Citizenship and Immigration Services Ombudsman Recommendation

SPECIAL IMMIGRANT JUVENILE ADJUDICATIONS: AN OPPORTUNITY FOR ADOPTION OF BEST PRACTICES

April 15, 2011

It has long been the practice of the U.S. Government to demonstrate global leadership by providing a number of humanitarian avenues for immigrants who are in the most vulnerable and desperate of situations. One such population is addressed in this report: children who find themselves in this country without parental support due to abuse, neglect, abandonment or another similar basis. This report issues recommendations regarding adjudications for those who seek Special Immigrant Juvenile (SIJ) status.

The SIJ stakeholder experience with U.S. Citizenship and Immigration Services (USCIS) varies widely from city to city. In some locations, stakeholders express appreciation for accessible and knowledgeable SIJ experts at USCIS. There is a sense that leaders in these field offices "get it" when it comes to the sense of urgency and difficult reality that these children are facing. At the same time, other stakeholders share concerns about a void in access to local contacts who specialize in SIJ adjudications and interviews, as well as a lack of training and guidance to support efficient and appropriate adjudications. Individuals and organizations seeking to assist SIJ applicants also express concern about a lack of revised guidance reflective of the most current advancements in law.

For USCIS, there is an opportunity to identify leadership teams that have implemented best practices and to encourage the adoption of these practices throughout the nation. Furthermore, training and up-to-date guidance to support adjudicators in this work represent important steps to achieve timely and consistently sound decisions. In this way, USCIS can benefit from building best practices into SIJ adjudication processes nationwide, and the public can benefit from uniformly sound treatment and decisions no matter which field office they rely on for services.

Most sincerely,

January Contreras
Citizenship and Immigration Services
Ombudsman

RECOMMENDATIONS

The Ombudsman recommends that USCIS take the following actions to strengthen the Special Immigrant Juvenile (SIJ) program:

1. Standardize its practices of:

   (a) Providing specialized training for those officers adjudicating SIJ status;

   (b) Establishing dedicated SIJ units or points of contacts at local offices; and

   (c) Ensuring adjudications are completed within the statutory timeframe.

2. Cease requesting the evidence underlying state court determinations of foreign child dependency.

3. Issue guidance, including agency regulations, regarding adequate evidence for SIJ filings, including general criteria for what triggers an interview for the SIJ petition, and make this information available on the USCIS website.

REASONS FOR THE RECOMMENDATIONS

- Supporting stakeholder reports, the Ombudsman has received SIJ cases that have been significantly delayed beyond the statutory requirement of 180 days.
- Case problems submitted to the Ombudsman show two broad issues arising in SIJ processing: (1) lack of consistent expertise being applied in adjudications; and (2) delays in file transfer between USCIS and other DHS components.
- Information is not easily accessible to the public on how to expedite emergent cases or inquire about cases pending past six months.
- In some USCIS offices, adjudicators seem unfamiliar with techniques for interviewing children, specifically for the sensitive nature of cases involving trauma.
- While USCIS reports that SIJ regulations have been drafted and are undergoing internal review, to date, USCIS has not published regulations.

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April 15, 2011

The Citizenship and Immigration Services Ombudsman, established by the Homeland Security Act of 2002, provides independent analysis of problems encountered by individuals and employers interacting with U.S. Citizenship and Immigration Services, and proposes changes to mitigate those problems.

EXECUTIVE SUMMARY

This study reviews four aspects of U.S. Citizenship and Immigration Services (USCIS) handling of applications for Special Immigrant Juvenile (SIJ) status: (1) timeliness and consistency of adjudications; (2) officer expertise in conducting interviews and performing adjudications; (3) Requests for Evidence (RFE) improperly seeking evidence relating to the facts and circumstances underlying a juvenile court determination of dependency; and (4) the need for public guidance indicating how USCIS will process these cases under expanded eligibility criteria.

