

Eyes Wide Open: Adhering to The Fostering Connections Law and Confronting Barriers to Interjurisdictional Placements

International Family Finding and Engagement

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The Fostering Connections to Success and Increasing Adoptions Act of 2008¹ “...provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence...” The law does not impose, or suggest, geographic limitations in stipulating the need to notify family. Therefore, it is our position that Fostering Connections requires that family finding and engagement occur regardless of where the child’s family may reside.

The focus of this paper is international family finding and engagement for the growing number of children in the United States who may have family connections outside of the country. First, we assert that children with potential kinship connections outside of the United States are not afforded the same due diligence in searching for family as children who have potential domestic connections. Data collected by International Social Service-USA branch (hereafter ISS-USA) under a Fostering Connections to Success Demonstration Project Grant² will support this contention. Second, while we recognize that certain logistical, fiscal and practical obstacles exist to international family finding and engagement we believe that it is both our legal, and moral, obligation to utilize existing resources, and support the creation of new resources, to overcome those barriers. Finally, we will discuss best practices in international family finding and engagement, and how legal stakeholders can, and must, work in collaboration with social service providers to ensure that permanency planning proceeds with the best interest of the child as the central focus. We will provide information on how to access existing resources and suggest that additional resources must be developed to ensure that the mandate of due diligence is being met.

All families are potentially transnational

In today’s world, more and more individuals are traveling and/or moving to countries other than their country of origin. There are a myriad of push and pull factors that contribute to the growing movement of people around the world: the globalized economy provides for jobs in foreign countries, people are searching for better educational opportunities, military service, study abroad programs, domestic unrest, natural disasters and economic crises. America is both a sending and receiving country in this process as more Americans are living overseas and immigration to the U.S remains a goal for many around the world. In fact, nearly 6 million U.S. citizens live outside the country while just under 2

¹ *Fostering Connections to Success and Increasing Adoptions Act of 2008*, Public Law 110-351, *U.S. Statutes at Large* 122 (2008): 3949.

² International Social Service-USA (ISS-USA), in partnership with Rutgers University Institute for Families and NJ’s DCF-DYFS, are undertaking a three year demonstration project entitled *Expanding Options for Permanency: International Family Finding for U.S. Children in the New Jersey Foster Care System*

million people immigrate to the U.S. annually.³ The remainder of this section will provide an overview of these subpopulations, both within the U.S. and abroad, who likely have familial connections in other countries.

Americans Living Overseas

Just as many individuals and families from other countries decide to relocate to the U.S., many Americans decide to live outside the U.S. either temporarily or permanently. While data on Americans living overseas are not collected or reported on as comprehensively as data on immigrants in the U.S., the numbers do suggest that a significant number of Americans have made their homes elsewhere.

Data from the 2000 U.S. Census approximates that 580,000 federal employees and dependents including 226,363 military personnel, 30,576 civilian employees, and 319,428 dependents of military and civilian employees live overseas.⁴ These data were collected for the 2000 Census. Interestingly, the Census Bureau decided against collecting it again in 2010 Census because “[t]he Census Bureau does not know the number of private Americans living abroad under the other categories. No accurate estimate exists of the total number of Americans living abroad or of the other components of this population.”⁵ However, according to the Association of Americans Resident Overseas, an additional 5.1 million U.S. citizens live abroad.⁶ In addition, 260,327 U.S. students studied abroad for academic credit in 2008/09.⁷ Of course, while the majority of these students returns to the U.S. and remain here after graduation, there is a percentage who decide to return to live abroad at some point in the future. Adding up these various groups, nearly 6 million U.S. citizens currently live outside the country. Therefore, we cannot continue to disregard the possibility that some of these expatriates are undoubtedly related to children in the foster care/child welfare system and could be a potential resource for them.

Immigrants in the U.S.

According to U.S. Census data⁸, in 2009, more than 1 in 5 of all children (22%) in the U.S. had at least one foreign-born parent. Furthermore, 3% of all children residing in the United States were foreign-

³ Julia Gelatt, “Annual Immigration to the United States: The Real Numbers,” *MPI Immigration Facts* 16 (2007). http://www.migrationpolicy.org/pubs/FS16_USImmigration_051807.pdf

⁴ Claire M. Smith, “Civilian Americans Overseas and Voter Turnout,” *OVF Research Newsletter* vol.2, issue 4 (2010). <https://www.overseasvotefoundation.org/files/counting%20american%20civilians%20abroad.pdf>

⁵ Smith, “Civilian Americans”.

