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Adverse Consequences and Constructive Opportunities for Immigrant Youth in Delinquency Proceedings

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I. INTRODUCTION

All non-U.S. citizens—both authorized and unauthorized—face the possibility of severe adverse consequences of family court findings with which citizens need not contend, including deportation to another country and permanent bars to ever obtaining legal status. These ramifications can impede basic family court goals of rehabilitation, protection, and permanency, and therefore compound the challenges already faced by many children served by family courts.

At the same time, family court involvement with a child can sometimes create opportunities for immigration relief for many children who have experienced abuse, neglect, abandonment, or some other form of family crisis. Perhaps the best-known and most commonly used opportunity is Special Immigrant Juvenile Status (SIJS), a pathway to permanent legal status for children who meet a specific set of requirements. Immigration officials explicitly rely on findings made in family courts to determine a child's eligibility.[1] Providing a venue for these children to avail themselves of this opportunity can advance the achievement of essential family court goals of rehabilitation, protection, and permanency.

Recent surveys confirm that the depth and breadth of "crossover" immigration issues in family court are extensive. One survey of 109 family court judges from around the country overwhelmingly showed that immigration status and laws played a significant role in family court proceedings for those judges.[2] Ninety-three percent (93%) of the judges had handled a case in which the immigration status of a party was raised as an issue.[3] The survey also polled family court attorneys and showed similar results. Ninety-five percent (95%) of the attorneys had handled cases in which their client or the other party's

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1. Note that this kind of crossover of federal and state courts can also create challenges and problematic inconsistencies. *See* Randi Mandelbaum & Elissa Steglich, *Disparate Outcomes: The Quest for Uniform Treatment of Immigrant Children*, 50 FAM. CT. REV. 606, 607–08 (2012) (discussing the problematic disparate application of Special Immigrant Juvenile Status across different state jurisdictions).

2. Theo Liebmann & Lauris Wren, *Special Issue Introduction: Immigrants and the Family Court*, 50 FAM. CT. REV. 570, 570 (2012).

3. *Id.* app. at 573.

immigration status was an issue, factor, or consideration in the family court action.[4]

While the intersection of immigration law and family court practice creates complexities in multiple types of family court proceedings, immigrant children in delinquency proceedings are in a uniquely challenging situation. They must both contend with the adverse immigration consequences of an adjudication or admission in a case and be aware of positive opportunities related to immigration status that may arise due to their involvement in family or juvenile court.[5] Practitioners recognize this challenge and the need for enhanced competence to effectively represent these clients. When asked which immigration areas they felt there was the greatest need for training, compared to what training they had received, practitioners mentioned two areas significantly more than any other, and both involved collateral consequences: for collateral consequences to parents of dependency findings less than twenty percent (20%) of the attorneys surveyed had received training, and nearly seventy percent (70%) felt they needed training; and for collateral consequences to youth of delinquency findings, just over twenty-one percent (21%) had received any training, but over sixty percent (60%) felt additional training was needed.[6]

For lawyers representing youth in juvenile delinquency cases, providing sound, knowledgeable counsel on immigration issues can empower clients to make informed decisions and help protect clients from potential adverse immigration consequences. This Article will closely examine those consequences and opportunities; articulate the extent of the duty for lawyers who represent minors in delinquency cases to be able to competently advise and advocate for their clients, under both existing ethical rules and the 2010 Supreme Court decision *Padilla v. Kentucky*;[7] and analyze the challenges of applying those standards to the representation of immigrant youth in delinquency proceedings.

II. IMMIGRATION CONSEQUENCES AND OPPORTUNITIES FOR IMMIGRANT YOUTH IN JUVENILE DELINQUENCY PROCEEDINGS

A. Adverse Immigration Consequences to Delinquency Findings

While it is commonly understood that criminal findings impact immigration status, there is often a failure to recognize the adverse immigration consequences that can flow from delinquency adjudications and have a devastating impact on

4. *Id.* app. at 576.

5. Since different state jurisdictions use different names for the courts that work primarily with dependency, custody, delinquency, and related proceedings, this Article uses the terms "juvenile court" and "family court" interchangeably.