In the form of SIJ status, U.S. immigration law provides a method for abused, abandoned or neglected children without legal immigration status to obtain permission to remain lawfully in the United States. USCIS is required by statute to adjudicate SIJ status within 180 days of filing and in accordance with new and broader provisions. USCIS recently reduced processing times for SIJ applicants overall. However, cases received by the U.S. Citizenship and Immigration Services Ombudsman support stakeholder concerns that the adjudication of SIJ cases can be delayed significantly. These delays appear to be the result of two issues:

- First, while USCIS is precluded from re-evaluating the facts and circumstances underlying the juvenile court dependency determination, stakeholders representing SIJ applicants report RFEs seeking access to such evidence used by the court when making a dependency determination. This evidence has often been placed "under seal" and obtaining it from the courts requires a significant amount of time and effort.

- Second, officers sometimes employ age-inappropriate interviewing techniques when questioning juvenile petitioners; which often leads to the erroneous perception that the child is being evasive, or is not credible – unnecessarily forcing petitioners to spend a great deal of time preparing the child for the interview and gathering additional evidence. Inappropriate interview techniques may also cause Immigration Services Officers to unnecessarily consume time verifying information that falsely appears to be incongruous.

For these reasons, among others, cases have been delayed beyond 180 days, some languishing up to a year or more. If problem areas such as delayed, or inappropriately denied, adjudications and inappropriate interview techniques are not properly addressed, eligible applicants may be discouraged from seeking a benefit specifically designed to help abused, abandoned and neglected immigrant children rebuild their lives in the United States.

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The Ombudsman recommends that USCIS:

(1) Standardize its practices of:
(a) Providing specialized training for those officers adjudicating SIJ status;
(b) Establishing dedicated SIJ units or Points of Contact (POCs) at local offices; and
(c) Ensuring adjudications are completed within the statutory timeframe.

(2) Cease requesting the evidence underlying juvenile court determinations of foreign child dependency.

(3) Issue guidance, including agency regulations, regarding adequate evidence for SIJ filings, including general criteria for what triggers an interview for the SIJ petition, and make this information available on the USCIS website.

BACKGROUND

Legal Framework. In 1990, Congress established the SIJ category[1] in order to provide protection to abused, abandoned or neglected children without legal immigration status. A child typically demonstrates to USCIS that he/she has been abused, abandoned or neglected by submitting a juvenile court order of dependency as evidence in support of the SIJ petition. A child's dependency status is determined according to the law of the state where the child is residing. Not all states define child abuse, abandonment, or neglect the same way. Some have statutory definitions using terms such as "child endangerment," which include broader concepts of abandonment and/or neglect.

Under the terms of the SIJ legislation, a juvenile court determination of dependency[2] submitted to USCIS to establish SIJ eligibility[3] had to include the finding that a foreign juvenile qualified for long-term foster care in the United States.

However, the William Wilberforce Trafficking Victims' Protection Reauthorization Act of 2008 (TVPRA 2008)[4] amended the eligibility definition to permit broader findings by a juvenile court to serve as the basis for an SIJ status application. Now, to be eligible, a child[5] must submit an order of dependency that shows:

1) The child was declared dependent on a juvenile court, or placed in the custody of the State or an appointed individual;

2) That reunification with one or both parents is not viable due to abuse, neglect or abandonment (or a similar basis found under State law); and

3) That it would not be in the child's best interest to be returned to the home country or place of last residence.[6]

[1] INA § 101(a)(27)(J). Other forms of humanitarian immigration relief available to juveniles include asylum, T or U visas, and VAWA benefits.
[2] "Dependency" is defined at INA § 101(a)(27)(J), as amended by the Trafficking Victims' Protection Reauthorization Act of 2008 (TVPRA 2008) § 235(d).
[3] INA § 101(a)(27)(J).
[4] TVPRA 2008 § 235(d)(2).
[5] The TVPRA 2008 § 235(d) definition of "child" eligible for SIJ status tracks the definitions under INA §§ 101(b)(1) and (c)(1): an unmarried person under the age of 21 at the time of filing.

