

# SEPARATED AND TRANSNATIONAL FAMILIES



## A TOOLKIT FOR CHILD WELFARE CASES – JUDGES, ATTORNEYS AND CHILD WELFARE PERSONNEL

**Southern Arizona Transnational Task Force**

**Tucson, Arizona 2018**



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## Southern Arizona's Transnational Task Force Letter of Intent\*

This document is the culmination of two years of intensive work by a bi-national task force. The Transnational Task Force members were led by Laurie Melrood and each generously dedicated their time and expertise and represented the following agencies:

Advocacy and Consulting, LLC  
Arizona Attorney General's Office  
Arizona Department of Child Safety (DCS)  
Arizona Superior Court, Juvenile Benches for Pima and Santa Cruz Counties  
Institute for Women in Migration (IMUMI), Mexico City  
The Florence Immigrant and Refugee Rights Project  
Goldman and Goldman, PC  
Office of Children's Counsel, Pima County, Arizona  
Office of Protection, Mexico Consulate, Tucson, Arizona  
Office of Protection, Mexico Consulate, Nogales, Arizona  
Puentes de Gracia  
Sistema para el Desarrollo Integral de la Familia (DIF), Nogales, Sonora, Mexico

Transnational families are those with close members and meaningful ties in at least two countries. The unified goal was to initiate and improve communications and to develop a tool kit to provide judges, attorneys and DCS case workers in Arizona detailed information on how best to address child welfare cases that involve a transnational family - whether the family was in Arizona or split by an international border. It is our hope that this document will serve not only those in Arizona but will inform and assist child welfare participants in other states to benefit children and families. Our intention is to maintain this document on-line and update it as necessary.

The members of the Transnational Task Force hope that you will find this document instructive and beneficial. We welcome comments, suggestions or requests regarding use of this manual. Please direct these to our Committee Coordinator Laurie Melrood, LMSW, Advocacy and Consulting, LLC, at [lmelrood@gmail.com](mailto:lmelrood@gmail.com).

Sincerely,

*Laurie Melrood, Advocacy and Consulting, LLC*  
*Nansi Naranjo, Arizona Attorney General's Office*  
*Rosemary Munoz, Arizona Department of Child Safety*

*Honorable Kathleen Quigley and Kim Corsaro, Arizona Superior Court, Juvenile Benches for Pima and Santa Cruz Counties*

*Maria Avila, Family Navigator, Pima County Superior Court, Juvenile*

*Frida Espinosa Cardenas, IMUMI*

*Rebecca Curtiss and Laura Belous, Florence Immigrant and Refugee Rights Project*

*Maurice Goldman and Gloria Goldman, Goldman and Goldman, PC*

*John Walters, Office of Children's Counsel, Pima County, Arizona*

*Karen Jimenez and Jorge Saab Hernandez, Office of Protection, Mexico Consulate, Tucson, Arizona*

*Mariana Villegas and Francisco Elorza, Office of Protection, Mexico Consulate, Nogales, Arizona*

*Violeta Lazo, Puentes de Gracia*

*Eduardo Chavez Chavez, Ana Esther Alvarez and Fabian Iniguez, DIF, Nogales, Sonora, Mexico*

***\*The information in this toolkit was developed based on the specific situation in Arizona. We hope that the information can serve as an example of the type of actors and processes that could be relevant in other counties or states, but each local experience is different.***

## Key Immigration Terms

A Social Worker's Tool Kit for Working with Immigrant Families: Immigrant Status and Relief Options, Immigrant Legal Resource Center and the Center on Immigration and Child Welfare (CICW), <http://cimmcw.org>, 2015. See Appendix 4, pp.16-19, "Summary of immigration relief options applicable to youth in dependency proceedings" and Appendix 5, pp.20-23, "Glossary of immigration terms"

## ARIZONA CHECKLIST AND EXPECTATIONS FOR JUDGES/ATTORNEYS/DCS

### CASE INCEPTION

#### DCS Case Manager:

\_\_\_\_\_ If parent is in another country or is a foreign national determine which country as soon as possible and notify the appropriate consulate (if possible, prior to PPH).

\_\_\_\_\_ If parent is likely a foreign national incarcerated or detained in the United States, consult with the appropriate consular authorities to determine location. The consulate has the ability to search in federal and state jails and detention centers. To locate consulate refer to <http://www.usembassy.gov> (for both consulates and embassies). See Mexican Consulate's Guidelines for Transnational Families for contacts.

\_\_\_\_\_ If parent is in Immigration and Customs Enforcement (ICE) custody, email ICE coordinator [Klaas.M.Hubert@ice.dhs.gov](mailto:Klaas.M.Hubert@ice.dhs.gov).

\_\_\_\_\_ To determine location in ICE custody, check ICE's online detainee locator at [www.ice.gov](http://www.ice.gov) (or google online detainee locator). Parent's A # (Alien Registration Number) or correctly-spelled name and DOB is required. Email ICE coordinator if you need help finding the correct version of the name. *Note: If the parent was very recently arrested by Border Patrol, that parent may not appear in the ICE Detainee Locator database for up to a week.*

\_\_\_\_\_ When parent is located, disclose contact information and location immediately to the attorneys (child and parent) so that they can make the appropriate contact and/or request visitation.

\_\_\_\_\_ DCS shall make arrangements for visitation as appropriate (in person, telephonic, Skype). Contact the ICE Coordinator to arrange for legal visit and child visitation if the parent is in ICE custody.

\_\_\_\_\_ If family visitation in Mexico is likely, obtain a US passport for the child as soon as possible so that the child can re-enter the United States. The Attorney General's office will submit the order.

#### Child's Attorney:

\_\_\_\_\_ If the child does not have a US birth certificate, refer to the immigration clinic to determine the child's legal status. If attorney determines child may qualify for Special Immigrant Juvenile Status (SIJS), child's dependency attorney shall then file a motion and order for SIJS findings from court. If child is close to 18 at time of removal, file this motion soon as possible; SIJS findings in particular MUST be made prior to child's 18<sup>th</sup> birthday.

## SERVICES AND VISITATION

### DCS/Attorneys/Judge:

- Parents have basic rights regarding their children no matter their immigration status, or even whether or not they reside outside of the US.

\_\_\_\_\_ Visitation options if parent in ICE Custody:

\_\_\_\_\_ Phone or Skype calls with assistance of ICE Coordinator.

\_\_\_\_\_ In-person at detention center, if transportation is available.

\_\_\_\_\_ Minors do not require US immigration status to visit parent. Foster parent, relatives, kinship placement or other DCS authorized adult, including the DCS case manager, can accompany child to visit the parent at ICE facility. You must make a prior appointment for a visit with the ICE coordinator and will be approved to enter by providing a valid driver's license or other valid government-issued ID. (*Caveat: In some states persons without immigration status in the US, including minors and their caregivers (foster parents, relatives, kinship placement), should not enter an ICE detention facility. In these situations, phone or Skype calls represent the best option. Contact the ICE Coordinator for assistance.*)

\_\_\_\_\_ Attorneys may also visit with parents in person at detention center.

\_\_\_\_\_ Visitation options if the parent is in Mexico:

\_\_\_\_\_ If the child is adjudicated dependent and the parent is in Mexico, contact DIF through the Mexican consulate to arrange for services.

\_\_\_\_\_ Arrange in-person visits through the consulate, either at the border or in Mexico (arrange through the consulate). Child will need a US passport in order to travel to Mexico and re-enter the US.

## REUNIFICATION IN MEXICO OR ANOTHER COUNTRY

**The majority of children in State custody are US citizens. As a part of the family reunification plan, the Judge will order the parties to obtain the proper US and Mexican or other country documentation to allow the child/ren to travel and reside in both countries.** Work with consulate for appropriate documentation.