6. This survey was conducted through the National Association of Counsel for Children. The survey broke down the immigration issues into categories, including collateral consequences of delinquency findings, collateral consequences of dependency findings, special immigrant juvenile status, U-visa eligibility, T-visa eligibility, Violence Against Women Act eligibility, asylum claims, and foreign adoptions. A copy of the results are available with the author.

7. 559 U.S. 356 (2010).

juveniles.[8] As a preliminary matter, immigrant children in delinquency proceedings may be subject both to "inadmissibility" and "deportability." An immigrant deemed inadmissible is ineligible for certain types of immigration relief, such as asylum, or ineligible to become a legal permanent resident.[9] Inadmissibility grounds apply to immigrants who have never been lawfully admitted into the United States.[10] Unlawful entry encompasses situations both where an unauthorized immigrant crosses the border undetected and where an unauthorized immigrant is detained by immigration authorities upon crossing the border.[11] Deportability grounds apply to immigrants who were lawfully admitted into the United States but subsequently found to have committed an act that makes them removable from the country.[12] Any lawfully admitted non-U.S. citizen—including those who have lawful permanent residence, asylum, SIJS, or student visas—is subject to grounds of deportability.

Though delinquency adjudications are not "criminal convictions" for immigration purposes,[13] they can nevertheless trigger adverse immigration consequences of inadmissibility and deportability because juveniles are subject to "conduct-based" grounds for removal.[14] And even where a mandatory conduct-based ground for removal is not explicitly triggered, the immigration court has broad discretion to deny relief.[15] That discretion applies even if a juvenile is not in removal proceedings, but rather has made an affirmative application for immigration relief, such as applying for lawful permanent residence (i.e., getting a "green card").[16]

Many types of conduct commonly adjudicated in family court delinquency proceedings constitute "conduct-based" grounds for removal. These grounds

8. Though not discussed in this Article, there are even more numerous consequences for youth in "youthful offender" or similar cases that are still technically criminal matters. For an excellent description of those consequences, see ANGIE JUNCK ET AL., SPECIAL IMMIGRANT JUVENILE STATUS AND OTHER IMMIGRATION OPTIONS FOR CHILDREN AND YOUTH 17-1, 17-3 to 17-7 (4th ed. 2014).

9. *See* Immigration and Nationality Act § 212(a), 8 U.S.C. § 1182(a) (2012).

10. *Id.* (listing grounds of inadmissibility).

11. *Id.* § 1325(a).

12. Grounds of deportability are listed in 8 U.S.C. § 1227(a).

13. The Board of Immigration Appeals (BIA) has consistently held that a juvenile delinquency adjudication is not considered a "criminal conviction," and therefore does not trigger conviction-based grounds of deportability or inadmissibility. *See* Devison-Charles, 22 I. & N. Dec. 1362, 1365 (B.I.A. 2000). The BIA is the highest administrative body for interpreting and applying immigration laws. BIA decisions are binding on all immigration officers and judges unless specifically overruled by a federal court decision or the Attorney General. *See* 8 C.F.R. § 1003.1(d)(7), (e)(4)(A), (g) (2016). Perhaps it is because delinquency findings are not "criminal convictions," and therefore do not trigger any of the numerous conviction-based immigration consequences, that they have not received as much attention.

14. Elizabeth M. Frankel, *Detention and Deportation with Inadequate Due Process: The Devastating Consequences of Juvenile Involvement with Law Enforcement for Immigrant Youth*, 3 DUKE F. FOR L. & SOC. CHANGE 63, 91 (2011). "Removal" encompasses the ejection of an alien from the country regardless of whether the alien was lawfully admitted into the United States.

15. *See* 8 U.S.C. § 1229a(c)(4)(A)(ii) (stating that the burden is on the alien to show she "merits a favorable exercise of discretion" when applying for relief or protection from removal).

