - They have a removal/deportation order.

IMMIGRANT RIGHTS NONPROFITS

- Northwest Immigrant Rights Project
 - Seattle and North: 206-587-4009 or childrenintake@nwirp.org
 - Tacoma (Southwestern WA): 206-816-3893 or tsuintake@nwirp.org
 - Granger (Yakima, Tri-cities): 509-854-2100
 - Wenatchee: 509-570-0054
- Kitsap Immigrant Assistance Center
 - 360-900-7338 or julietap@kitsapiac.org
- Immigration Counseling Service (Oregon)
 - (503) 221-1689 or consult@ics-law.org

Or use Legal Services Directory at
<https://www.immigrationadvocates.org/nonprofit/legaldirectory/>

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PRIVATE IMMIGRATION ATTORNEYS

Search at
www.ailalawyer.com

HOW CAN YOU HELP YOUR IMMIGRANT CHILD CLIENTS?

- Refer to an immigration attorney!
- Work with the child and the immigration attorney to prepare their case
- Be willing to write a letter of support for your clients
- If possible, help your client by providing a mental health evaluation or other notes or records to help their attorney build their case
- Of course, make sure you are receiving appropriate consent from your client to share any records and information with their attorney. Written consent is best!

QUESTIONS?

- Contact me!
 - Anna Rae Goethe
 - argoethe@immdef.org
 - 213-290-2992
- Get immigration help for your clients in Washington by contacting NWIRP
 - Seattle and North: 206-587-4009 or EMAIL
 - Tacoma (Southwestern WA): 206-816-3893 or tsuintake@nwirp.org
 - Granger (Yakima, Tri-cities): 509-854-2100
 - Wenatchee: 509-570-0054

ICE ENCOUNTERS: KNOW YOUR RIGHTS

- All people – regardless of immigration status – have basic rights!
 - Right to remain silent
 - In most instances, voluntary disclosure is how immigration knows someone is undocumented.
 - Do not hand over any foreign documents, and do not carry false documents.
- Right to be safe in your homes
 - Immigration/law enforcement generally must have a court warrant in order to enter a home.
 - ICE warrants are administrative and are NOT judicial warrants.
- Right to labor protections

ICE ENCOUNTERS: KNOW YOUR RIGHTS

- **DO NOT** sign documents without legal help
 - Could waive important rights
- After providing your name and asking to speak to an attorney, exercise your right to remain silent
 - Name is for locating you – if you give false name, difficult for family and attorney to find you
- Contact attorney/legal services organization as soon as possible
- Some people may be eligible to ask for release on bond

WE HAVE RIGHTS

IN OUR COMMUNITIES, IN OUR STREETS

ICE ENCOUNTERS

TO REPORT ICE ACTIVITY ANYWHERE IN WASHINGTON:

- DIAL 1-844-RAID-REP (1-844-724-3737)
- 7 days a week | 6am – 9pm
- The hotline allows people to report when loved ones or friends have been detained by immigration agents or other instances of problematic behavior conduct by immigration officials. When someone calls the hotline, volunteers will ask questions about the incidents to collect as much details as possible (including what did the agents uniforms look like? What markings were on the vehicles?) Callers will also be provided with information regarding resources available for those individuals detained by ICE or Border Patrol agents.