**If reunification with a parent or family member in Mexico is likely,** it is preferable for a dual-national child to have both a US passport and a Mexican passport to establish both US and Mexican citizenship.

If the child entered Mexico with a US passport, the child must register at the civil registry in order to obtain dual citizenship and then notify the Mexican Immigration Institute that s/he is now a Mexican national. Please refer to “Required Documentation for US-Born Children” by the Mexican Consulate.

Please consult and then confirm with consulate of any other country to determine exact requirements for a child to legally enter that country.

### **DCS:**

\_\_\_\_\_ If the child is not a US citizen, obtain child’s birth certificate from the consulate and disclose to child’s counsel for possible Special Immigrant Juvenile Status case.

\_\_\_\_\_ If the child has a US birth certificate, obtain an apostille (special official seal). See Mexican consulate’s instructions for required documentation.

\_\_\_\_\_ Ensure child’s name and parent(s) names are EXACT (first, middle and all last names) on the US birth certificate per traditional naming conventions.

\_\_\_\_\_ If the child is a US citizen, DCS must obtain a US passport in order for the child to travel outside the US. It can take up to 4 months to receive a passport, so request this as soon as possible.

*Note: Any DCS case manager, attorney, etc., accompanying child into another country must also have a valid passport or crossing card to re-enter the US.*

## SIX MONTHS INTO CASE

### **DCS/CHILD’S ATTORNEY:**

\_\_\_\_\_ The child's attorney and/or DCS shall refer child's immigration case to an immigration clinic regarding SIJS, T-visas, VAWA, U-visas, etc., if child has a foreign birth certificate or has not obtained a US or other birth certificate.

\_\_\_\_\_ As above, child's dependency attorney shall file a motion and order for SIJS findings from court in appropriate cases, if not previously filed. \*If child is close to 18 at time of removal, file this motion *as early as possible*, because findings MUST be made prior to child's 18<sup>th</sup> birthday

\_\_\_\_\_ If reunification to family members in Mexico is possible, follow the steps below as soon as possible:

\_\_\_\_\_ See Mexican Consulate's Guidelines on Required Documentation for US-Born Children (*see* page 23)

\_\_\_\_\_ If child is a non-citizen and the child's immigration case is pending, the child's immigration attorney MUST be contacted prior to any visitation outside of the US or placement outside of the US.

\_\_\_\_\_ DCS is advised to consider translation of child's US health and school records into Spanish or other appropriate language if child will be reunifying to another country.

\_\_\_\_\_ If child is reunifying to another country, please consult that country's consulate.

#### **SIX TO FIFTEEN MONTHS INTO CASE**

\_\_\_\_\_ If reunification is likely, see above at the three/six months and below for transition considerations.

\_\_\_\_\_ If child does not have a US birth certificate and reunification is not likely and case plan is adoption, guardianship or APPLA, refer case to immigration attorney or clinic immediately. See above.

#### **TRANSITION CONSIDERATIONS FOR CHILD/REN TO BE REUNIFIED WITH A PARENT OUT OF THE COUNTRY**

- 1) If the child's case includes therapy, notify the therapist about the transnational reunification plan so that the therapist can prepare the child for the transition.
  - 2) For reunification in Mexico, see Reunification Guidelines for Transnational Children to ensure all documents in place prior to placement of child with parent.
  - 3) For Mexican reunification, see also IMUMI's guide, "Where do we go from here," available at [http://uf.imumi.org/recursos/where\\_challenges.pdf](http://uf.imumi.org/recursos/where_challenges.pdf).
  - 4) If the child does not speak the language, consider ordering language classes or tutors.
-

## FAQ'S AND TIPS FOR WORKING WITH TRANSNATIONAL FAMILIES WHEN CHILDREN ARE SEPARATED FROM THEIR PARENT(S)

**A DCS report indicates that a parent in the case is either**

- Incarcerated for a crime and likely to be picked up by Immigration and Customs Enforcement (ICE)
- Already detained in an immigration detention center in the US
- Deported to Mexico or another country

### **I. Locating and assisting children and parents**

**Were the children with the parent(s) when they were arrested? Where are the children now?** Are they safely placed? Consult with persons close to the family. Be aware that parents, children and extended family may be hesitant to disclose the location of the children, or any information, as a result of their legal status in the US. Professionalism, cultural sensitivity and empathy will go a long way toward gaining trust with the family and engaging them in this process. Undocumented relatives (persons living in the USA without proper immigration authorization) may be able to clear all available background checks and be considered for placement with upper management approval. **TIP:** A majority of the children in immigrant families are US citizens and may be eligible for State benefits. However potential kinship placements who are undocumented are not entitled to benefits.

**Locating the parents.** Were the parents arrested and taken by Border Patrol? Encourage family members/ friends to provide information about the current whereabouts of the parent(s). Reassure family members that DCS is not required to report undocumented individuals to ICE. This reassurance may lead to improved communication and information sharing. The family/ friends may be experiencing trauma given the dynamics of the separation, arrest, legal issues, etc. Engaging the family/ friends early on will create timely and meaningful opportunities for DCS to assist the parent(s) in moving through the investigative and potential dependency process with better options for support and services. If the parent(s) is already deported outside the country, contact the appropriate Consulate and enlist their help in establishing timely contact with the parent(s).

**Locating a parent detained by Immigration & Customs Enforcement (ICE).** If the parent(s) is believed to be in ICE detention, first obtain the parent's FULL name (ex., Jose Luis Garcia Menendez), the DOB (mo/day/yr) and country of origin. Then,

- Go to [www.ice.gov/locator](http://www.ice.gov/locator) and input the information,
- Or call current ICE Parental Interest Field Officer, Mr. Klaas Hubert, (520) 464-3097,

- Or appropriate Consulate,
- Or the Florence Project, (520) 868-9610, [www.firrp@firrp.org](mailto:www.firrp@firrp.org)

**Request help from the Mexican Consulate (or the Consulate for the country of origin, e.g., Guatemala, Ecuador or Honduras) as soon as possible.** Consulate staff can assist with:

- Locating a detained parent in the US
- Locating family members in their country of origin,
- Locating family members in the US for possible kinship placement or support,
- Assisting with procedures if reunification is to occur in their country of origin
- Contacting the appropriate “Desarrollo Integral de Familias” – (DIF, Mexico’s child welfare entity) office to assist with DCS home studies, case plans and additional services/ supports for a deported parent

**Minors with no parent available to care for them in the US have important legal immigration options.** Encourage family members to share information. Reassure them that no one connected with the case will report them to Immigration and Customs Enforcement (ICE). DCS is specifically excluded from prohibitions to serve certain classes of immigrants that may apply to some other Arizona entities. Overlooking this step, or adopting a “don’t ask, don’t tell” approach, could mean that families will not receive the help they need. A Legal Clinic is now available to assist DCS Specialists with making this determination and referring for further services. The Legal Clinic is free, offered once monthly, is held at the Pima County Juvenile Court Center and is overseen by immigration and dependency experts.

## **II. Immigration and child welfare timelines and responsibilities**

**At the time scheduled for the Team Decision Making Mtg., and prior to the Preliminary Protective Hearing, if possible:**

- Locate and have present (either in person or by phone) people significant to the family (older children, extended family, teachers, pastor, neighbors), so that you, as a DCS Specialist, can gather information regarding possible placement, services and visitation
- Communicate with team members and convey necessary findings in the court report
- Know that getting in touch with a parent just arrested by US Border Patrol (south of the Gila River) or ICE (north of the Gila River, ie Maricopa County and further north) will

likely be impossible because the parent is generally being moved around within the enforcement system for the **first 24 to 72 hours**

Currently for children over 3, the Adoption and Safe Families Act of 1997 typically allows a case to continue for 12 months before the Court proceeds with a permanent plan for the child. *ICE's timelines are different*, depending on the individual's immigration case. A parent may remain in detention for weeks, months or years. The immigration and dependency systems would do well to work together to create best possible outcomes for children and families. A dependency judge may extend the time when there is documented evidence of the case being actively worked. Apprise team members continually of what the two systems are doing, in accordance with the child's best interests.