⁶ The Association of Americans Resident Overseas (AAR) 2010. <http://www.aaro.org/>

⁷ Institute of International Education, OpenDoors Fast Facts, “International Students in the U.S. and U.S. Students Studying Abroad,” (2010). <http://www.iie.org/Research-and-Publications/Research-Projects/~media/Files/Corporate/Open-Doors/Fast-Facts/Fast%20Facts%202010.ashx>

⁸ U.S. Department of Health and Human Services, Health Resources and Services Administration, Maternal and Child Health Bureau. “Children of Foreign-Born Parents,” *Child Health USA 2008-2009*. Rockville, Maryland: U.S. Department of Health and Human Services, 2009.

born themselves.⁹ These transnational families can be comprised of one or a combination of the following: legal permanent residents, naturalized citizens, refugees, and undocumented immigrants. While each of these groups has different legal statuses they share the fact that there is a high probability that they have family connections in another country.

Legal Permanent Residents and U.S. Naturalized Citizens

There are just over 16 million Legal Permanent Residents, and another 16 million naturalized U.S. citizens, living in the United States.¹⁰ We can safely assume two things about these populations: First, many of the adult individuals in both these populations have family still living in their country of origin. Second, the U.S. born children of these populations **and** the population of naturalized and legal permanent resident children have a high probability of having relatives overseas. When one of these children requires alternative care, or is in need of family resources and assistance in permanency planning we must find and engage these foreign family connections.

Undocumented Immigrants

The number of undocumented immigrants living in the United States is highly contested. The nature of the political and social debate about the role of these individuals, and the fact that many undocumented immigrants are uncounted in census and community survey data, makes an exact count impossible. Reliable estimates put the number at just over 11 million. An unknown percentage of this population is children under the age of 18. The remainder is adults who undoubtedly have family outside the United States. Regardless of the parent or child's legal status we must do our best to identify, engage and evaluate all possible family connections both here and abroad. There can often be real difficulty in identifying other undocumented family members living in the community because of fears about legal ramifications of becoming known to social or legal services. It is important to reassure families that the focus of the family finding and engagement is to protect the child's best interests and not an immigration process.

⁹ Federal Interagency Forum on Child and Family Statistics. *America's Children in Brief: Key National Indicators of Well-Being, 2010*. Washington, DC: U.S. Government Printing Office. Focus on "Family and Social Environment," can be found at <http://www.childstats.gov/americaschildren/famsoc.asp>

¹⁰ Randall Monger and James Yankay, US Department of Homeland Security: Office of Immigration Statistics, "U.S. Legal Permanent Residents: 2010," *Annual Flow Report* (2011).

http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_fr_2010.pdf;

Nancy Rytina, US Department of Homeland Security: Office of Immigration Statistics, "Estimates of the Legal Permanent Resident Population in 2009," *Population Estimates* (2010).

http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_pe_2009.pdf;

James Lee, US Department of Homeland Security: Office of Immigration Statistics, "U.S. Naturalizations: 2010," *Annual Flow Report* (2011) http://www.dhs.gov/xlibrary/assets/statistics/publications/natz_fr_2010.pdf ;

Jeanne Batalova, Migration Policy Institute, "US in Focus: Spotlight on Naturalization Trends," Migration Information Source (2009). <http://www.migrationinformation.org/USfocus/display.cfm?id=737>

Trends in the Increase of Immigrants to the U.S.

ISS-USA firmly asserts that family finding and engagement must not be limited to children that are identified as being immigrants or children of immigrants. The previously mentioned census data on foreign born individuals living in the United States both legally and undocumented, and the number of American expatriates, make it clear that the population of children with potential overseas family connections is far higher than those identified as immigrants themselves, or children of undocumented immigrants. In fact, the total number of the populations of legal permanent residents, naturalized citizens, and undocumented immigrants accounts for nearly 1/6th of the entire U.S. population. Importantly, these families are spread across the United States and maybe indistinguishable from their native born neighbors.

Immigrant children and children of immigrants are not only located in the traditional six traditional top immigrant states: California, Texas, New York, Florida, Illinois, and New Jersey. Nor are these families only from south of the United States border.

First, in 2008, the top 6 states accounted for 65% of children of immigrants in 2008. This, however, was a decrease from 73% in 1990.¹¹ In fact, between 1990 and 2008, six other states experienced dramatic increases in their children of immigrant population of more than 300% compared to an average increase of only 77% for the traditional six states. The six states with the largest increase in their children of immigrant population were:¹²

- North Carolina – 508% increase
- Nevada – 454% increase
- Georgia – 444% increase
- Arkansas – 400% increase
- Nebraska – 350% increase
- Tennessee – 348% increase

Second, while many of these families come from Central and South America, children of immigrants come from around the world. In fact, ISS-USA provided services for the State of New Jersey in nearly 60 countries between 2007 and 2010. U.S. Census data from 2008 on children of immigrants supports these trends,¹³

- 22% have family from Asia (*including 10% from East Asia and the Pacific, 8% from the Middle East/South Asia, and 4% from Southeast Asia*)
- 11% have family from Europe, Canada, and Australia,
- 8% have family from Africa and the West Indies.