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Under TVPRA 2008, the need for a foster-care finding was eliminated.

Recognizing that children are more susceptible to predators, and therefore require special protections,[7] the TVPRA 2008[8] also requires that SIJ petitions be adjudicated within 180 days of receipt, streamlines the petition process, and broadens exemptions from grounds of inadmissibility at the time of adjustment.[9] Such added provisions were crafted to protect more children, who, when unlawfully present in the United States, are at particular risk for trafficking and other forms of exploitation, than were protected under the previous legal framework.[10]

Post-Apprehension Processing of Unaccompanied Children. Although some children who ultimately petition for SIJ status enter the United States in the care of a single parent (or other guardian), the vast majority of SIJ status petitioners enter the U.S. as unaccompanied minors.[11] Processing of unaccompanied minors typically progresses, as follows: within 72 hours of U.S. Customs and Border Protection (CBP) detaining unaccompanied foreign children, the U.S. Department of Health and Human Services' (HHS) Office of Refugee Resettlement places them in federally-staffed facilities with varying levels of security and services. The children are given "Know Your Rights" presentations, provided by non-profit organizations and *pro bono* attorneys, wherein they learn about a variety of immigration benefits. Those children who appear to meet no criteria for a benefit may elect "Voluntary Departure" and return to their country of origin.

A foreign child who is old enough to work, but who does not hold lawful immigration status cannot obtain legal employment or apply for student loans, and may be subject to removal from the United States. However, the SIJ provisions allow qualifying foreign children to obtain relief from removal, and other important immigration benefits, such as employment authorization. Qualifying foreign children may self-petition for SIJ status by filing Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant. SIJ petitioners may also apply concurrently to remain permanently in the United States by filing Form I-485, Application to Register Permanent Residence or Adjust Status. Minors with pending Forms I-360 and I-485 may also file Form I-765,

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[6] TVPRA 2008 § 235 (d)(1)

[7] *See generally*, House Committee Report 110-430 – Part 1, 110th Congress, on William Wilberforce Trafficking Victim's Protection Act of 2007 (as introduced).

[8] Most TVPRA 2008 provisions applying to children took effect on March 23, 2009, although some pertaining to SIJs took effect on Dec. 23, 2008, immediately upon Presidential signature. Previously, the Trafficking Victims Protection Act (TVPA), Pub. L. No. 106-386, enacted in October 2000, sought to ensure the prosecution of traffickers and protection of trafficking victims. The TVPA was amended in 2003 to 2005, and other statutes have updated it, including the Violence Against Women Act, Department of Justice Reauthorization Act of 2005 (Pub. L. No. 109-162), and the Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. No. 109-248). DHS/USCIS has not issued implementing regulations for the TVPRA 2008.

[9] SIJ adjustment of status provisions can be found at INA § 245(h). Under TVPRA 2008, these provisions include exemptions from INA §§ 212(a)(4), (a)(5)(A), (a)(6)(A), (a)(6)(C), (a)(6)(D), (a)(7)(A), (a)(9)(B), which state "grounds of inadmissibility" that would otherwise prevent adjustment.

[10] Sec 236(h) of the TVPRA 2008 clarifies the definition of an unaccompanied alien child as set out in the Homeland Security Act of 2002 § 462(g)(2) (6 U.S.C. 279(g)(2)) and throughout the TVPRA 2008, as being designated when "a parent or legal guardian shall not be considered to be available to provide care and physical custody of an alien child unless such parent is in the physical presence of, and able to exercise parental responsibilities over, such child at the time of such child's apprehension and during the child's detention." The Ombudsman uses the term unaccompanied "foreign" child as synonymous with "alien" child.