**Know that the detained or deported parent has an open "immigration case" and may have contracted with an immigration attorney or key advocate.** As soon as possible, contact and stay in touch with the parent(s) immigration attorney and/or advocate. They may have important information or questions for you. Likewise you will have questions for them as the case progresses. Having the attorneys, both immigration and dependency, talk to each other can often help assure more suitable outcomes, as this helps parents properly exercise their rights even while geographically so distant from the venue where the case, and usually the children, are located.

**When detained or deported, immigrant parents generally can:**

- Be served papers and obtain notarization of documents
- Participate telephonically in dependency hearings
- Access free phone calls with their court-assigned dependency attorney
- Access free phone calls from and to the DCS Specialist engage in phone calls, visits and correspondence with their children at the detention center. *Note: Individuals without immigration status in the US, including minors, depending on your state should not enter an ICE detention facility.*
- Request and participate in case plans and to have a voice in what happens to their children rarely, with a court order and US Border Patrol (USBP), as well as with arrangements made in advance through the Consulate and USBP, obtain permission to appear in person for a severance trial.

**When detained or deported, immigrant parents generally cannot:**

- Receive phone calls except when being called by prearrangement for telephonic participation in a dependency hearing
- Comply with various features of their case plan due to lack of services in detention or abroad

- Have access to the internet
- Work their immigration cases expeditiously, though they may deeply desire to leave detention and to reunify with their children, because it can take months for the smallest matter to be heard in Immigration court
- Take care of almost any kind of family emergency, though they can be consulted
- Feel upbeat or animated without outside encouragement, visits from their children, etc.

**Working with parents detained or deported by immigration enforcement can present significant barriers. DCS Specialists can gain working knowledge of the immigration, detention and deportation systems impacting a transnational family.**

Like parents who experience incarceration, these parents may become discouraged when contemplating what is happening, or what they fear may happen, to their lives and family. They can be detained indefinitely with no real knowledge of what the future holds for them. DCS Specialists can be a bridge to better outcomes for children. Reunification is possible in some cases. In others, ongoing communication may be the goal. Whatever the goal, families can be helped to achieve the most dignified solutions possible. It is important to try and keep Transnational parents involved if at all possible.

## QUICK RESOURCE GUIDE FOR ASSISTING SEPARATED FAMILIES

**LOCATING A PARENT** detained by ICE in Arizona, in order to arrange an attorney visit, child/parent visit or case manager phone call, telephonic representation in dependency court, or other arrangements regarding DCS processes, call ICE Parental Interests Field Representative Supervisor: KLAAS HUBERT 520-464- 3097, or write [Klaas.M.Hubert@ice.dhs.gov](mailto:Klaas.M.Hubert@ice.dhs.gov)



**LOCATING A PERSON DETAINED ANYWHERE IN US by ICE, see National ICE Detention Locator:** <https://locator.ice.gov> Have full correctly spelled name, first and second names as well as first and second surnames, country of origin and DOB also Alien Registration (“A”) number, if known. A# helps but isn’t required to locate an arrestee. (For ex., José Manuel Garcia Lopez, Guatemala, 10/20/0000, A111-222-333)

**LOCATING AN UNACCOMPANIED MINOR (UAC)** in ICE juvenile shelter: Child sponsor or family members can call Office of Refugee Resettlement (ORR), 800-203-7001, ext. 2, for English (9 am – 9 pm) Attorneys needing info re UAC see <https://www.hhs.gov/programs/orr>

## MEXICO AND OTHER LATIN AMERICAN CONSULATES IN ARIZONA

For help locating family members anywhere in Mexico, contact with Mexico DIF, arranging phone calls and parent visits with separated children, requesting consular appearance at hearings, etc.

<b>Phoenix:</b> (602) 242-7398	<b>Ecuador Consulate, Los Angeles, CA:</b> (323) 658-6020
<b>Tucson:</b> (520) 882-5595	<b>Guatemala Consulate, Tucson:</b> (520) 398-6912
<b>Nogales:</b> (520) 287-2521	<b>Guatemala Consulate, Phoenix:</b> (602) 200-3660
<b>Douglas:</b> (520) 364-3142	<b>El Salvador Consulate, Tucson:</b> (520) 318-0410
<b>Yuma:</b> (928) 343-0066	<b>Honduras Consulate, Los Angeles, CA</b> (213) 995-6406

**24/7 Hotline for Mexico nationals (anywhere in US):** 1-877-632-6678 (CIAM Call Center in Tucson)

**Florence Immigration and Refugee Rights Project (Florence Project)** helps locate and offers some assistance for detained parents with children in DCS custody. Free legal rights orientation and support for adult and child immigrants detained in Florence and Eloy detention facilities. Serves all UAC children in Phoenix/Tucson ICE contract juvenile shelters. Offers rights training for immigrant parents.

**Phone:** (520) 868-0192 (Florence) (520) 203-7912 (Tucson) (602) 307-1008 (Phoenix)

**Fax:** (520) 868-0192 (all)

**Email:** [firrp@firrp.org](mailto:firrp@firrp.org) (all)

**Website with pro se materials:** [www.firrp.org](http://www.firrp.org)

**Phone:**

(520) 868-0192 (Florence)

(520) 203-7912 (Tucson)

(602) 307-1008 (Phoenix)

**Fax:** (520) 868-0192 (all)

**Email:** [firrp@firrp.org](mailto:firrp@firrp.org) (all)

**Website with pro se materials:**

[www.firrp.org](http://www.firrp.org)

To check whether your client is detained in an ICE detention center: Provide the 9-digit Alien Registration ("A") number that identifies an immigrant's case, and complete first and second surnames (see above).

**Florence Service Processing Center (also known as Florence SPC, run by ICE)**

3250 N. Pinal Parkway, Florence, AZ 85232  
(520) 868-5862, 7:00 am- 3:00 pm or (520) 868-8377 evenings (3:00 pm – 7:00 am) and weekends

**ICE Detention, Eloy (run by CORE/Civic, a private contractor)**

Eloy Detention Center, 1705 E. Hanna Rd., Eloy, AZ 85131 (520) 464-3000.

## **Overview of the ICE Parental Interests Directive**

On August 23, 2013, U.S. Immigration and Customs Enforcement (ICE) issued the *Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities Directive* (Parental Interests Directive). This directive complements existing policy by helping ICE better manage and track cases involving detained alien parents or legal guardians who have minor children who are U.S. citizens or lawful permanent residents, or are primary caretakers of minor children without regard to the dependent's citizenship. The directive guides the agency to enforce immigration laws fairly and with respect for a parent's/guardian's rights and responsibilities.

The Parental Interests Directive contains several elements related to the operations of ICE's Enforcement and Removal Operations (ERO) field offices' handling of cases involving primary caretakers, parents or legal guardians of minor children, and particularly focuses on aliens involved in family court or child welfare proceedings. These elements include, among others:

1. Designating a specific point of contact within each field office for parental-interests matters;
2. Promoting complete entry of relevant case information into ICE's data and tracking systems;
3. Developing processes to regularly identify and review cases involving parents, legal guardians and primary caretakers;
4. Determining detention placement;
5. Facilitating court participation;
6. Allowing parent-child visitation; and
7. Accommodating the arrangements of parents, legal guardians, or primary caretakers who are facing pending removal for the care and travel arrangements of their children.

