





**WEBINAR**  
**STATE COURT FINDINGS FOR ABUSED**  
**YOUTH SEEKING SPECIAL IMMIGRANT**  
**JUVENILE STATUS**  
**WE WILL START SOON**

Presented by: U.S. Department of Justice Office on Violence Against Women and the State Justice Institute in partnership with the National Immigrant Women's Advocacy Project (NIWAP), AEquitas, and The California Coalition Against Sexual Assault (CALCASA)



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7/13/2015

This project was supported by Grant No. 2013-TA-AX-K009 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this program are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

This project was also developed under grant number SJI-14-E-234 from the State Justice Institute. The points of view expressed are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.



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## How to Use this Technology



- Raise hand
- Text chat
- PowerPoint slides
- Polling questions
- Phone

Please send a private chat message for help.

Call iLinc Technical Support at 800.799.4510.

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**Commissioner Loretta Young**  
Family Court  
State of Delaware



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**Let's see who is on the call with us. Please check the box that best describes you:**

Answer on the left

A. Lawyer  
B. Domestic violence/sexual assault victim advocate  
C. Judge or Court Staff  
D. Other

If other type in chat box



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## Learning Objectives:

By the end of this training, you will be better able to:

- Screen victims for SIJS eligibility
- Identify the different kinds of qualifying abuse for SIJS eligibility
- Identify which SIJS children can be represented with OVW funding and which qualify for representation by LSC funded agencies
- Address family court jurisdiction issues
- Issue or obtain SIJS findings from state family courts

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## Power Point and Materials Available at:

- Webinar materials are available at: <http://niwap.org/go/sijs>
- The following USCIS presentation will not be available online, but please visit our Federal Materials section for USCIS publication or visit <http://www.uscis.gov/green-card/special-immigrant-juveniles/special-immigrant-juveniles-sij-status>

The screenshot shows the NIWAP website interface. At the top, there is a navigation bar with links for Home, Immigration, Family Law for Immigrants, Public Benefits, VAWA Confidentiality, Language Access, and Cultural Competency. Below this is a search bar and a list of categories: Research and Data, Manuals, History and Legislation, National Directory of Programs With Experiences Serving Immigrant Women, NIWAP Additional Resources, and Webinars. The main content area displays a webinar titled "JULY 13, 2015: STATE COURT FINDINGS FOR ABUSED YOUTH SEEKING SPECIAL IMMIGRANT JUVENILE STATUS". The text below the title states: "Special Immigrant Juvenile Status (SIJS) allows certain youth immigrant survivors of abuse, abandonment, and/or neglect by a parent to obtain legal immigration status in the United States. This webinar will review elements required for a successful SIJS application focused particularly on special findings in state court orders. Faculty will provide information and resources on screening for SIJS eligibility, types of qualifying abuse, which SIJS cases OWW and USC funded organizations may represent, jurisdictional concerns of judges, and clarification on the requirement that only one parent abused the petitioning youth." Below the text is a section for "FEDERAL MATERIALS" with a "Details" link and a "History" link.

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## Immigration Relief for Children and Youth Who Have Suffered:

- Child abuse, neglect or abandonment
- Sexual assault
  - Incest
  - Child sexual abuse
  - Child sexual exploitation
- Domestic violence
  - Battering or extreme cruelty
- Dating violence

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## Forms of Immigration Relief Differ Based on Type of Abuse/Trauma Minor Suffered

- U visa
  - Domestic violence
    - Battering or extreme cruelty
  - Dating violence
  - Child abuse
  - Sexual assault
  - Stalking
- T visa
  - Victim of severe form of trafficking in persons
    - Sex trafficking
    - Labor trafficking
- Asylum
  - Persecution due to race, religion, nationality, membership in social group, or political opinion
- Special Immigrant Juvenile Status
  - Child abuse
  - Abandonment
  - Child neglect
- Deferred Action for Childhood Arrivals
  - No connection with abuse
  - Can be pursued first
- VAWA self-petition
  - Battering or extreme cruelty
    - Child abuse
    - Sexual assault
    - Domestic violence
    - Stalking or other form of extreme cruelty

## Raise your hand if your agency




- Receives OVW or STOP funding
- Receives LSC funding
- Receives both sources of funding

Can OVW and LSC funded organizations represent youth seeking SIJS?