¹¹ Katrina Fortuny, “Children of Immigrants: 2008 State Trends Update,” *The Urban Institute* brief 17 (2010).

¹² Fortuny. “Children of Immigrants”.

¹³ Fortuny. “Children of Immigrants”.

The purpose of these data is to highlight the diverse nature of the children who may have family connections abroad and that we cannot guess, or assume, that we know because of where someone lives, the language they speak, their last name or how they look what the likelihood is of their having international family connections. Based on these statistics, ISS-USA does not believe it is best practice to limit family finding outside the United States to families identified as immigrants. Rather, these numbers must impel us to ask **every** child and **every** family about international family resources to support permanency planning for all children in the United States Foster Care System.

Children with Transnational Families Involved with Child Welfare

Now that we have demonstrated that there is a significant number of children in the U.S. who have family outside the country, we must ask: “How many of these children who are part of transnational families become involved in the child welfare system?” and “How many other children who are involved in the child welfare system have potential family resources outside of the U.S.?” The answers to these questions are difficult to determine as neither federal, state or local governments have required their social workers to engage in family finding for relatives outside the U.S. in any systematic way.

While it is known that in FY 2009, a nationally estimated 763,000 duplicate and 702,000 unique (never before involved with social services) number of children were victims of maltreatment,¹⁴ there are no accurate data on how many children involved with child welfare agencies have international family connections. In fact, while the U.S. Department of Health and Human Services tracks the percentage of Latino children involved with the child welfare system, “the portion of these children who are immigrants or children of immigrants is unknown, as these data are not collected uniformly at the state or national levels.”¹⁵ We can, however, get some idea of the number of children we are talking about by looking at two smaller sets of data: data about the number of children of immigrants or children who are immigrants themselves who come to the attention of the child welfare system and data ISS-USA is collecting as part of a federally funded project being conducted in New Jersey in partnership with the state’s child welfare agency.

While certainly not all, or even most, of children of immigrants or immigrant children end up in the child welfare system, many of these families are at increased risk for becoming involved with social service and law enforcement agencies due to poverty, language barriers and lack of formal education. When these children do become involved with social services it is critical to keep exploring the possibility of family resources outside the U.S. While children of immigrants or immigrant children are a relatively

¹⁴ U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau. (2010). *Child Maltreatment 2009*. Available from <http://www.acf.hhs.gov/programs/cb/pubs/cm09/cm09.pdf>

¹⁵ Alan J. Dettlaff and Ilze Earner, “Latino Children of Immigrants in the Child Welfare System: Findings From the National Survey of Child and Adolescent Well-Being,” Migration and Child Welfare National Network Research Brief. <http://www.americanhumane.org/assets/pdfs/children/pc-childofimmigrantpdf.pdf>

small percentage of the overall number of children involved in the child welfare system, the numbers are significant. Recent data from the National Survey of Child and Adolescent Well-Being show that “9.6% of children reported to child welfare agencies are living with a foreign-born parent or caregiver.”¹⁶

Using the statistic mentioned above that 9.6% of children involved with child welfare agencies are children of immigrants and the 2009 number from Adoption and Foster Care Analysis and Reporting System (AFCARS) that 424,000 children were in care as of September 30, 2009¹⁷, then approximately 40,704 children of immigrants in care likely have family resources outside the U.S.. In addition, if current immigrant levels remain steady, “children in immigrant families will constitute 30% of the nation’s school population in 2015.”¹⁸ Because a large percentage of referrals to child protective services originate in schools, 21% in New Jersey for example, this could further increase the percent of immigrant children/children of immigrants involved with child welfare agencies.¹⁹

This does not, however, reflect the potential number of children who have family members living overseas due to military, education, work, or life experience. Nor does it include children who may have grandparents, aunts, uncles or other second and third degree relatives living abroad. Therefore, we stress that the actual number of children in care who have potential family connections outside the United States is much higher than the known data imply. Yet even if we rely solely on the figures we can account for, we know with certainty that the standards of due diligence in finding and engaging these family members is not being met with one notable exception: the State of New Jersey.

The state of New Jersey, Department of Children and Families-Division of Youth and Family Services (hereafter, DYFS), is at the forefront of ensuring that due diligence is being met for children in their care who may have family connections outside the U.S.. In addition to having a long-standing contract with ISS-USA to provide intercountry services, DYFS is revising both its policy and procedure to reflect best practices in international family finding. Prior to the currently federally funded project to enhance these services and research the outcomes for these children, ISS-USA predicted that, based on the percentage of children of immigrants and New Jersey’s foster care population, that about 1,500 children in the care of DYFS potentially have international family connections. Yet, traditionally ISS-USA has only provided services for about 160 children a year. These data illustrate that despite DYFS’

¹⁶ “Child Welfare News,” *Children’s Bureau Express* vol. 11, no. 6 (2010).