## No Private Right Statement

While this overview of the Parental Interests Directive addresses its effect on certain parents, legal guardians and primary caretakers, the directive applies to ICE and does not create any right or benefit, substantive or procedural, enforceable law by any party in any administrative, civil or criminal matter. The security and safety of any ICE employee, detainee, ICE detention staff or member of the public will be paramount in the exercise of the procedures and requirements of the directive.

## Contact Us

Anyone may contact ICE on parental interests matters, including but not limited to: detained alien parents, legal guardians or primary caretakers of minor children in the United States; family or child dependency court officials; social workers or other child welfare authorities; immigration attorneys; family law attorneys; and other child welfare or immigration advocates.

- Prior to contacting ICE headquarters on your parental interests concern or question, you should first try to resolve your request or concern at the field level through one of our 24 Parental Interests Field Liaisons.



[Use this interactive map to submit an email inquiry or request to the outreach mailbox of any one of our 24 field offices.](#) **Note:**

Enter into the subject line of the email, "Parental Interests Inquiry." If you need to contact ICE by phone, see below for information on the Community and Detainee Helpline.

- If your attempts to resolve your concerns or request at the field level fail, you may send an email to ERO Community Outreach at ICE Headquarters: [ERO.Outreach@ice.dhs.gov](mailto:ERO.Outreach@ice.dhs.gov). **Note:** Enter "Parental Interests Inquiry" into the subject line of the email.
- You may also contact ICE Headquarters by calling the ICE Community and Detainee Helpline (Helpline) at 1-888-351-4024 during regular business hours, 8 a.m. to 8 p.m. EST, Monday through Friday. **Note:** State that your request is a "Parental Interests Inquiry." Bilingual (English/Spanish) operators are available. If necessary, interpretation services are also available to communicate with individuals in other languages.
- If you elect not to send your request or inquiry through either the ERO Outreach Mailbox or by contacting the ICE Community and Detainee Helpline, you may send your inquiry via U.S. Mail to the following address:

ATT: Parental Rights Coordinator  
ERO Custody Programs and Community Outreach  
U.S. Immigration and Customs Enforcement  
Mailstop: 5125  
500 12th St., SW  
Washington, D.C. 20536

**Note:** Sending via standard mail could take up to 10 business days or more due to screening procedures.

## **PRACTICAL GUIDANCE FOR JUDGES, ATTORNEYS AND CHILD WELFARE SPECIALISTS RELATED TO PARENTS WHO MAY BE DETAINED BY ICE**

**BACKGROUND** This guidance document was developed to improve access to parents detained at ICE-Eloy and ICE-Florence detention centers who have children involved in the state child welfare system, *in accordance with ICE Parental Interests Directive <https://www.ice.gov/parental-interest>*, issued August, 2013. It may also serve as a model for similar communication involving other facilities. This guidance may be of benefit to consulates when working with immigrant parents detained by ICE (Immigration and Customs Enforcement) whose children are in the custody of Arizona Department of Child Safety (DCS).

**PURPOSE OF GUIDANCE:** Immigrant parents and their children involved in both child welfare and immigration proceedings are subject to timelines and requirements imposed by separate and sometimes disparate systems. It is intended to promote expedited and enhanced communication between parents detained by ICE and their DCS team, juvenile court personnel, and their children in foster care. This guidance information is intended for:

- Employees of ICE;
- Employees of Arizona *Department of Child Safety (DCS)* when any of their duties impact a parent detained by ICE whose child or children have been taken into custody of the State of Arizona; and
- Attorneys and/or legal representatives assisting these families.

**\*This guidance document reflects current (January 2018) ICE and DCS practice and is subject to change.**

## I. LOCATING A PARENT BELIEVED OR REPORTED TO BE DETAINED BY ICE

If ICE has custody of a parent she or he may be detained at the Eloy Detention Center in Eloy or one of four detention facilities in Florence. The location of a parent is not released publicly for security reasons. To locate a detained immigrant parent believed to be in the custody of ICE, DCS personnel and advocates need the following information:

- The correctly spelled first and middle names and all last names. (e.g. use Maria Juana Lopez Garcia, not simply Maria Garcia or Maria Lopez);
- Any aliases or nicknames known to be used by the detained parent;
- The detained parent's complete birth date (month/day/year) and country of birth;
- If known, the detained parent's Alien Registration Number (also called "A" number or "numero de pulsera"). *Parent can be located without A# if unavailable.*

Personnel may try:

- Online Detainee Locator System (ODLS), <https://locator.ice.gov/odls/homePage.do>; or [www.ice.gov](http://www.ice.gov)
- ICE Detention (Eloy), 1705 E. Hanna Rd., Eloy, AZ 85231, Tel. (520) 464-3000
- Florence Service Processing Center, 3250 N. Pinal Parkway, Florence, AZ 85232, Tel. (520) 868-5862.
- Mexico Consulate 24/7 Hotline: (1) 855-463-6395
- El Salvador Consulate, Tucson: (520) 318-0411
- Guatemala Consulate, Tucson: (520) 398-7301 Phoenix: (602) 200-3660

**If the above options for locating a detained parent are unsuccessful**, contact Supervisory Detention and Deportation Officer Klaas Hubert, (520) 464-3097, [Klaas.M.Hubert@ice.dhs.gov](mailto:Klaas.M.Hubert@ice.dhs.gov), OR DESIGNEE with the identifying information noted above. Officer Hubert is the Arizona ICE field representative (1/2018) for the ICE Parental Interests Directive based at the Eloy Detention Center in Eloy, Arizona. He is able to assist individuals in locating ICE detainees housed in the Florence detention facilities as well.

**If the parent in question recently crossed the US border**, he or she may be in the custody of US Border Patrol or ICE in a short term holding facility within the 100-mile border radius. ICE personnel state that a person may sometimes be detained by US Border Patrol (up to the Gila River) or by ICE (Gila River and north) for days before actually arriving at one of the designated detention facilities in Eloy or Florence where

they will be housed for a longer period. Therefore, it is suggested that DCS personnel make a call at the early DCS investigative stage and, if unable to locate the parent, *to try again two weeks later* to the detention facility to see if the person has arrived.

A parent being held in ICE detention in Arizona may be located in any one of these facilities:

**Eloy, Arizona**

*Core/Civic Eloy Detention Center*

Phone: (520) 466-4141

Visiting Information: [www.ice.gov/detention-facilities/index.htm](http://www.ice.gov/detention-facilities/index.htm)

**Florence, Arizona**

*The Florence Detention Center/Florence SPC*

Phone: (520) 868-8377

Visiting Information: [www.ice.gov/detention-facilities/index.htm](http://www.ice.gov/detention-facilities/index.htm)

*Core/Civic Florence Correctional Center*

Phone: (520) 867-9095

Visiting Information: [www.ice.gov/detention-facilities/index.htm](http://www.ice.gov/detention-facilities/index.htm)

*Core/Civic Central Arizona Detention Center (US Marshall Service prisoners only)*

Phone: (520) 868-3668

Visiting Information: [www.correctionscorp.com/facility/central-arizona-detention-center/](http://www.correctionscorp.com/facility/central-arizona-detention-center/)

The Mexico Consulate, (1) 855-463-6395, is a useful option for locating a detained parent who is a Mexican national. The Guatemala Consulate provides similar assistance for Guatemala nationals. Consulates also visit their detained nationals inside the ICE facilities and at the DeConcini Federal Courthouse in Tucson.