16. *See id.* § 1229a(c)(4)(A).

include drug abuse and addiction, drug trafficking, and violation of orders of protection, among others.[17]

Drug abuse and addiction – Simply falling under the federal definition of "drug addict" or "drug abuser," regardless of age, subjects a child both to deportation[18] and to a permanent bar to ever obtaining lawful residence.[19] Those definitions are expansive. Drug addiction is defined as the "non-medical use of a substance listed in section 202 of the Controlled Substances Act . . . [that does result] in physical or psychological dependence."[20] Drug abuse is "[t]he non-medical use of a substance listed in section 202 of the Controlled Substances Act."[21] The use of the drug need not result in any sort of physical or psychological dependence to be considered drug abuse.[22] Drugs covered under either definition include a long list of various opiates, hallucinogenics, depressants, cannabis-related drugs, stimulants, and steroids.[23] Any person, regardless of age, who admits to acts that constitute drug addiction or drug abuse, is removable. There is no requirement that those admissions occur in the context of a criminal case, and therefore the consequences apply to juvenile delinquency admissions as well. Those consequences are devastating and long term. A drug-related adjudication not only makes the child removable, it also serves as a permanent bar to that child ever obtaining lawful permanent status in the United States.[24] In fact, even sealing of juvenile records does not necessarily avoid certain consequences because juveniles may still be required to answer questions in federal immigration proceedings where the sanctity of a sealed record is not guaranteed.[25]

Drug trafficking – Any delinquency admission or adjudication related to selling drugs or possessing drugs with the intent to distribute will trigger adverse immigration consequences. An alien, regardless of age, who admits to acts that constitute "drug trafficking," is removable.[26] Drug trafficking is defined as the "commercial dealing" of drugs, including possession with intent to distribute.[27] No criminal conviction is required to establish any of these grounds; an immigration official need only have a "reason to believe" an individual is

17. The definitions of these terms for immigration purposes are discussed *infra* notes 21–24, 29–31, and accompanying text.

18. 8 U.S.C. § 1227(a)(2)(B)(ii).

19. *Id.* § 1182(a)(1)(A)(iv).

20. 42 C.F.R. § 34.2(h) (2016).

21. *Id.* § 34.2(g).

22. *Id.*

23. 21 C.F.R. §§ 1308.11–1308.13 (2016).

24. Waivers that grant exceptions to these kinds of bars to permanent status may be granted in certain circumstances. *See, e.g.*, 8 C.F.R. § 212.16(b) (2016) (discussing waiver option for victims of human trafficking).

25. There is no federal law that allows nondisclosure of sealed juvenile records when information about those records is requested for federal immigration purposes.

26. 8 U.S.C. § 1182(a)(2)(C)(i) (2012); *id.* § 1227(a)(2)(F).

27. *See* Lopez v. Gonzalez, 549 U.S. 47, 53 (2006).

engaging in drug trafficking to trigger removal.[28] An adjudication in a delinquency proceeding provides a clear, strong basis for that reason to believe. And, like drug use, that adjudication or admission need not occur in the context of a criminal case, and therefore applies to juvenile delinquency matters as well and carries the same long-term consequences of removability and inadmissibility.

Violation of an order of protection – Any alien who violates a civil or criminal order of protection that was issued to protect the subject of the order from "credible threats of violence, repeated harassment, or bodily injury" is deportable.[29] The issuance of protective orders in delinquency cases is commonplace, and violations are not infrequent. Again, age is no factor in finding an individual who violates a protective order deportable, and no criminal conviction is required. Indeed, the statute explicitly includes violations of civil orders of protection.

Even aside from these explicit conduct-based grounds, any delinquency adjudication can be used as a basis to deny discretionary immigration relief. One such ground, especially pertinent to many delinquency matters, includes discretionary denial based on an adjudication or admission that specifies gang membership or gang-involved conduct. In fact, the disclosure of information about gang conduct or gang membership can lead to both a denial of immigration benefits and being placed in removal proceedings.[30] Immigration officers can learn of the gang-related information through access to a youth's juvenile record, routine fingerprinting checks done for many immigration applications, or through questions that must be answered, under oath, at a formal interview. Some forms, for example the application for Deferred Action for Childhood Arrivals (DACA), explicitly ask if an applicant has "now or . . . ever been a member of a gang."

Juvenile adjudications or admissions generally can come to the attention of immigration officials in several ways. Some state jurisdictions, for example, have arrangements with federal immigration enforcement officials to directly report any undocumented immigrants that come into their court system.[31] While it is unknown how many juvenile courts engage in this practice, in some jurisdictions it is established policy. In San Mateo County in California, for example, the juvenile probation department had a policy of notifying United States

28. 8 U.S.C. § 1182(a)(2)(C)(i); *id.* § 1227(a)(2)(F).