<http://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=118§ionid=3&articleid=2933>

¹⁷ U.S. Department of Health and Human Services, “Trends in Foster Care and Adoption – FY 2002-FY 2009,” AFCARS data, U.S. Children’s Bureau, Administration for Children and Family (2010).

http://www.acf.hhs.gov/programs/cb/stats_research/afcars/trends.htm

¹⁸ Annie E. Casey Foundation Data Snapshot, “One out of Five U.S. Children is Living in an Immigrant Family,” no. 4 (2007). http://www.aecf.org/upload/PublicationFiles/snapshot_immigrant.pdf

¹⁹ State of New Jersey Department of Children and Families, Child and Welfare Statistics and Data: Hotline Referrals. <http://www.state.nj.us/DCF/home/childdata/referrals/#2>

extraordinary commitment to family finding and engagement there are certainly still a significant number of children whose overseas families are not being included in the permanency planning process.²⁰

Finally, in order to fully understand our assertion that there are a potentially large pool of children with probable overseas family connections and resources, it is essential to understand the numerous ways in which children become separated from family across international borders and how children become involved with the child welfare system in our country.

Children become involved with the child welfare system for many reasons. In the majority of instances, children with international family connections end up in care for the same reasons as other children. The most common causes of children being taken in to the care of a child welfare agency, or who are in need of alternative care, are: (1) a parent(s) is incarcerated, (2) parent(s) is deceased, (3) parent(s)' rights are terminated, (4) parent(s) abandons the child, and (5) abuse and/or neglect by parent/legal guardian. In addition, however, children with family resources outside of the U.S. come to the attention of their local child welfare agency for other reasons. For example, international parental abduction results in the child being moved from her state of habitual residence to a foreign country, often the abducting parent's country of origin. Children can also be trafficked into the U.S. When law enforcement authorities or social service agencies discover that there is no adult relative in the country to care for her, she is placed into the care of the local child welfare agency. Similarly, a U.S. citizen child can be taken into social service custody as a result of their parent(s) being sent to their home country through immigration enforcement.

Regardless of the specific number of children who become involved with child welfare system and how they become separated from family, there is a need for greater diligence in family finding for, and engagement of, families outside of the United States for U.S. citizen children in our foster care system.

Common Obstacles and Barriers to Domestic and International Interjurisdictional Placements

There are ongoing concerns about the process of interjurisdictional placements within the United States that are equally applicable to international placements. In general, we assert that the problems in domestic interjurisdictional placements are commonly encountered in international cases as well. Importantly, we believe that the genesis of these problems can be traced to similar causes, each of which must be addressed either through increased training, staffing, access to resources and/or revised policy and protocol.

In 2006 a report prepared for HHS ACF Children's Bureau entitled "Interjurisdictional Placement of Children in the Child Welfare System: Improving the Process," (hereafter, the ACF Report) eight

²⁰ Final data on the increase in referrals for overseas family finding for children in DYFS' care will not be available until after the completion of the current project in 2012.

barriers to interjurisdictional placement were cited: staffing and resources; training and knowledge; staff attitudes and beliefs; educational and medical expenses; criminal background checks; communication; permanency and tracking and reporting. A 2009 survey by AdoptUSKids of Interstate Compact on the Placement of Children (ICPC) staff and coordinators also documented the biggest obstacles reported by ICPC personnel to timely interstate placements. In this report the cited obstacles to exploring the possibility of an interstate placement included that it is “Seen as too much work/it’s difficult/it won’t be successful.” While these are recognizable concerns, it is likely these sentiments have to do with fear of the unknown and/or lack of knowledge/training/resources to feel confident in handling these types of case. Finally, ISS-USA has found that in addition to the aforementioned barriers and obstacles to interstate placements respondents to a needs assessment survey of DCF-DYFS employees cited several other barriers to interjurisdictional placements both domestically and internationally.

Figure 1: Total percentage of respondents who answered that the category was a “Significant Barrier,” “Somewhat of a Barrier” or “Little Bit of a Barrier.”

Barrier:	Outside of N.J. but within the U.S.	Outside of the United States
Supervisor	27.8%	48.3%
Litigation Personnel	37.7%	49.6%
Co-worker (excluding supervisor or litigation personnel)	31.2%	47.2%
Past Training *	59.8%	72.8%

*Based on responses we believe this means that there was a lack of content in past trainings that provided the DCF employee with sufficient information to manage these interjurisdictional cases. Importantly, for our purposes, it is clear that the barriers mentioned above are far more significant when a case involves an international component.

Practically, what this means is in many states staff is not pursuing the possibility that a relative or adoptive placement, that may be in the child’s best interest, is located outside of their jurisdiction. We will examine a few of the cited obstacles that we believe are particularly pertinent when discussing international family finding and engagement and suggest some resources to assist in overcoming these complex problems.