Conditions such as overcrowding may cause detained immigrant parents to be transferred to other facilities within Arizona, or outside of Arizona in limited cases. It is ICE practice to inform detainees of a pending transfer and to contact their immigration attorney of record. It is then the responsibility of the detained parent to initiate contact with family members and DCS case manager or attorneys.

## **II. PLANNING FOR INCLUSION OF DETAINED PARENT IN DEPENDENCY PROCEEDINGS**

Because critical decisions are made early in the case, it is very important for DCS staff to be able to locate the parent as soon as possible. DCS regulations require that decisions regarding the temporary placement of a child who has been taken into temporary custody occur within a maximum of the first 72 hours of the time of the service of the temporary custody notice and typically within the first 48 hours. A second timeline occurs within the following 5-7 days ending in the Preliminary Protective Hearing (PPH) While it is true parents detained by ICE may not be able to be found this early in the immigration case, it is definitely worth trying the above-mentioned resources.

If a relative or other party knows the whereabouts of a parent detained by law enforcement or ICE, he/she can call the DCS investigation worker or the DCS hotline, (888) 767-2445, without placing themselves in danger of being arrested due to that call. If a parent is known to be in ICE custody but has not been located within two weeks of the arrest, DCS may call the contact numbers provided in Section I of this document to determine the location of the detained parent. If DCS staff is unable to locate the parent using the online detainee locator system ([www.ice.gov](http://www.ice.gov) and click "detainee location"), it is best to contact ICE (Eloy) or ICE (Florence) directly.

A detained immigrant parent or other party can also make a toll-free call to the DCS Hotline (888) 767-2445 to notify DCS of their detained status or to obtain information about a minor child involved with DCS. If there is an open DCS report, the DCS Hotline will take the communication and send any relevant information to the assigned DCS specialist, if applicable. Reassure relatives that calling the DCS Hotline can help speed up communication in the case and that they will not be tracked down or arrested for making the call.

If the detained parent is successfully located, affirmative steps should be taken to engage the parent, either by telephone or in person, in initial child placement discussions (e.g. Team Decision Making (TDM), Preliminary Protective Hearing (PPH), etc.). The parent has the right to fully participate in discussions regarding the child's placement.

### **Detainee Telephonic Appearance in a Juvenile Court Dependency Proceeding**<sup>1</sup>

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<sup>1</sup> Placing immediate phone calls: A free three minute outgoing phone call is permitted each time an individual is transferred to another detention point. Phones inside the facility are subcontracted, and several are found in each pod. Phone cards are available for purchase within the facility at the commissary. Most detainees know how to access the phones and phone cards *but may lack cash to pay for the phone cards.*

For the first hearing, the DCS specialist will notify the Dependency Unit at Juvenile Court to arrange telephonic appearance with the ICE field. For succeeding hearings, the parent's attorney is the one to make the arrangements with the ICE field representative for telephone participation. For Juvenile Court Dependency Proceedings other than the PPH, the Court's Judicial Assistant or Bailiff will arrange for the phone line, and the DCS Specialist will share the telephonic information with ICE in accordance with the procedures outlined below.

**The notification procedure is as follows:**

- Parent's attorney to fax or scan/email an official document or a court order, (*letterhead helpful not required*), to the detained parent's Deportation Officer (DO) *or, to the ICE Compliance Officer* or if unknown, to Supervisory Detention and Deportation Officer Klaas Hubert, Fax (520) 466-2028, [Klaas.M.Hubert@ice.dhs.gov](mailto:Klaas.M.Hubert@ice.dhs.gov)  
In all cases, SDDO Hubert should be copied on such notifications (1/2018)
- When the document/order is approved by the Deportation Officer (DO), facility personnel will assist the detained immigrant parent at the time of the hearing by allowing access to a telephone in a private area at the time of a scheduled meeting or hearing;
- A minimum of 48 hours advanced notice should be given to the ICE field representative *whenever possible* to allow proper notification to ICE-Eloy or ICE-Florence and for arrangements to be made.

**\*Note: ICE does not provide interpreters for detainees in non-immigration related matters.**

- DCS meeting: DCS can provide interpretation if given a twenty- four hour notice;
- Court Proceeding: Court will provide interpretation services as required for dependency hearings.

### **III. ARRANGING VISIT OF A MINOR WITH A PARENT IN DETENTION**

DCS, under approved circumstances, and sometimes with the permission of the Juvenile Court, can arrange for minors\* in DCS out of home care with a family member or with a non-relative foster parent, to visit a parent detained in an ICE detention facility. (\*Child Welfare officials are advised to check with the ICE Child Welfare liaison in the Field Office that has jurisdiction over the facility where the parent is detained to make sure of the most current practice, especially when the Child is undocumented. ICE will allow "approved adults" *with appropriate status* (e.g. CPS case manager, parent aide, foster parent, custodial grandparent or relative) to accompany a child on a visit. Visitors under the age of 18 MUST be accompanied by an ICE- approved adult. (*Caveat*

*outside of Arizona: Persons without immigration status in the US, including minors and their caregivers (foster parents, relatives, kinship placement), should not enter an ICE detention facility. In these situations, phone or Skype calls represent the best option. Contact the ICE Coordinator for assistance.)*

The detained parent can initiate a visitation request by submitting the minor's name, the accompanying adult's name, and DOB and Social Security number for each. ICE will permit a minor child to visit even without the minor possessing a Social Security number. (*Caveat outside of Arizona: a child will most likely be required to possess a social security number.*) A visitation form may also be submitted by DCS on behalf of the minor child.

Once a visitor's name and background are vetted and approved, they are added to a list of approved visitors maintained by the ICE contractor.

Normal visitation hours are between 8:00 am and 4:00 pm on Saturday, Sunday, and holidays. Outside of normal visiting hours, arrangements can be made with ICE to facilitate a special visit. DCS approved staff or the "approved adult" must accompany minors during special visits. Special visits must be requested by DCS in writing, and arrangements should be made through the assigned Deportation Officer, *with a copy of request to the ICE field representative*. These visits will only be accommodated during hours that the visitation areas are normally staffed.

A minimum of 48 hours advanced notice should be given to allow proper notification to the facilities and for arrangements to be made. Special visits should be the exception, not the rule. Use of designated visitation hours should be the first option.

#### **IV. ARRANGING PHONE CALLS BETWEEN PARENT AND A MINOR**

Similar to visitation arrangements, as outlined in Section III above, phone call visitation between children in DCS out of home care and their parents are pre-scheduled and arranged by either the Court or the DCS Specialist, in accordance with the child's best interests.

***Phone calls free of charge are permitted by prearrangement as outlined below, to immigration attorneys, dependency attorneys, DCS case managers for appropriate business related to the child welfare case.***

Once the arrangements have been made for the phone call, the assigned DCS specialist will work with ICE to arrange for the telephonic appearance of the detained immigrant parent using the following procedures:

- DCS to fax or scan/email an official document or a court order, (on letterhead *but not required*) to the detained parent's Deportation Officer (DO) or, if unknown, to ICE Compliance Officer, or to Supervisory Detention and Deportation Officer Klaas Hubert, fax (520) 466-2028, [Klaas.M.Hubert@ice.dhs.gov](mailto:Klaas.M.Hubert@ice.dhs.gov);
- When the document/order is approved by the Deportation Officer (DO), facility personnel will assist the detained immigrant parent by allowing access to a telephone in a private area at the time of a scheduled meeting or hearing;
- A minimum of 48 hours advanced notice should be given to allow proper notification to ICE-Eloy and for arrangements to be made.

Detainees are permitted to use facility telephones from 6:00 am to 10 pm daily. If a detained parent is having difficulty with the connection or any other complications, the parent can ask for assistance from the CoreCivic officers within the pod, the ICE compliance officers, or their Deportation Officers. The parent can make calls to anyone they wish using the phone cards issued to them by CoreCivic.