[11] In FY 2009, U.S. Customs and Border Protection (CBP) reported apprehending more than 120,000 children. More than 20,000 of these children were not accompanied by a parent or legal guardian. Unaccompanied minor children are detained and placed in removal proceedings while the U.S. government attempts to locate their parents or guardians. During both FY 2008 and FY 2009, 7,000-8,000 unaccompanied foreign children were permitted to remain in the United States for some duration because they had no suitable parent or guardian to provide care or physical custody, or because the child alleged fear of return to the home country. Data assessed in "CBP's Handling of Unaccompanied Alien Children," DHS Office of the Inspector General, OIG-10-117, p. 3 (Sept. 2010).

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Application for Work Authorization; the Employment Authorization Documents issued by USCIS are frequently used as a primary form of identification.

USCIS SIJ Processing. USCIS reviews immigration claims filed by this vulnerable population of children on the basis of Form I-360 self-petitions, and supporting documentation. Due to the sensitive and specialized nature of these cases, some USCIS offices have assigned specially trained Immigration Service Officers to SIJ adjudications. Other offices rotate Immigration Services Officers from other adjudications lines.

BEST PRACTICE: The Ombudsman interviewed[12] a district office adjudicator who handles SIJ matters. By special assignment, this officer works to adjudicate approximately 30 SIJ cases per week and has space in her schedule for emergency interview appointments. These slots are available should a child be on the verge of aging-out or need some special accommodation. She stated that when she issues RFEs, they typically relate to language insufficiencies in the court order. When an interview is required, she begins on a light note, and continues by "showing genuine interest" in the child's life and interests. "We know the anxiety they have, given what they have gone through in their lives; empathy and patience can put kids at ease so they can understand and respond to our questions." The officer stated her techniques were developed when shadowing a USCIS colleague and by previous training in social work.

Timeliness of Adjudications. Case problems submitted to the Ombudsman show two broad issues arising in SIJ processing: 1) lack of consistent expertise being applied in adjudications; and 2) delays in file transfer between USCIS and other DHS components. The first issue appears to arise because not all USCIS offices assign specially trained Immigration Services Officers to review and adjudicate SIJ cases. The second issue appears to stem from a lack of clear DHS protocols for the movement of files associated with special cases. Although most cases are processed in a timely fashion, the processing of some cases appears to be delayed due to significant difficulties in moving A-Files from one location to another. The few cases that are delayed in this manner result in profound impacts upon the child petitioners. According to stakeholders, some children whose cases are delayed are aging out of state care, becoming homeless, finding themselves ineligible for social services, and are unable to obtain work authorization.[13]

CASE PROBLEMS & BEST PRACTICES: In December 2010, a stakeholder sent six SIJ cases to the Ombudsman stating that adjudications were beyond processing times. The Ombudsman contacted USCIS about the long-pending applications. USCIS explained that the field office was reorganizing operations to establish new processes to ensure timeliness, including creating a separate unit with its own supervisor to handle these cases and an email address where attorneys or accredited representatives can send requests for expeditious handling of SIJ cases. As a result, USCIS scheduled four of the applicants for interview, reported that it was awaiting an A-file for another, and assigned an officer to adjudicate the sixth case.

Stakeholders report the lack of a meaningful way to expedite emergent cases or inquire about cases pending past six months – indicating that INFOPASS appointments and the USCIS call center do not produce

[12] Information received from USCIS by the Ombudsman (Mar. 25, 2011).

[13] Under the terms of the 2010 *Perez-Olano* Settlement Agreement, children who aged-out while awaiting adjudication may file motions to reopen their cases. *See generally*, USCIS Policy Memorandum, Office of the Director, *Implementation of the Special Immigrant Juvenile Perez-Olano Settlement Agreement*, pg. 3 (Apr. 4, 2011). The Settlement took effect on Dec. 14, 2010 and retroactively entitles children who filed on or after May 13, 2005 and were denied for a variety of reasons to file motions to reopen. On March 19, 2010 USCIS provided the Ombudsman with data stating average processing times for SIJ adjudications fell from 150 days (during the fourth quarter of FY 2009) to 63 days (during the first quarter of FY 2010). The Ombudsman is encouraged that processing times are reportedly decreasing but notes that such reports are not consistent with cases received from practitioners and stakeholders.