Staffing and Resources: The ACF report states that “[i]nadequate numbers of staff is a recognized barrier to interjurisdictional placement” and “insufficient financial support for essential services presents challenges in meeting needs of children placed across jurisdictions.” (1.2.1) The aforementioned needs assessment survey conducted by Rutgers University Institute for Families found that a significant number of DCF-DYFS workers not only thought that there were no staff and/or resources available to assist with an international placement but expressed that they lacked understanding of those resources with which they were familiar.

Figure 2: Percentage of DYFS staff DISAGREEING with the statement that “I am comfortable with my understanding of the resources to assist with placement”

Self-selected job Category	...outside of NJ but within the U.S.	...outside of the United States
Caseworker	44.8%	84.3%
Paralegal/Litigation Specialist	63.6%	80.7%
Casework Supervisor	25.5%	70.2%
Supervisor	36.0%	69.4%
Manager	46.2%	69.3%
TOTAL across all categories	28.3%	77.4%

Again, it is important to note that when an international component is added to the case the DCF staff are far less confident in, and comfortable with, their ability to manage the case.

Training and Knowledge: A key barrier to the timely placement of children across jurisdictions is the lack of knowledge about, and training on, the ICPC guidelines and requirements. It is important to note that the report cites this lack of awareness to be equally problematic for child welfare **and** judicial professionals. The authors of the ACF report recommend that “[t]raining on the importance of considering relatives no matter where they reside, how to search for relatives, and interjurisdictional placement procedures are all important strategies of addressing this barrier.” (1.2.2) Second, it is suggested that providing case workers with access to expert consultation in these cases reduces the hesitancy to place children across jurisdictions. The needs assessment survey from Rutgers found that respondents who were unfamiliar with the ICPC requirements were far more likely to avoid or resist undertaking international family finding and engagement. “Results indicate a reported lack of understanding with international cases involving children for all levels of job classifications, and a need for training to broaden awareness of available services and to implement effective work procedures.” [1-2]

Figure 3: Percentage of DYFS staff DISAGREEING with the statement that “I am confident in my ability to facilitate cases outside of ...”

Self-selected Job Category	...NJ but within the U.S.	... the United States
Case Specialist	33.4%	75.3%
Paralegal/Litigation Specialist	63.8%	73.6%
Casework Supervisor	25.5%	66.7%
Supervisor	36.0%	70.2%
Manager	46.2%	77.0%
Total	28.5%	73.1%

It is imperative that social service and legal stakeholders be provided with training on both domestic and international interjurisdictional placement procedures. The Interstate Compact is signed by all states yet it cannot be successful unless individual staff members are willing to consider family across

state lines, and follow the guidelines set forth in the compact. We believe that increased knowledge of the process of the ICPC, and domestic interjurisdictional placements in general, will encourage staff to consider international family finding and engagement as well. As the data from the needs assessment indicate, when staff is not confident in their understanding of, or ability to manage, ICPC cases they are also unlikely to consider pursuing international family connections.

Staff Attitudes and Beliefs: The ACF report states that there is a range of “child welfare and judicial staff attitudes and beliefs” that “influence their effectiveness in facilitating interjurisdictional cases” (1.2.3). These include the individual staff person’s openness to considering cross jurisdictional placement, the willingness to relinquish responsibility for the child and the mistrust of other jurisdiction’s child welfare system. We believe that this barrier is exacerbated when an international placement is being considered. Respondents to the DCF-DYFS Needs Assessment believed that there were both individual and institutional beliefs and practices that discouraged interjurisdictional placements.

Figure 4: Percentages of respondents who answered “Slightly Agree,” “Agree,” and “Strongly Agree” to the following statements:

Need or desire to place	Outside of NJ but within U.S	Outside of the U.S
In my office, there is an unmet need for assisting with cases...	44.2%	53%
Within DYFS, is there an unmet need for assisting with cases ...	50.1%	58.7%
In my office, there is a desire not to place children ...	30.5%	47.1%
Within DYFS, there is a desire not to place children ...	42.1%	47.7%

In addition, a surprising number of respondents felt that children’s needs are best served in the U.S. regardless of their family situation, 37.3%, and 35.7% believed that **every** child has the right to be raised in the U.S.

ISS-USA credits the behavioral and attitudinal resistance to interjurisdictional placements to a lack of knowledge about, and understanding of, a variety of variables including how other states/countries monitor the well-being of children, how reliable are social workers in other jurisdictions, and what happens if something goes wrong with an interjurisdictional placement. Preliminary data from the ISS-USA demonstration project show that when staff know about **how** things work in other countries, and **what** happens if something goes wrong they are more open to considering family finding activities.