Feedback

Yes  
 No  
 No Answer




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### Funding Sources Available to Advocates and Attorneys for Assistance to Child Victims

<p><b>VAWA</b></p> <ul style="list-style-type: none"> <li>• Dating violence</li> <li>• Domestic violence             <ul style="list-style-type: none"> <li>– As defined by VAWA</li> </ul> </li> <li>• Stalking</li> <li>• Sexual assault</li> <li>• <i>Youth at least 11 years old</i></li> </ul>	<p><b>LSC</b></p> <ul style="list-style-type: none"> <li>• Domestic violence             <ul style="list-style-type: none"> <li>– Defined as battering or extreme cruelty</li> </ul> </li> <li>• Sexual assault</li> <li>• Human trafficking</li> <li>• Qualifying U visa criminal activity</li> <li>• <i>No age limitation for children</i></li> </ul>
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## Unaccompanied Minor Process

- Apprehension
- Screening within 48 hours
- Transfer to HHS Office of Refugee Resettlement (ORR)
- ORR seeks safe placement for child who will
  - Provide care for the child
  - Bring the child to immigration court
- If no safe placement identified, child remains in federal HHS custody

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## When Abandonment, Neglect or Stalking Constitute Extreme Cruelty

### Child victims can receive LSC-funded representation

(See LSC Program Letter 14-3)

Factors include:

- Child's age, physical or mental health
- Preexisting conditions aggravated
- Severity of parent(s) conduct in abandoning or neglecting the child
- Abandonment, neglect, stalking
  - Impact on child
  - Caused mental injury
  - Would require child abuse reporting under state law
  - Were part of a pattern of behavior that taken together = extreme cruelty

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## How to Find Legal Service Providers in Your Area

- NIWAP Directory
  - <http://www.niwap.org/directory/>
- Department of Justice, Executive Office of Immigration Review, Free Legal Services Providers
  - <http://www.justice.gov/eoir/free-legal-services-providers>



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## A Minor's Trauma History Affects:

- Best interests of the child determination
  - Best placement or custody arrangement
  - Importance of placing the minor with a non-abusive
    - Parent, family member, guardian, other placement
- Minor's immigration options and findings or certifications needed
- Minor's communication with and demeanor in court
- Minor's need for
  - therapy, treatment & health care needs
  - services & public benefits



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## Children who have experienced or witnessed abuse (Citations in endnote A)

- Affects:
  - Child health and wellbeing
  - Neurocognitive development,  
intellectual functioning/development

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## Children who have experienced or witnessed abuse (Citations in endnote A)

- Results in:
  - Post traumatic stress
  - Profound sense of helplessness
  - Hypervigilance
  - Low self-esteem
  - Behavioral problems
    - Self-medicating with street drugs
    - Aggression
    - Delinquency
    - Adult criminal acts
    - Bullying

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## Sexual Assault Against Immigrant Girls

- Immigrant women vulnerable to recurrent sexual assault
- High school immigrant girls twice as likely to have suffered sexual assault as their non-immigrant peers
- Increased vulnerability may stem from:
  - Increased isolation
  - Break-up & restructuring of families during immigration process
  - Immigrant girls are legally and socially vulnerable and are targeted by sexual assault perpetrators

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## Severe Impact of Sexual Abuse of Minors (Citations in Endnote B)

- Cognitive deficits, depression, dissociative symptoms, persistent posttraumatic stress disorder
- Hypothalamic–pituitary–adrenal attenuation
- High rates of obesity
- Dropping out of high school
- Drug and alcohol abuse

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## Severe Impact of Sexual Abuse of Minors (Citations in Endnote B)

- Early onsets of puberty, maladaptive sexual development, sexual re-victimization, premature deliveries, teen motherhood
- Experience dating and domestic violence in relationships
- Offspring born to abused mothers are at increased risk for child maltreatment and overall mal-development

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## Interventions that mitigate the harms of abuse on Minors –Immigration relief improves access to: (Citations in Endnote C)