29. *Id.* § 1227(a)(2)(E)(ii).

30. *See* Memorandum from Jeh Charles Johnson, Sec'y, Dep't of Homeland Sec., to Thomas S. Winkowski, Acting Dir., U.S. Immigration & Customs Enf't, R. Gil Kerlikowske, Comm'r, U.S. Customs & Border Protection, Leon Rodriguez, Dir., U.S. Citizenship & Immigration Servs., Alan D. Bersin, Acting Assistant Sec. for Policy 3 (Nov. 20, 2014), www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf.

31. *See* Angie Junck, Charisse Domingo & Helen Beasley, *Two-Tiered Justice for Juveniles*, *in* CHILDREN IN HARM'S WAY: CRIMINAL JUSTICE, IMMIGRATION ENFORCEMENT, AND CHILD WELFARE 31, 32 (Susan D. Phillips et al. eds., 2013), http://www.sentencingproject.org/doc/publications/cc_Children%20in%20Harm's%20Way-final.pdf (reporting that family court probation officers in Arizona, Florida, Minnesota, New York, Oregon, Pennsylvania, Texas, and Washington state "routinely report youth to immigration officials").

Immigration and Customs Enforcement (ICE) of youth they suspected of being in the United States unlawfully, "regardless of the nature of their juvenile offense and before youth had even seen a juvenile court judge or met with their defense attorneys."[32]

In addition, if a child is in removal proceedings or seeking a specific form of immigration relief, the immigration judge or officer will inquire to determine eligibility, and many affirmative applications for immigration relief by immigrant children not in deportation proceedings include questions that will elicit information about delinquency adjudications. In an asylum case, for example, this can include detailed questions about arrest history, criminal history, or any other acts that might show that the child does not merit the favorable exercise of discretion.[33] SIJS and DACA, both of which are discussed more fully below, are forms of immigration relief available to youth and, in the case of DACA, certain young adults. But for SIJS to serve as a pathway to legal status, the immigrant juvenile will also have to file an application to adjust status, which includes questions about any arrests, fines, or imprisonment for breaking any law.[34] And the DACA application includes the following question, "Have you **EVER** been arrested for, charged with, or convicted of a felony or misdemeanor, *including incidents handled in juvenile court*, in the United States?"[35] These inquiries, and others like them, will raise issues from delinquency adjudications that strongly jeopardize the favorable exercise of discretion by immigration officials.

B. Opportunities for Immigration Relief for Youth in Juvenile Delinquency Proceedings

A youth's involvement in delinquency proceedings does not have just adverse immigration consequences; it also can create beneficial opportunities for immigration relief. More specifically, many youth in delinquency proceedings may qualify for SIJS or DACA. To differing extents, both SIJS and DACA provide immigration relief that can have direct positive impacts on youth.

32. *Id.* at 31; s*ee also* Yvette Cabrera, *Lost Boys: Undocumented Youth Face Perilous Journey Through Justice System*, VOICE OC (Aug. 25, 2015), http://voiceofoc.org/2015/08/lost-boys-undocumented-juveniles-face-perilous-journey-through-justice-system/ (describing numerous instances across a variety of jurisdictions where state family court personnel inform immigration authorities of juveniles' immigration status).

33. *See* 8 U.S.C. § 1229a(c)(4) (stating that an alien applying for any form of discretionary relief has the burden to establish that she "merits a favorable exercise of discretion"); *id.* § 1229c(b)(1)(B) (stating that a judge may consider good moral character when deciding whether to grant voluntary departure or order removal); Paredes-Urrestarazu v. I.N.S., 36 F.3d 801, 806 (9th Cir. 1994) (finding that the facts underlying arrest can be used by immigration officials in discretionary determinations of immigration relief); *see also* Frankel, *supra* note 14, at 92–93 (recounting instances of denial of benefits for juveniles with delinquency history).

34. *See* U.S. CITIZENSHIP & IMMIGRATION SERVS., FORM I-485, APPLICATION TO REGISTER PERMANENT RESIDENCE OR ADJUST STATUS 3 (2015) [hereinafter USCIS, FORM I-485], https://www.uscis.gov/sites/default/files/files/form/i-485.pdf.