Communication: The ACF report indicates that the process of communication between the jurisdictions involved in inter-state placements is complicated and time consuming. The report states that some workers “... do not perceive that they are free to communicate directly with local workers in another

State” (1.2.6). International communication can be challenging as well. The obvious problem of not being able to speak the language of the person you are trying to communicate with is only one of the problems. Many workers do not have access to long-distance or international calling plans and many agencies and individuals are not familiar with low cost alternatives to the major carriers such as SKYPE, and Google Voice. Subscribing to these lower cost alternatives and utilizing real-time translation services are ways in which this communication barrier can be alleviated. Other options include e mail, surface or airmail.

Tracking and Reporting: The ACF report clearly asserts that there is a serious inability of states to track and report on interstate placements. This problem is true of both the sending state (the state the child was living in before being moved) and the receiving state (the state to which the child was moved). The report indicates that many of these interjurisdictional placements “fall off the radar screen.” Research on international placements supports this finding. There is little to no reliable quantitative data on the number of U.S. children placed overseas either with family or through adoption.²¹

The Child and Family Services Reviews (CFSRs) is a process that provides necessary information to the Children's Bureau and should include information on domestic and international placements. However, this review and feedback system is only as good as data entered into the system by the individual states since state level data are the source for these reviews. The inconsistency in reporting means that it is impossible to get either an accurate picture of interjurisdictional placements or a clear view of how individual jurisdictions manage the care of children moving into or out of their borders. However, in a 2003 *Issue Brief* by the CWLA the author argued that it is misleading to try and compare state's effectiveness in child welfare based on nationally collated data. She asserts that national data “lack reliability for interstates comparisons due to variations in state laws, policies, definitions and data collection processes.”²² We would add that attempting to evaluate or judge the effectiveness of a foreign child welfare system based on any individual U.S. state's procedures is equally misleading.

Home Studies: Finally, while home studies, which are required under the ICPC, and in Hague International adoption cases,²³ are not specifically mentioned as an obstacle or barrier to interjurisdictional placements they are, in practice, a serious barrier to timely decision making and permanency outcomes. A lack of trust of other jurisdiction's social service staff, complex licensing requirements and difficulties in scheduling a home study for a child not in the care of the jurisdiction where the home study is to be completed are three of the major stumbling blocks to expedient case work.

²¹ The ratification of the Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption in April 2008 will resolve the problem of tracking the number of children adopted from the United States.

²² *Can States be Compared Based on Child Welfare Data*. Issue Brief, CWLA October 2003.

²³ ISS-USA believes that in any case where a family outside of the U.S. is being considered as a permanency placement for a child in the U.S. Foster care system a thorough home study should be completed.

Gilmore, et.al., argue that interstate licensing requirements “often preclude the conducting of home studies in one state (i.e. the receiving state) by social workers not licensed in that state.” (3) They then suggest that the ICPC resolves this problem by allowing “states to ensure that good social work is conducted in another state prior to placement.” (5) While the Compact may indeed ensure that proper procedures are followed, it does not address the fundamental distrust of “other jurisdiction’s child welfare system.” This mistrust is one of the leading reasons social workers are hesitant to pursue interjurisdictional cases. In fact, despite the fact that all states are party to the Compact there has not been a significant increase in, or understanding of, interjurisdictional placements. For our purposes we have found that the hesitancy to place a child in another state is tame compared to the intensity with which some social workers fight to keep a child from being placed with family in another country even when it is in the child’s best interest to do so. (See Figure 4) We believe that a standardized home study process can alleviate some of the concerns expressed by social workers. Internationally, a standardized form would be extremely useful in ensuring that judges and other legal advocates could quickly understand and assess the potential family placement overseas. Currently, home studies from foreign countries can be vastly different from anything a judge or lawyer is familiar with in the United States. The standards and requirements for a complete home study vary from country to country and vary from the very informal to highly technical and complex. ISS-USA provides training and technical assistance to the ISS Federation Unites around the world who provide home studies for cases originating within the U.S. ²⁴ In addition, all ISS Units are staffed by social workers who are licensed in the country within which they practice where such licensing requirements exist.

However, it should be noted that until such time as a universally accepted home study process is achieved lawyers, GALs, and judges must be more open to accepting home studies from other countries that may look very different. The judiciary can be proactive in requiring that specific items be included in any home study they receive. Providing specific information to the overseas social worker on what must be included will save time and preclude the possibility that the home study will need to be redone.

Best Practices in International Family Finding and Engagement:

The Fostering Connections to Success legislation mandates that family finding must take place for every child in care regardless of where their family may be. We contend that family finding outside the United States has been overlooked and that the need for it will persist as our population continues to diversify. While the process of finding family and engagement outside the U.S. can seem daunting and difficult, there are resources available to assist with ensuring due diligence in family finding and engagement across international borders

²⁴ For additional information about ISS-USA and the ISS Federation please visit our website at www.iss-usa.org.