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satisfactory results in resolving time-sensitive and technical issues. USCIS guidance in the Adjudicator's Field Manual states that the agency must "Provide for expedited processing of cases at risk of aging out, *e.g.* , in-person filing for applicants who age out within a year; priority interviews and capturing of biometric information; other appropriate administrative relief."[14] Yet, an attorney representing SIJ applicants has told the Ombudsman that, in three such cases, he/she resorted to filing a Freedom of Information Act request, or initiated litigation against USCIS, in order to resolve a problem case.

Requests for Evidence. The Ombudsman hears frequently that USCIS will request the evidence underlying the juvenile court dependency status determination. USCIS is permitted to inquire as to whether the juvenile court judge made a finding of abuse, neglect or abandonment. However, it is expressly prohibited from engaging in a *de novo* review of the facts and circumstances underlying the determination of dependency.[15]

Assuming basic filing criteria are met, TVPRA 2008 permits USCIS to require additional evidence relating to the basis for the juvenile dependency order only in very limited circumstances. Generally speaking, such evidence may be requested when the dependency order fails to specify whether it was issued on the basis of abuse, neglect or abandonment. Furthermore, where the juvenile court order indicates that the dependency determination was based on factors such as parental failure to meet psychosocial or medical needs [16] "the petitioner must establish that such a basis is similar to a finding of abuse, neglect, or abandonment" and USCIS may request the evidence necessary to make that showing.

Post-TVPRA 2008 USCIS memo guidance directs officers to check juvenile court (or designated administrative body) orders carefully "for language that reflects the new eligibility criteria."[17] However, it expressly prohibits officers from re-examining the harms that form the basis for the dependency finding.

CASE PROBLEM: *Pro bono* counsel reported to the Ombudsman, in November 2010, that USCIS issued an RFE regarding the claimed abuse, neglect or abandonment underlying the juvenile court dependency determination. Counsel stated this information is private, filed under seal, and not required to be disclosed to USCIS when seeking SIJ status. However, he told the Ombudsman his concern that withholding the requested information might prejudice his client. Counsel asked the court to unseal the documents, and he presented them to USCIS within 90 days. The case is still pending.

Additionally, USCIS guidance addresses the interview process and instructs officers "to avoid questioning a child about the details of the abuse, abandonment or neglect suffered, as those matters were handled by the juvenile court, applying state law."[18] Aside from this 2009 Memorandum, there is no formal, internal, current adjudication guidance addressing the treatment of evidence or interviews in the SIJ context. Rather, the USCIS Adjudicator's Field Manual (AFM) (revised 9/2/2010) does not mention any of the SIJ status provisions of the TVPRA 2008; [19] for one, it repeatedly cites the out-dated requirement that a child needs to be found eligible for

[14] *See* http://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-6330/0-0-0-7696.html (accessed Apr. 13, 2011).
[15] 8 U.S.C. §1101(a)(27)(J) (2003); 8 C.F.R. § 204.11(c)(6) and (d)(2)(i); USCIS Interoffice Memorandum, Office of Policy and Strategy and Domestic Operations, *Trafficking Victims Protection Reauthorization Act of 2008: Special Immigrant Juvenile Status Provisions*, p. 4 (Mar. 24, 2009).
[16] *Id.*
[17] *Id.* at, p. 2.
[18] *Id.* at., p. 4.
[19] When the Ombudsman requested adjudication guidance for SIJ petitions, USCIS responded, "As for Adjudicative guidelines, AFM Chapter 22.3(q) contains guidelines for adjudicating Special Immigrant Juveniles." Information received from USCIS by the Ombudsman (Mar. 19, 2010). *See* http://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-6330/0-0-0-7696.html (accessed Apr. 12, 2011).