- Economic opportunity
- Mentors and role models
- Organized community programs for youth and families
- School environment that promotes prevention
- Adult family members who are nurturing and provide consistent, structured supervision

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## Immigrant Children in Family Court

- May have options for legal immigration status
  - Child's own application
  - Child included in parent's application
- Immigrant children's best interests are promoted when state courts:
  - Issue findings that children need to apply for Special Immigrant Juvenile Status
  - Sign U visa certifications
  - Do not inadvertently cut children off from legal immigration options
  - Award custody to non-abusive parents, family members, guardians
    - Without regard to the custodian's immigration status

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## Access to Legal Immigration Status:

- Provides a path to economic security
  - Work authorization
  - Drivers licenses
  - Financial aid to attend university
    - Varies by state and immigration status
- Removes fear of deportation, promotes stability and facilitates access to:
  - Nurturing family relationships
  - Stable school environment
  - Mentors, role models and community support

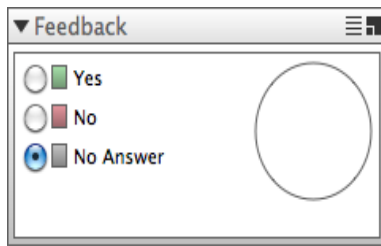
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**HAVE YOU BEEN INVOLVED WITH A CASE IN  
WHERE AN IMMIGRANT CHILD RECEIVED SIJS  
FINDINGS?**

Answer on  
the left



A screenshot of a feedback form titled "Feedback". It contains three radio button options: "Yes" (with a green square), "No" (with a red square), and "No Answer" (with a blue square). The "No Answer" option is selected. To the right of the radio buttons is a large empty circle.

USCIS' presentation on this  
Webinar is not available for  
distribution.

When a state court issues SIJS findings, is the state court granting the child immigration relief?

Feedback

Yes

No

No Answer

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**WHICH GROUPS OF IMMIGRANT ABUSED, ABANDONED OR NEGLECTED CHILDREN HAVE YOU WORKED WITH OR SEEN IN YOUR COURTROOM?**

**CHILDREN WHO ARE---**

Answer on the left

Feedback

A

B

C

D

No Answer

A) In the child welfare system

B) Outside of the child welfare system coming to court in family law cases

C) Both

D) None of the above

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## State Law in SIJS Cases Governs:

- Age of majority (often 18 –not 21) by which a minor must receive SIJS orders
  - Court must have jurisdiction to issue orders addressing care, custody or dependency of a minor
- Definition of abuse, abandonment, neglect
  - Both for events occurring in the U.S. and abroad
- Best interests of the child factors
- Service of process rules
- Family court jurisdiction

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## True or False?

Feedback

Yes

No

No Answer

1. Only children in foster care can receive SIJS findings
2. Courts can issue SIJS findings when a court places an immigrant child in the custody or care of a battered immigrant parent
3. A court can make SIJS findings when child custody, placement, or care of a child is addressed in a custody, paternity, protection order or guardianship case
4. For SIJS abuse, abandonment or neglect must have occurred abroad

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## “One *or* Both Parent” Requirement



A child can receive SIJS findings if they were abused, abandoned or neglected by one parent and are living with the other parent.

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## SIJS and State Court Jurisdiction

- Any state court with personal jurisdiction over a child *and*
- Subject matter jurisdiction to issue state court orders that affect the *care or custody* of a child
- Must follow state service of process requirements for type of proceeding
  - Consular notification may be required
- Age of majority set by state law
- Benefits for older teens of orders state courts have jurisdiction to issue

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## Jurisdiction Under the UCCJEA

- Home state jurisdiction
  - 6 months in the state
  - Foreign country counts as a “home state”
- Temporary emergency jurisdiction
  - May vary by state
  - Generally may assert when the juvenile is present in the state and is abandoned or abused
  - In many states temporary emergency jurisdiction can become full continuing jurisdiction

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## Types of Proceedings to Request Special findings for Immigrant Youth

- Dependency
- Delinquency
- Termination of parental rights
- Guardianship
- Paternity
- Child support
- Criminal cases
- Custody
- Custody Modification
- Divorce
- Legal Separation
- Motions for a declaratory judgment