The Fostering Connections to Success Act defines intensive family-finding as efforts that utilize search technology to find biological family members for children in the child welfare system.

Furthermore, notification of relatives must include the following:

- Specify the child is/has been removed from custody of parent(s)
- Explain options for relatives to participate in care/placement of the child
- Describe requirements to become foster care providers and outline available services and supports
- Describe how to enter into a kinship guardianship assistance agreement (if state has chosen this option)
- Explain consequences if relatives do not respond to the notice

How do we ensure that this occurs when the family that has been identified is outside the United States? What does the legal stakeholder do if she knows that there is family outside the United States that the social work partner has not included in family finding and notification?

First, family can be searched for through a variety of means including contacting the consulate in the U.S. of the country in which the individual lives. A list of consulates can be found at: <http://www.state.gov/s/cpr/rls/fco/>. Interpol, <http://www.interpol.int/public/icpo/default.asp>, can be useful in some circumstances even when a criminal allegation is not involved. A list of countries that cooperate with Interpol can be found at: <http://www.interpol.int/Public/ICPO/Members/default.asp>.

Ministries of Justice and Ministries designated to work with children in various countries may also be able to assist with on-the-ground services in foreign countries (In some countries these sections of the government may be referred to as “Departments” or “Offices”). Visit the country’s government website and search for the appropriate government entity that deals with children and families. U.S. Embassy staff in the country where you are searching for, or evaluating family connections, may also be able to help you 1) identify which government agency you need to contact, 2) locate professional social workers who can evaluate the family, or 3) locate legal or law enforcement personnel who may be able to assist you with family finding. A list of U.S. Embassies in foreign countries can be found at: <http://www.usembassy.gov/>. Be aware that embassies are staffed by diplomats and not social workers. They will not be able to undertake the work themselves and should be viewed as a resource not a service provider. ISS-USA can provide these services through cooperative agreements with ISS units in over 100 countries around the world.

In the event that the legal stakeholder, a judge, GAL, CASA Volunteer or attorney is aware of family connections outside of the United States but the social work partner is not this is an opportunity to support the social worker in family finding. It is **crucial** to ask whether the social worker has inquired about the existence of family outside of the United States in every case, not just those that involve

immigrant children or children of immigrants. Legal professionals and members of the judiciary should be just as active in asking these questions and discussing the potential connections as the social workers. In fact, it is critical that the legal/judiciary partners involved in a child's case be proactive with the family identification/finding. Social workers and/or child welfare agencies are not always aware that relatives outside the U.S., are considered as a viable option and so may disregard any leads in this area without guidance from legal or judicial partners. Often the request of a judge to look for a potential family member or to seek out a non-custodial parent in another country will compel a social worker or social work supervisor to pursue those leads more diligently.

Second, the requirement to notify relatives does not simply include the notification that the child is in care. It requires that the case worker to talk with the family about their right to act in the capacity of relative caregiver, either through foster care or adoption (if applicable). This requirement stands regardless of where that family is. Most importantly, even if they are not able, or willing, to act in the capacity of relative caregiver, they can still be part of the permanency planning process and/or act as an on-going, or aging-out resource for the child.

The steps that would be taken to license or approve a family for taking custody of a child domestically can, and must, be followed for international family placements. We would note that there is no licensing agreement internationally. Rather the point we are making is that the steps that are required for domestic licensing should be followed in an international case to ensure the safety and well-being of the child. These would include a comprehensive home study, and a criminal and/or child abuse background checks.

States are afforded discretion in waiving non-safety related licensing standards on a case-by-case basis in order to increase the available permanency options for every child. States may waive any standards determined by the state to be non-safety standards on a case-by-case basis. States may define and waive those standards that it determines are not essential to the child's safety. These waivers may be particularly useful in international placements. The square footage requirement for example is often a problem in foreign countries where homes tend to be smaller than in the United States. In the United States new homes have averaged just over 2000 square feet since 2004, while in England the average house size is just less than 1000 square feet.

The problem of notifying relatives of what will happen if they do not respond to notifications about a relative child's status as being in need of alternative care is highly problematic in international cases. There is an obstinate refusal to translate documents in to the native language of the person receiving them. While no one would expect that a Limited English Proficiency family would enter court for any permanency planning without interpreters there seems to be little concern about proper notification, including the translation of documents that would allow the family to become engaged in the

permanency process. The courts, and other legal stakeholders can assist in resolving this problem by utilizing existing translation services or seeking out translation services in their jurisdiction. In some states a “Language Line” is available for real time translations, and the agencies that manage those can often provide a referral for document translations as well.