35. *See* U.S. CITIZENSHIP & IMMIGRATION SERVS., FORM I-821D, CONSIDERATION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS 4 (2014) [hereinafter USCIS, FORM I-821D], https://www.uscis.gov/sites/default/files/files/form/i-821d.pdf.

SIJS derives from a section in the Immigration and Naturalization Act that provides a pathway to permanent legal status for children under twenty-one who have been abused, neglected, abandoned, or subjected to a similar family crisis.[36] This remarkably compassionate federal provision, enacted in 1990, allows an immigrant youth to petition for status as a permanent legal resident so long as she meets certain criteria. SIJS has understandably been embraced by many immigration and family lawyers around the country as the best hope to normalize the lives of youth confronting the challenges of a severe family crisis, such as abuse, neglect, or abandonment, as well as the harsh governmental treatment of illegal immigrants.[37]

Family courts play a major role in enabling children to obtain SIJS. While the SIJS petition itself must be brought with the United States Citizenship and Immigration Services (USCIS), these petitions cannot be brought until a state family court has made an order containing "special findings," which are governed by the statute.[38] These findings concern matters and standards within the traditional purview of family courts: dependency; familial reunification; abuse, neglect, abandonment, and similar family crises; and best interests. More specifically, SIJS requires three explicit findings from the family court: that the immigrant youth is dependent on the family court;[39] that reunification of the immigrant youth with one or both parents is not a viable option due to abuse, neglect, abandonment, or a similar basis;[40] and that it is not in the best interest of the immigrant youth to be returned to her country of origin.[41] Family courts play no role in the final determination of the child's immigration status; that decision remains solely within the power of USCIS. The special findings, however, which may be made only by a family court,[42] are an indispensable facet of the application of SIJS—without them, USCIS cannot grant permanent legal status to the child.[43]

The family court's issuance of findings serves several important purposes. Not only will the findings assist with adjusting the youth's immigration status, but also can consequently advance essential family court goals of rehabilitation and

36. *See* 8 U.S.C. § 1101(a)(27)(J)(i).

37. *See, e.g.*, Michelle Abarca et al., *No Abused, Abandoned, or Neglected Child Left Behind: Overcoming Barriers Facing Special Immigrant Juveniles*, *in* IMMIGRATION & NATIONALITY LAW HANDBOOK 520, 520 (Richard J. Link et al. eds., 2008); Anne Chandler et al., *The ABCs of Working with Immigrant Children to Obtain Special Immigrant Juvenile Status for Those Abused, Neglected, or Abandoned*, *in* IMMIGRATION & NATIONALITY LAW HANDBOOK 300, 308 (Stephanie L. Browning et al. eds., 2006).

38. 8 U.S.C. § 1101(a)(27)(J).

39. 8 C.F.R. § 204.11(c)(3) (2016).

40. 8 U.S.C. § 1101(a)(27)(J)(i). New regulations that would more accurately reflect statutory changes made in 2008 have been proposed, but have not yet been adopted. *See* Special Immigrant Juvenile Petitions, 76 Fed. Reg. 172 (proposed Sept. 6, 2011).

41. 8 C.F.R. § 204.11(c)(6). Findings as to the age and marital status must also be made, but need not be made by the family court. *See id.* § 204.11(c)(1)–(2).

42. *See id*. §204.11(a).

43. *See generally* Mandelbaum & Steglich, *supra* note 1 (discussing the problematic disparate application of Special Immigrant Juvenile Status across different state jurisdictions).

best interests by increasing access to public benefits and employment opportunities that are not available to unauthorized immigrants, and by preventing youth from being reexposed to traumatic and dangerously abusive and neglectful environments. The special findings that are the necessary precursor factual determinations for SIJS are available in many types of family court matters, including delinquency proceedings, so long as the criteria are met.[44]

DACA, though it does not require family court involvement, is nevertheless a simple form of temporary immigration relief that is available to many youth in delinquency proceedings, and can also advance important family court goals. DACA provides anyone born after June 16, 1981 with a temporary visa and the ability to receive a two-year work authorization permit if they meet the following criteria: arrival in the United States before reaching their sixteenth birthday; continuous residence in the United States since June 15, 2007; physical presence in the United States on June 15, 2012 and at the time of making the DACA application; current enrollment in school, prior graduation from high school, or prior obtainment of a general education certificate (GED); have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety; and be at least fifteen years old to file an application (unless he or she is or has been in deportation proceedings).[45] Though the temporary relief of DACA does not carry the same long-term potential for stability as SIJS, DACA eligibility is straightforward to determine, and the application is simple. And, like SIJS, the secondary benefits of access to employment opportunities and other benefits are consistent with broader family court goals of rehabilitation and serving children's best interests.[46]