If the parent chooses not to make or receive a phone call, detention personnel cannot compel the parent to comply with a request or an order for an outside phone call.

Attorneys for the detained parent should be aware of the nature of the process whereby their clients make and receive phone calls within the detention facility. Please note that, since telephone calls require the purchase of a phone card, many parents do not have sufficient funds to make phone calls from detention *outside of the permitted personnel listed above as able to receive phone calls free of charge*.

## **V. MAIL TO DETAINED PARENTS**

Mail being sent from a detained parent's child must go through the normal facility mail service. This type of mail will be handled the same as any other mail being received from a detained immigrant parent's family or friends. It will be inspected for contraband before being delivered to the detained parent.

Mail to a detained parent, from either their DCS case worker or the Juvenile Court system should be marked as "legal mail". Legal mail will also be opened and inspected, but it will be done in the presence of the detained immigrant parent, and then given to

them. This type of mail MUST be in official agency envelopes AND clearly marked “legal mail” to be treated as such.

Due to the nature of the facility, delivery confirmation is not practical or possible. Delivery confirmation can be requested through the U.S. Postal Service, for a fee, but be aware that the USPS delivery confirmation will only confirm delivery to the facility mail room, not actual physical delivery of the mail to the detained immigrant parent.

Attorneys wishing to send materials by mail such as a minute entry to detained clients may do so. Translation of the documents can be accomplished by the attorneys requesting this service.

## **VI. HOW FAMILY MEMBERS CAN HELP**

Family members or other individuals involved with an ICE detainee who has a minor child involved with DCS can share information regarding the whereabouts of the detainee, by contacting the DCS Hotline, (888) 767-2445, with this information, *with no consequence to themselves regarding immigration status*. Providing the Alien Registration number (“A” number, “numero de pulsera”) and/or the full name of the detainee as well as information regarding the child is crucial information and will greatly assist DCS in engaging the parent in the dependency process as early as possible. The Hotline operator may not be able to immediately assist the caller; however, if there is an open DCS report, the Hotline operator can contact the minor’s DCS case manager and relay the crucial information.

## **GUIDELINES ON REQUIRED DOCUMENTATION FOR US-BORN CHILDREN REUNIFYING WITH PARENTS RESIDING IN MEXICO**

The government of Mexico requires that US-born children coming to reside in Mexico with their parents possess certain documents to facilitate receiving basic benefits and services such as schooling and medical care. The list below identifies the official documents required by the Mexican government for a child to be able to live permanently in Mexico. Having these documents in hand prior to entry will assure a smoother reintegration, as the documents can be difficult and very time-consuming to obtain once inside the country. Transition periods can be a challenging time for families. Parents, judges, attorneys, caseworkers and persons helping reunify families in Mexico are therefore advised to plan in advance. When it is known that a child who is a non-Mexican citizen is going to live in Mexico, it is best to proceed to obtain the documents immediately.

### **MUST-HAVE DOCUMENTATION**

#### **1) US birth certificate**

- a. Include 3 copies
- b. Affix an apostille\*
- c. Include the translation into Spanish.

#### **Why?**

The birth certificate helps the child and his/her family to attain Mexican nationality (see Mexican Nationality annex). It is necessary to be able to affix an Apostille to the birth certificate (see Apostille annex) as this would help prevent hindrances and delays in the children's transition to Mexico.

#### **2) The Juvenile Court minute entry designating custody with a parent or parents residing in Mexico.**

- a. Affix an Apostille.
- b. Include translation into Spanish

#### **Why?**

Rulings and determination by US judges are not automatically recognized in Mexico, there must be a domestication hearing before Mexican Tribunals. Rulings dictated in the United States legal practice (Common law system) must be validated upon entering the Mexican legal framework (Civil law system).

### 3) US Passport

#### Why?

Children with US nationality may want or need to return to the US at some future time. The US passport confirms identity and nationality. It is best to obtain the US passport while the child is still domiciled in the US.

#### IMPORTANT INFORMATION:

- A. Requesting a passport may take 3 months or more.
- B. Presenting a passport is mandatory for international air travel
- C. The passport is also the document required for International Boundary Crossing, such as the boundary between Mexico and the United States. US citizens are required to have either a valid passport or a valid crossing card to be able to re-enter the US at the Mexico border.

#### MEXICAN NATIONALITY

Mexico allows Mexican-born citizens to acquire a different nationality without giving up the Mexican one. Likewise, Mexico allows US-born children to obtain Mexican nationality if at least one of his/her parents is a Mexican citizen. This is called “dual nationality.”

- 1. There will be no loss of Mexican citizenship upon receiving citizenship in another country.
- 2. Mexican citizenship is conferred upon first generation children born abroad. Only Mexicans born in Mexico or naturalized Mexicans may pass citizenship on to their children born abroad.
- 3. It is best for a child of Mexican nationality to enter Mexico on their Mexican passport. Entering on a US passport will give them a tourist visa, and if they remain in Mexico, they could incur large fines for overstaying this visa. To avoid fines, the child would have to present to the Mexican immigration office upon registering their Mexican nationality to modify their entry but this is a complicated process.

Since March 20, 1998, Mexican nationals who choose to hold citizenship in a second country will be able to maintain their rights in Mexico and will not be treated as foreigners upon return to Mexico. They are treated as citizens wherever they reside, and may own property in areas restricted to foreigners. Overall, they will enjoy the same rights on their national territory as other Mexicans.

**\*WHAT IS AN APOSTILLE?**

Foreign documents from one country to another are not automatically seen as valid upon entering the second country. To be made valid in another country, the said document must be authenticated or “apostilled” .

An "apostille" is a form of certification affixed to documents for use in countries that participate in the Hague Convention of 1961. Both Mexico and the US have signed and ratified the Convention.

Apostilles may be obtained and affixed at the State of Arizona offices, address below.

<b>Filing by Mail:</b>	<b>Personal Filing - Tucson Office</b>
Secretary of State Attn: Apostille Dept. 1700 W. Washington Street, Fl. 7 Phoenix, AZ 85007-2808	Arizona State Complex Building 400 West Congress First Floor, Suite 141 Tucson, AZ 85701

**IMPORTANT TIPS:**

- A. If unsure how to proceed, ask an immigration attorney or the Consulate for guidance.
- B. If child is not a US citizen, consult with an immigration attorney or the Consulate
- C. Start obtaining documents once the possibility for transition is a realistic possibility.