Recommendations:

At the Federal Level:

1. Develop a National Resource center on International Child Welfare to increase the capacity of states to manage child welfare cases that involve an international component, and to maximize permanency options for children in the U.S. foster care system. ISS-USA research shows that multiple actors would benefit from access to both services and technical assistance on these issues both domestically and internationally. This resource center can act as a clearinghouse to connect states and local agencies to a wide variety of governmental and nongovernmental resources aimed at the varying populations that become separated from family across borders. ISS-USA research shows that multiple actors would benefit from access to both services and technical assistance on these issues both domestically and internationally. This resource center would target individuals and agencies that need assistance with:
 - verifying the safety or wellbeing of a U.S. child in a foreign country;
 - locating an abducted child;
 - tracing a relative or document ;
 - mediation in abduction, adoption and child custody and support;
 - home studies for international adoptions, return of trafficked and undocumented children, kinship placements;
 - understanding the complex issues involved in **all** cases when children cross international borders;

Who will benefit and how:

- A. Legal and social service providers in foreign countries are often unable to identify the appropriate U.S. domestic entity to assist them when a U.S. child is entering or leaving their borders, or when one of their citizen children is leaving or entering the United States. The Resource center can direct them to the appropriate agency.
- B. Multiple federal agencies are often involved in the same child’s case but at different moments but are limited in their ability to remain involved because of agency mandates and would benefit from centralized coordination by a neutral third party.
- C. Social workers and legal advisors in public child welfare agencies do not have sufficient knowledge of, or confidence in, how to work with children with interjurisdictional and international placements and would benefit from increased training and technical assistance in these cases.
- D. Family court judges, lawyers and child advocates are hesitant to explore interjurisdictional and international options for children because they lack an understanding of legal and social service practice overseas and would benefit from increased training and technical assistance in these cases.

2. The Federal Government should amend the current CFSR to include questions about international family finding and engagement.
3. The Federal Government should training resources that can be used with a variety of actors at the state and local levels. ISS-USA has developed targeted trainings for legal, judicial and social service providers in New Jersey, and has provided trainings to social workers and GALs in Colorado on these issues.
4. The Federal Government must advocate for federal data collection to account for children leaving and entering the U.S. for transnational family care.

At the State Level:

1. ISS-USA research supports the idea that state social service agencies benefit from creating a position within their agency for a designated individual to assist in international cases. This individual can act as a liaison between the public child welfare agency and other legal, social work and governmental offices and, if created, the National Resource Center on International Child Welfare.
2. Training should be provided for all stakeholders in the child welfare system on:
 - a. family finding,
 - b. family engagement,
 - c. causes of parents and children to become separated across international borders,
 - d. the resources available domestically and internationally to assist in managing cross-jurisdictional cases,
 - e. the laws related to family finding,
 - f. international conventions related to child welfare practice in the United States
 - g. best practices in social work and law in interjurisdictional cases,
 - h. The ICPC
 - i. Technology available to include family from other jurisdictions in family meetings, court hearings and other permanency planning activities.
3. Legal and social work, public and private agencies and individuals must communicate more effectively and consistently to ensure that a coordinated permanency planning process is taking place. Judges can play a key role in bringing the various parties together at crucial points in the permanency planning process.
4. State public child welfare agencies and courts can subscribe to low-cost long distance phone and video conferencing alternatives like SKYPE and Google Voice to enhance the worker's ability to communicate directly with service providers in other jurisdictions. More importantly, these options provide opportunities for families outside of the United States to participate in court hearings and family meetings remotely.
5. States must assume the responsibility for translating legal documents into the language of the individual receiving them. Furthermore, every effort must be made to provide real time translation services to family members participating in permanency planning via computer or phone.
6. States should create clear policy on international issues including adoption, abductions, kinship placements, kinship connections, home studies from foreign agencies, financial responsibility of the state in an international placement, post-placement follow-up and repatriation in the event of a failed international placement.

7. States must maintain reliable data on the whereabouts and well-being of all children in their care. This data should include outcomes for all interjurisdictional family finding and placements.

Conclusion:

None of the barriers and obstacles to international family finding and engagement outlined above is insurmountable. They do however require that legal and social service practitioners be creative in looking for solutions. In addition, there must be national resources that every state and local jurisdiction can utilize to expediently resolve complex interjurisdictional cases.

We know that the number of children in the U.S. Foster Care System who may have family connections outside the United States is potentially very large. We cannot continue to ignore those families, nor can we only look for families of some children and not others. We must make family finding and engagement a routine part of good social work case practice and sound legal practice. We must continue to keep the focus of all our advocacy, social work and legal practice in child welfare cases on the child. Article 3 Section 1 of the U.N. Convention on the Rights of the Child states: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration.**”

We have demonstrated that the possibility that a child in the American child welfare system has family living abroad, or family from a foreign country, is significant. Furthermore, we can assume that this number will continue to grow as more people immigrate to the United States and more American citizens move temporarily or permanently overseas.

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