Procedural Issues: May  
require consolidation of  
cases to attain ability to  
make needed findings

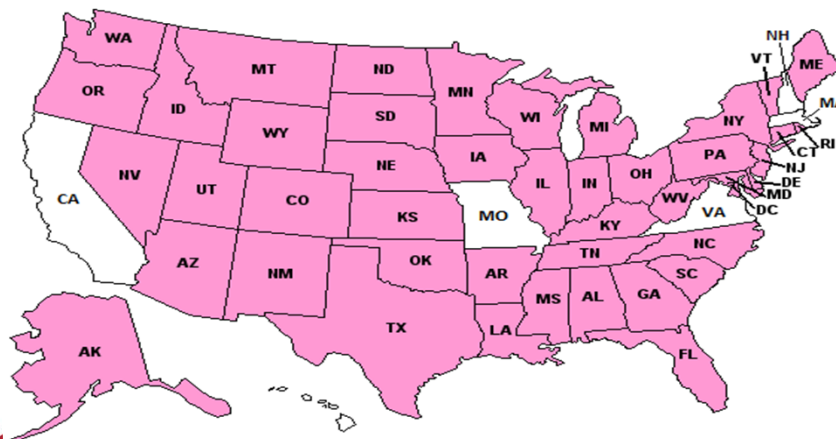
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## States With Declaratory Judgment Statutes That Can be Used in SIJS Cases

When under state law the court can take jurisdiction over the care or custody of a child



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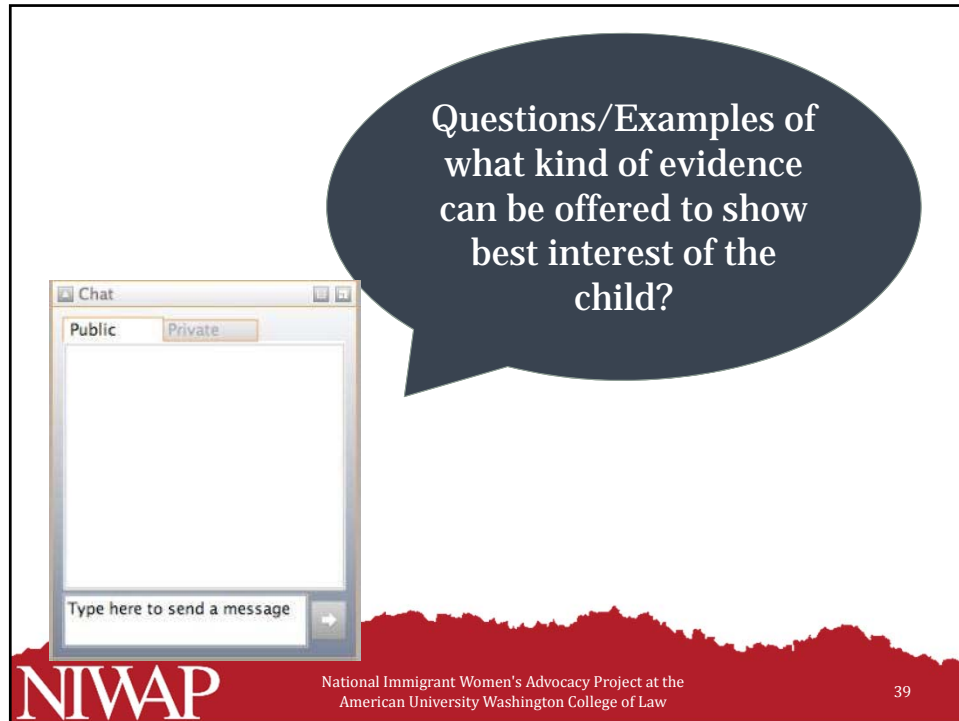
## Best Interest of the Child to Remain in the U.S.

- Best interest includes comparison of factors in the U.S. and child's home country
- Helpful to courts to provide evidence of country conditions
- Best interests under state law including
  - Risk of danger to the child
  - Family support system
  - Emotional well being
  - Educational resources
  - State laws that preclude or discourage placement with abusive parent

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Questions/Examples of what kind of evidence can be offered to show best interest of the child?