**For more information and assistance on any of the above requirements, contact:**

<b>Consulate of Mexico in Tucson (Pima and Pinal Counties)</b> 3915 E. Broadway Blvd. Tucson, AZ, 85711 USA <b>(520) 882-5595</b> <b>civiltuc@sre.gob.mx</b>	<b>Consulate General of Mexico in Nogales (Santa Cruz County)</b> 135 W. Cardwell St., Nogales, AZ, 85621 USA <b>(520)287-0115</b> <b>proteccion@consulmexnogales.com</b>
<b>Consulate General of Mexico in Phoenix (Maricopa and all northern counties)</b> 320 E. McDowell Rd. Phoenix, AZ, 85004 USA	<b>Consulate of Mexico in Douglas (Cochise, Graham, and Greenlee Counties)</b> 1324 G Ave. Douglas, AZ, 85607 USA <b>(520) 364 - 3107 / 3142</b>

<b>(602) 242-7398/ 242-3649</b> <b>gvalenzuela@sre.gob.mx</b> <b>fherrera@sre.gob.mx</b>	<b>aangeles@sre.gob.mx</b>
<b>Consulate of Mexico in Yuma (Yuma County)</b> 298 S. Main St. Yuma, AZ, 85364 <b>(928) 343-0066</b> <b>montiveros@sre.gob.mx</b>	<b>Centro de información y Asistencia a Mexicanos (CIAM)</b> <b>Call: 24 / 7</b> <b>1-855 463 6395</b> <b>From Mexico, Call: 001-520-623-7874</b>

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE CONSULATE GENERAL OF THE UNITED MEXICAN STATES IN  
PHOENIX, THE CONSULATE GENERAL OF THE UNITED MEXICAN STATES  
IN NOGALES, THE CONSULATE OF THE UNITED MEXICAN STATES IN  
TUCSON, THE CONSULATE OF THE UNITED MEXICAN STATES IN  
DOUGLAS AND THE CONSULATE OF THE UNITED MEXICAN STATES IN  
YUMA AND THE ARIZONA DEPARTMENT OF CHILD SAFETY OF THE  
UNITED STATES OF AMERICA REGARDING CONSULAR FUNCTIONS IN  
CUSTODY PROCEEDINGS INVOLVING MEXICAN MINORS**

The Consulate General of the United Mexican States in Phoenix, the Consulate General of the United Mexican States in Nogales, the Consulate of the United Mexican States in Tucson, the Consulate of the United Mexican States in Douglas and the Consulate of the United Mexican States in Yuma (hereinafter "the Consulates") and the Arizona Department of Child Safety of the United States of America (hereinafter "DCS") jointly referred to as "the Parties";

**CONSIDERING** their interest in assuring the fulfillment of the rights set forth in the Consular Convention between the United Mexican States and the United States of America, 57 Stat. 800; Treaty Series 985 (hereinafter "Bilateral Convention"), and the Vienna Convention on Consular Relations, 21 U.S.T 77, T.I.A.S. No. 6820 (hereinafter "Vienna Convention");

**BEARING IN MIND** that both the Bilateral Convention and the Vienna Convention provide for consular notification and access in those cases where foreign nationals are involved in legal proceedings;

**CONSCIOUS** of the need to join efforts to treat, with special care, the high number of custody cases involving Mexican minors located in U.S. territory, through the development of a bilateral mechanism that facilitates the early identification of said minors, and assures the exercise of the consular function referred to in the Vienna Convention and the Bilateral Convention;

Have agreed as follows:

## I. PURPOSE

The purpose of this Memorandum of Understanding ("MOU") is to establish the bases of coordination between the Parties to assure the exercise of the consular function set forth in the Bilateral Convention and the Vienna Convention, during custody proceedings involving Mexican minors.

## II. APPLICABLE TREATIES

DCS recognizes that the Government of Mexico has the right to carry out consular functions to protect the interests of its nationals abroad, including those of minors, in the terms set forth in Article 5, paragraphs (a) and (h) of the Vienna Convention<sup>i</sup>.

DCS further recognizes its duty to communicate with the Consulates, without delay when relevant information is available<sup>ii</sup>, about any DCS custody proceeding involving Mexican minors, in accordance with Article 37 (b) of the Vienna Convention<sup>iii</sup>.

Likewise, DCS recognizes that the Consulates have the right to interview, to communicate with, to visit and to assist<sup>iv</sup> Mexican minors involved in DCS custody proceedings, in accordance with Article VI of the Bilateral Convention.<sup>v</sup>

## III. DEFINITIONS

For the purposes of this MOU:

- A. Pursuant to Arizona Revised Statutes (A.R.S.) § 8-201(9), "**Custodian**" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

- B. **“DCS custody proceeding”** means an action taken by DCS resulting in DCS obtaining legal custody of a Mexican minor pursuant to A.R.S. Title 8, Chapter 4.
- C. **“DIF”** means the System for Integral Family Development. This is the agency in Mexico responsible for child protection.
- D. **“Mexican minor”** means any unmarried individual who is under the age of eighteen and that:
  - 1. Was born in Mexico; or
  - 2. Possesses Mexican nationality.

#### **IV. PROVISIONS**

To achieve the purpose of this MOU, the Parties agree to the following:

##### **A. Ascertainment and Demonstration of the Minor’s Nationality**

DCS shall determine the nationality of the minor at the time of taking custody of the minor, or when available information allows DCS to determine the nationality of the minor in DCS custody.

The DCS specialist responsible for the custody case shall obtain a certified copy of the minor’s U.S. birth certificate. When a minor is determined to meet the definition of a "Mexican Minor," the Consulates shall assist DCS, whenever possible, in obtaining the corresponding certified copy of the minor's Mexican birth certificate or a copy of the document stating that nationality was conferred to the minor by Mexico, in accordance with its national legislation.

##### **B. Notification to the Corresponding Consulate**

Pursuant to the Bilateral Convention and the Vienna Convention, DCS has the duty to notify the corresponding Consulate in writing, when:

- (a) DCS assumes the custody of a Mexican minor;
- (b) the parent or custodian of a Mexican minor in DCS custody requests that DCS notify the corresponding Consulate; or
- (c) DCS is aware that either parent of a minor in DCS custody resides in Mexico.

DCS shall notify the corresponding Consulate without delay when relevant information is available, if DCS has taken custody of a Mexican minor, or when the Mexican nationality of a minor in DCS custody is established. DCS shall use for this purpose the format attached in exhibit 1.

Likewise, DCS shall provide the parent or custodian of the Mexican minor with information on the consular services and assistance prescribed in the Vienna Convention and the Bilateral Convention, but only when the parent or custodian's contact information is available to DCS. Particularly, DCS shall provide the following:

- a. written information, in Spanish and English, about the custody proceeding before the Juvenile Court; and
- b. the address and telephone number of the Mexican Consulate located in whichever district the jurisdiction of the DCS case comes under the following:
  - i. The Consulate General of the United Mexican States in Phoenix services Maricopa, Apache, Coconino, Yavapai, Mohave, Gila, and Navajo Counties.
  - ii. The Consulate General of the United Mexican States in Nogales services Santa Cruz County.
  - iii. The Consulate of the United Mexican States in Tucson services Pima and Pinal Counties.
  - iv. The Consulate of the United Mexican States in Douglas services Cochise, Graham and Greenlee Counties.
  - v. The Mexican Consulate in Yuma services Yuma and La Paz Counties.

### **C. Initial Information to be Provided by DCS to the Consulates**

For purposes of the notification referred to in paragraph (B), DCS shall provide the corresponding Consulate the following information, when available:

- (a) The full name of the Mexican minor (including both last names);
- (b) The date of birth of the Mexican minor;
- (c) The name of the parents or custodian(s) (including both last names); and
- (d) The name, phone number, and email address of the DCS specialist responsible for the custody case.

### **D. Confidentiality and Communication**

The Parties shall abide by all state and federal laws regarding the confidentiality of DCS information, including the requirements of A.R.S. § 8-807.

The Parties may contact each other at any time, to obtain additional specific information regarding custody proceedings involving Mexican minors.

To achieve the objectives of this MOU, each Party shall designate a coordinator for providing information when it is not available through established channels, to ensure compliance with the provisions agreed upon by the Parties to this MOU. Coordinators may assemble whenever they consider it appropriate, to discuss any aspect of the cases addressed by this MOU.

### **E. Interview of a Mexican Minor**

The consular officers, upon providing identification that verifies the officer's affiliation with the corresponding Consulate, shall have the right to interview the Mexican minor under DCS custody. To such effect, the DCS specialist responsible for the custody case, or the DCS specialist's designee, shall give consent for the interview to take place.

In order to arrange for an interview with a Mexican minor, the Consulates shall contact the DCS specialist in charge of the custody case.