III. ETHICAL AND CONSTITUTIONAL MANDATES

Advising clients on adverse immigration consequences and opportunities for immigration benefits directly relates to core family court standards and concerns. Resolutions of many types of family court cases depend on the court's assessment of what will best serve a child's safety and well-being, and promote

44. *See, e.g.*, *In re* Christian H., 190 Cal. Rptr. 3d 372, 377–79 (Cal. Ct. App. 2015); *In re* Mario S., 954 N.Y.S.2d 843, 849–52 (N.Y. Fam. Ct. 2012).

45. Memorandum from Janet Napolitano, Sec'y of Homeland Sec., to David V. Aguilar, Acting Comm'r, U.S. Customs & Border Protection, Alejandro Mayorkas, Dir., U.S. Citizenship & Immigration Servs. & John Morton, Dir., U.S. Immigration & Customs Enf't (Jun. 15 2012), http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf (establishing guidelines for DACA eligibility).

46. T-visas and U-visas, though less common, are also possible forms of immigration relief that clients in delinquency proceedings may be able to access. T-visas provide a pathway to legal status for individuals who are victims of certain types of human trafficking. U-visas provide a pathway for individuals who have been victims of certain types of crimes and aided law enforcement or other governmental bodies in the prosecution or investigation of those crimes. For a thorough description of these and other forms of relief, see generally JUNCK ET AL., *supra* note 8.

permanency in the child's life.[47] Indeed, the best interests of the child is a legal standard which pervades family court proceedings.[48] Immigration status impacts a child's safety, well-being, and permanency in several ways. On the most concrete level, lack of lawful immigration status can result in the dramatic and abrupt removal from families, guardians, and communities, or a profound lack of stability due to the uncertainty of long-term status.

Lack of documentation also means that youth and families will not have access to the numerous services and benefits that might promote family court goals. They will not be able to procure any legal employment; only a minute number of colleges will accept them for admission; they are extremely unlikely to have health insurance; and, most daunting of all, they will be at constant risk of deportation and, consequently, exploitation.[49] Undocumented immigrants tend to attain lower levels of education in comparison to the general population, work at less stable employment, have lower incomes, have a higher rate of poverty, and be more likely to lack health insurance.[50] These, too, exacerbate challenges for meeting family court goals of permanence and well-being for families and children.

Ensuring that delinquency clients make informed decisions about the immigration consequences and opportunities that concretely impact these goals, and those that flow from their involvement in family court, is not just good practice, it is required under basic ethical rules and principles. A lawyer's ethical duty to engage in advocacy and counseling on collateral consequences and opportunities derives from two pillars of our client-centered legal system: the duty to provide sufficiently thorough counseling to enable clients to make informed case-related decisions, and the duty to pursue the client's goals zealously.[51] Both of those broad mandates inform the degree to which lawyers for youth in delinquency proceedings must advise their clients about adverse immigration consequences and positive immigration opportunities, as well as the extent to which they must pursue opportunities that are available if so directed by their clients.

A. The Duty to Advise

The ethical mandates to advise a client diligently and competently are far-reaching. A lawyer must sufficiently communicate with her client so the client can effectively participate in the representation, counsel her client to the extent reasonably necessary for the client to make informed decisions regarding the

47. *See, e.g.*, N.Y. FAM. CT. ACT §§ 1011, 1086 (McKinney 2016); N.Y. SOC. SERV. Law § 384-b(1)(a)(i), (iii) (McKinney 2016).

48. *See* David B. Thronson, *Of Borders and Best Interests: Examining the Experiences of Undocumented Immigrants in U.S. Family Courts*, 11 TEX. HISP. J.L. & POL'Y 45, 61–64 (2005).

49. *See* JEFFREY S. PASSEL, PEW HISPANIC CTR., UNAUTHORIZED MIGRANTS: NUMBERS AND CHARACTERISTICS 22, 26, 30, 34, 35 (2005), http://pewhispanic.org/files/reports/46.pdf.