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foster care in order to qualify for SIJ status. The AFM, making no mention of the 2009 USCIS Memo, refers adjudicators to a 2004 USCIS Memo as prevailing guidance. [20]

CASE PROBLEM: In March 2011, a stakeholder contacted the Ombudsman regarding a denied SIJ petition under appeal. The denied applicant was under a Notice to Appear before an immigration judge within days and the appeal was still pending. USCIS based its denial on multiple grounds, including: 1) The supporting dependency order was issued by a county judge presiding over juvenile proceedings, rather than a "juvenile court"; and, 2) The applicant maintained a connection with a parent. In order to obtain an interview on the case, it was necessary for the stakeholder to make "numerous requests by phone, email and letter." In addition, the stakeholder complained that USCIS had violated USCIS policy asking for "details of the abuse, abandonment or neglect suffered…" by the SIJ petitioner. Upon review, the assessment of the Ombudsman's Office was that USCIS had inappropriately denied the application, based on an overly broad and/or incorrect interpretation of the relevant statute and policies. The Ombudsman referred the case to USCIS. Six days before the child's hearing in immigration court, a decision was issued upholding the appeal.

ANALYSIS & RECOMMENDATIONS

The Ombudsman recommends that USCIS:

(1) Standardize its practice of:

(a) Providing specialized training for those officers adjudicating SIJ status;

(b) Establishing dedicated SIJ units or POCs at local offices; and

(c) Ensuring adjudications are completed within the statutory timeframe.

Due to the sensitive nature of SIJ adjudications, standardization of USCIS training for officers who perform interviews and adjudications is critical. Specially trained officers are provided with better resources to perform two key tasks: 1) Conduct interviews in a manner that balances agency information needs with a child's best interests; and, 2) Render legally sound decisions. In some USCIS offices, adjudicators seem unfamiliar with techniques for interviewing children and use language that is not age-appropriate. By way of comparison, stakeholders report that offices with specially-trained SIJ units are more likely to provide consistent, age-appropriate questioning and same-day decision making. Special training for officers assigned to SIJ adjudications would prepare them to properly conduct interviews involving traumatized children and familiarize them with the complex statutory requirements that are applicable to the review of SIJ cases.

Establishing dedicated SIJ units or SIJ POCs at local offices would ensure that SIJ petitions are adjudicated timely[21] by experienced officers who are familiar with the attributes of SIJ claims, rather than officers who review an SIJ petition only occasionally. In addition, SIJ training and the establishment of SIJ units/POCs would likely eliminate delays associated with overly broad requests for evidence. There is ample precedent for this type of specialized approach, particularly in the humanitarian context – both Refugee and Asylum applications, for example, are processed by specially trained corps of adjudicators.

(2) Cease requesting the evidence underlying juvenile court determinations of foreign child dependency.

Stakeholders have told the Ombudsman that one practical effect of requests for evidence underlying dependency orders is to burden applicants with onerous documentary requirements, including requests that

[20] *Id.*

[21] Sec 235(d)(2) of the TVPRA 2008 requires adjudication within 180 days of filing.

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juvenile courts pull and copy sensitive files. Thus, some stakeholders report that they have refrained from advising eligible children to seek SIJ status because re-adjudication of the dependency issue can upset the child, intrude on the child's privacy, and lengthen processing times.

When USCIS requests the evidence underlying juvenile court dependency orders, it is, in effect, engaging in an inappropriate review of the state tribunal's decision. Juvenile court dependency determinations are not a matter of federal law. USCIS is not vested with authority to make dependency determinations. It is not empowered to engage in post-decision legal or factual review of such decisions and it lacks the expertise possessed by state tribunals specializing in family law.