#### **F. Special Immigrant Juvenile Status**

When a Mexican minor is under the custody of the State of Arizona and DCS determines:

1. That the minor is eligible to obtain the Special Immigrant Juvenile Status (SIJS), pursuant to INA, sec, 101 (a)(27)(j)(ii), 8 U.S.C. sec 1101 (a)(27)(J)(ii);
2. That applying for SIJS is in the minor's best interest; and
3. That DCS is the appropriate entity to assist or identify a volunteer organization to assist the minor with applying for SIJS;

The Consulates shall assist with the application process by obtaining and providing to DCS the necessary documentation from Mexico to complete the SIJS application.

#### **G. Assistance Provided by DIF**

Upon DCS notification to the corresponding Consulate regarding the custody of a Mexican minor, the Consulate shall contact DIF in order to procure the appropriate socio-economic home studies of families in Mexico who may be eligible to assume custody of a Mexican minor under custody of DCS. Upon receipt of the studies, the Consulates shall immediately transmit the information to the DCS specialist responsible for the custody case.

When custody of a Mexican minor is granted to a Mexican family, the Consulates shall take the necessary measures to coordinate with DIF, in order to carry out the repatriation of the minor to Mexico, procuring the minor's welfare, and providing the minor with all necessary services.

Once the minor is in Mexico, the Consulates shall coordinate with DIF to ensure that DIF (i) turns the Mexican minor over to the family assuming custody, and (ii) takes the necessary measures to assure the minor's welfare.

#### **H. Witnesses**

The Consulates and DCS shall work jointly to locate those people residing in Mexico who are required to appear before a Court in Arizona in connection with a custody proceeding involving a Mexican minor, in order to notify them, in a timely manner, of their required appearances.

#### **I. Follow-up Mechanism**

Consular Officers, the DCS coordinator, and any staff the coordinator deems necessary shall meet three (3) times a year in order to review issues arising from the application of this MOU. The Consuls and the DCS Director shall meet once (1) a year, and as necessary and requested, in order to evaluate the progress and development of this MOU.

Both Parties confirm their commitment to participate in joint meetings and to develop other information efforts. Both Parties shall participate in intervention and prevention activities without regard to the nationality of the families and children involved. In addition, the Consulates and DCS shall make every necessary effort to exchange, in a timely manner, ideas and opinions about high profile cases involving Mexican nationals that may come to the attention of the media.

Notwithstanding the provisions set forth in this MOU, the Parties acknowledge that the Consulates may contact, the DCS designated coordinator at any time. In addition, DCS shall endeavor to facilitate conversations DCS legal representation at the Office of the Attorney General upon request of the Consulates.

**J. Procedures**

DCS agrees to adopt the necessary procedures to comply with this MOU.

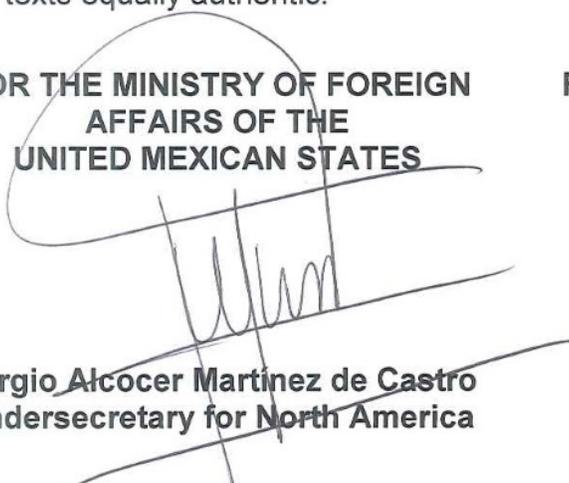
**K. Final Provisions**

This MOU shall come into force on the date it is signed by the Parties and shall remain in force for a period of twelve (12) months, automatically renewable for equal periods, unless either Party gives written notice to the Others of its intention to not renew it, at least sixty (60) days prior to the expiration of the current effective period.

Either Party may terminate this MOU at any time, by providing a ninety (90) days written notice to the others Parties.

Signed in duplicate, in the Spanish and English languages, being both texts equally authentic.

**FOR THE MINISTRY OF FOREIGN  
AFFAIRS OF THE  
UNITED MEXICAN STATES**



**Sergio Alcocer Martinez de Castro  
Undersecretary for North America**

**FOR THE GOVERNMENT OF THE  
STATE OF ARIZONA OF THE  
UNITED STATES OF AMERICA**



**Douglas A. Ducey  
Governor**

Place: MEXICO CITY  
Date: JUNE 19<sup>th</sup>, 2015

Place: MEXICO CITY  
Date: JUNE 19<sup>th</sup>, 2015

**FOR THE CONSULATE GENERAL OF  
THE UNITED MEXICAN STATES  
IN PHOENIX**

**FOR THE ARIZONA DEPARTMENT  
OF CHILD SAFETY OF THE UNITED  
STATES OF AMERICA**

**Roberto Rodríguez Hernández  
Consul General of Mexico**

**Gregory McKay  
Director**

Place: Phoenix  
Date: August 10<sup>th</sup>, 2015

Place: Phoenix  
Date: August 10<sup>th</sup>, 2015

**FOR THE CONSULATE GENERAL OF  
THE UNITED MEXICAN STATES  
IN NOGALES**

**Jaime Paz y Puente Gutiérrez  
Consul General of Mexico**

Place: Nogales  
Date: July 29<sup>th</sup>, 2015

**FOR THE CONSULATE OF THE  
UNITED MEXICAN STATES  
IN TUCSON**

**Ricardo Pineda Albarrán  
Consul of Mexico**

Place: Tucson  
Date: July 29<sup>th</sup>, 2015

**FOR THE CONSULATE OF THE  
UNITED MEXICAN STATES  
IN DOUGLAS**



**Jorge Ernesto Espejel Montes  
Consul of Mexico**

Place: Douglas  
Date: August 7<sup>th</sup>, 2015

**FOR THE CONSULATE OF THE  
UNITED MEXICAN STATES  
IN YUMA**



**Eusebio Augusto Romero y Esquivel  
Consul of Mexico**

Place: Yuma  
Date: July 31<sup>st</sup>, 2015

<sup>i</sup> Article 5 of the Vienna Convention provides in part that consular functions consist in:

“a) protecting in the receiving State (the United States of America) the interest of the sending State (the United Mexican States) and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;  
[...]

h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interest of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons”

<sup>ii</sup> The time of notification will be specified below.

<sup>iii</sup> Article 37 of the Vienna Convention states in relevant part:

“If the relevant information is available to the competent authorities of the receiving state, such authorities shall have the duty:

(a) [omitted]

(b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the in the interest of a minor or other person lacking full capacity who is national of the sending state. The giving of information shall, however, be without prejudice to the operation of the laws and regulations of the receiving state concerning such appointments.” (*Emphasis added*)

<sup>iv</sup> Procedures for notification will be specified below.

<sup>v</sup> The Bilateral Convention expresses in Article VI that:

“1. Consular officers of either High Contracting Party may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting the nationals of the state by which they were appointed in the enjoyment of rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul or the consular officer stationed at the capital may apply directly to the Government of the country.

2. Consular officers shall, within their respective consular districts, have the right:

(a) to interview and communicate with the nationals of the State which appointed them;

(b) to inquire into any incidents which have occurred affecting the interest of the nationals of the State which appointed them;

(c) upon notification to the appropriate authority, to visit any of the nationals of the State which appointed them who are imprisoned or detained by authorities of the State; and

(d) to assist the nationals of the State which appointed them in proceedings before or relations with authorities of the State.

3. National of either High contracting Party shall have the right at all times to communicate with the consular officers of their country.”