Chat  
Public Private  
Type here to send a message

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## Commissioner Young

- Judicial perspective on the range of court orders that benefit immigrant minors and affect their care, custody and/or delinquency
- That legitimate roles for state courts
- That are not *primarily for immigration benefits*
- Deportable offenses can cut off access to lawful permanent residency based on SIJS

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## SIJS Eligibility: Attorneys and Advocates

- Screening should be conducted often
- Abuse may have occurred before the juvenile entered the United States OR after
  - Possible increased risk for victimization for immigrant juveniles reunified with family and/step parents

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## SIJS Eligibility: Courts

- Courts should:
  - Recognize cases in which SIJS orders could be issued
  - Make available at courthouses DHS-produced information on immigration relief eligibility
  - Ask counsel for foreign born children to brief the court on whether SIJS orders would benefit the child

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## What Children with SIJ Status Receive

- While case is pending:
  - Protection from deportation and removal
  - As lawfully present children – health care exchanges (no subsidies), education benefits
  - Programs and services necessary to protect life and safety

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## What Children with SIJ Status Receive

- At approval:
  - Lawful Permanent Residency (separate but usually concurrent filing)
  - Legal work authorization
    - Brings access to state issued driver's licenses and identification cards
  - Eligible for citizenship after 5 years
  - Post secondary educational grants and loans, public and assisted housing
  - Food stamps (only until the immigrant child turns age 19)

**SIJS' may NEVER file family petition for either of the child's natural parents**

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## QUESTIONS FOR USCIS?

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## QUESTIONS FOR NIWAP AND COMMISSIONER YOUNG?

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## Technical Assistance and Materials

- Power Point presentations and materials for this webinar at <http://library.niwap.org/training/2015/july-13-2015-sijs-webinar/>
- **NIWAP Technical Assistance:**
  - Call (202) 274-4457
  - E-mail [niwap@wcl.american.edu](mailto:niwap@wcl.american.edu)
  - Includes direct technical assistance to courts
- **State Justice Institute** Funded Materials for State Court Judges on Immigrant Children and Crime Victims
  - [www.niwap.org/go/sji](http://www.niwap.org/go/sji)
- Web Library: [www.niwaplibrary.wcl.american.edu](http://www.niwaplibrary.wcl.american.edu)

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**Thank you!**

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## Endnote A

- *Children's health and well being* (English, Marshall and Stewart 2003; Huth-Bocks, Levendosky and Semel 2001; Osofsky 2003)
- *Children display elevated posttraumatic stress, a profound sense of helplessness, hyper vigilance and low self esteem* (Kolbo and Engelman 1996; Rossman 1998; Dutton, 2000; Carlson 2000)
- Children's response to interparental conflict *resulting in external behavioral problems such as aggression, disobedience, non-compliance, delinquency and adult criminal acts*. (Moore and Pepler 1998; Cox, Koch and Everson 2003)
- Children who witness marital violence *experience adjustment problems as young adults and that young women especially are at a higher risk of dating violence including sexual assault and battering* (Silvern, Karyl, Walede et al. 1995; Maker et Al. 1998; Langhinrichsen-Rohling et al., 1998)
- long-term effects of domestic violence on children
  - *health problems* (English, Marshall and Stewart, 2003)
  - *intellectual functioning* (Huth-Bocks, Levendosky and Semel 2001),
  - *becoming school bullies* (Steinberg 2000; Farrington 1993; Baldry 2003);
  - *adult criminal behavior* (Widom 1989)

## Endnote B

- Penelope K. Trickett, Jennie G. Noll, and Frank W. Putnam, *The Impact of Sexual Abuse on Female Development: Lessons From a Multigenerational, Longitudinal Research Study Development and Psychopathology* 23 (2011), 453–476

## Endnote C

- Janet Carter, *Domestic Violence, Child Abuse, and Youth Violence: Strategies for Prevention and Early Intervention* (Family Violence Prevention Fund) (2000) available at <http://www.mincava.umn.edu/link/documents/fvpf2/fvpf2.shtml>

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