Accordingly, USCIS should issue clear and current guidance to adjudicators noting the weight that should be accorded to juvenile court dependency orders in the SIJ context and specifying the types of evidence that should be requested in the limited situations where it is necessary to confirm that a juvenile court order was issued on the basis of abuse, neglect, or abandonment.

(3) Issue guidance, including agency regulations, regarding adequate evidence for SIJ filings, including general criteria for what triggers an interview for the SIJ petition, and/or make this information available on its website.

USCIS has reported that updated SIJ regulations have been drafted and are undergoing internal review. To date, however, USCIS has published neither an interim regulation, nor an updated final regulation.

In the absence of TVPRA 2008 regulations, stakeholders have asked USCIS to issue formal policy guidance. At the National Stakeholder meeting in 2009, USCIS stated that it has "drafted several guidance memoranda on the provisions of the TVPRA 2008 … and all are in various stages of the USCIS clearance process and we expect them to be issued soon."[22] As of this writing, no additional guidance has been made public.

Stakeholders report that the USCIS website and call center do not provide adequate information regarding SIJs. The site does contain general information on eligibility for SIJ-based adjustment of status.[23] However, beyond general instructions for filing Form I-360,[24] the USCIS website does not present any information on supporting documentation to be submitted with the SIJ petition.

With respect to the National Customer Service Center, stakeholders report that phone representatives are unable to answer their questions effectively because the scripts they read from fail to address the specific and technical nature of these cases. Additionally, stakeholders say that Tier One call center Contractor Service Representatives have not been referring them to USCIS Immigration Service Officers who are more likely to provide useful guidance.

Stakeholders report the need for more guidance on how best to prepare the petition to comply with USCIS' adjudications criteria and to prepare the applicant for any interviews. Stakeholders indicate that interviews

[22] USCIS National Stakeholder meeting, "Humanitarian-Based Benefits" (Oct. 27, 2009).
[23] *See* http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=43ce3a4107083210VgnVCM100000082ca60aRCRD&vgnextchannel=43ce3a4107083210VgnVCM100000082ca60aRCRD&vgnextchannel=dd346d26d17df110VgnVCM1000004718190aRCRD (accessed Apr. 5, 2011).
[24] *See* http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=95be2c1a6855d010VgnVCM10000048f3d6a1RCRD&vgnextchannel=dd346d26d17df110VgnVCM1000004718190aRCRD&vgnextchannel=43ce3a4107083210VgnVCM100000082ca60aRCRD (accessed Apr. 5, 2011).

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require time-intensive preparation of the child for potential emotional and communication hurdles. Following the interview, stakeholders report that applicants often need to be debriefed as to the psychological effects of recounting the details of their often-difficult journey to the United States and why they are without one or more suitable caretakers. For example, several cases described to the Ombudsman included an officer asking a child about the nature of his/her relationship with a deceased parent.

Formal guidance published on the USCIS website could: 1) help applicants meet their evidentiary burden at the time of initial filing; 2) spare USCIS from sending unnecessary RFEs; 3) significantly shorten the time required for interviews, when they are necessary; and, 4) continue reducing overall processing times.

CONCLUSION

Expanded TVPRA 2008 provisions regarding SIJs allow more unaccompanied children to qualify for this immigration status, and to do so within 180 days of filing, without compromising their privacy rights. This law seeks to protect vulnerable children from substantial harms or administrative delays. To fully realize that intention, USCIS should establish dedicated units to adjudicate and, where necessary, administer interviews for these cases. By standardizing the training given to officers assigned to the adjudication of SIJ petitions, USCIS will enhance SIJ processing overall.

In particular, creating a cadre of specialized adjudicators would reduce RFE issuance by eliminating those requests seeking evidence underlying a juvenile court dependency order that is clear on its face. Completing the processing framework, USCIS should provide meaningful guidance informing petitioners how to show their eligibility. Implementation of these steps will lead to a better experience for children, as well as to streamlined processing that conserves USCIS resources.

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