50. *Id.*

51. *See* MODEL RULES OF PROF'L CONDUCT pmbl. (AM. BAR ASS'N 2014).

representation,[52] provide her client with an informed understanding of the client's legal rights and obligations and explain their practical implications,[53] and give candid and informed advice.[54]

These professional responsibility rules mandate advising clients in delinquency matters on adverse immigration consequences and opportunities for immigration benefits. The duty to effectively communicate information to a client so that she can make informed decisions about the case[55] ought to include information related to life-altering determinations, such as whether the client will be able to remain with her family, friends, and community in the United States. Advising a client on practical implications of a case's outcome similarly ought to include counseling a client thoroughly on the effects of where a client can live permanently and with stability. And candid and informed advice to a client requires knowledge and communication of adverse consequences that are being risked by a decision in a case or opportunities that are available.[56]

Even aside from professional responsibilities in the Model Rules, courts and ethics review boards have made clear that matters requiring a lawyer to advise a client include situations where a collateral issue involves different substantive law than the original matter,[57] where "real-world consequences" of various objectives are at issue,[58] and where different objectives have potential negative consequences.[59] And numerous practice guides have endorsed the view that advice to clients, especially indigent clients, must be deeply informed and should go beyond the narrow legal question at issue.[60]

52. *Id.* 1.4; RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 20 (AM. LAW INST. 2000).

53. MODEL RULES OF PROF'L CONDUCT, *supra* note 51, pmbl., R. 1.4(b), 1.4 cmt. 1.

54. *Id.* 1.1, 2.1.

55. *See id.* 1.4 cmt. 5 ("The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation . . . .").

56. *See id.* 2.1 cmt. 2 ("Advice couched in narrow legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant."); *id.* 2.1 cmt. 5 ("[W]hen a lawyer knows that a client proposes a course of action that is likely to result in substantial adverse legal consequences to the client, the lawyer's duty to the client under Rule 1.4 may require that the lawyer offer advice if the client's course of action is related to the representation.").

57. *See, e.g.*, *In re* Winkel, 577 N.W.2d 9, 11 (Wis. 1998) (noting that the lawyer in a business transaction should have explained to his clients the risks of criminal prosecution associated with the "surrender of business assets to the bank").

58. State Bar of Ariz. Comm. on the Rules of Prof'l Conduct, Eth. Op. 97-06 (1997) (stating that a criminal defense attorney must advise a client of "real-world consequences" of entering into cooperation agreement with law enforcement).

59. *E.g.*, Smith v. St. Paul Fire & Marine Ins., 366 F. Supp. 1283, 1290 (M.D. La. 1973), *aff'd*, 500 F.2d 1131 (5th Cir. 1974) (noting that while a lawyer is not required to advise a client of every possible alternative, he must advise a client of alternatives where adverse consequences may result).

60. *See* Padilla v. Kentucky, 559 U.S. 356, 367 (2010) (providing an extensive list of the many articles, guidelines, and treatises that consider it a required practice to advise a criminal defendant of the immigration consequences of a plea).

B. Constitutional Mandates for Effective Client Counseling

The Supreme Court looked at the issue of effective client counseling in the context of criminal pleas in *Padilla.*[61] More specifically, *Padilla* sets out the parameters of criminal defense lawyers' duty to advise their clients of the adverse immigration consequences of criminal convictions.[62] *Padilla* established that, in certain circumstances, a failure to advise a client of the immigration consequences of a criminal plea constitutes ineffective assistance of counsel in violation of the Sixth Amendment.[63] For cases where the adverse consequences of a plea are "clear," a lawyer must advise her client of those consequences; for cases where the immigration law is not "succinct and straightforward," a lawyer must advise her client only that a plea carries a risk of adverse immigration consequences.[64]

Because delinquency proceedings are a unique hybrid of the standards, procedures, and consequences pertinent to family court and those pertinent to criminal proceedings, the question of *Padilla*'s application in delinquency matters is not necessarily self-evident. The extent of *Padilla*'s application to delinquency adjudications centers around three questions: (1) whether, given that delinquency proceedings are not criminal, *Padilla* applies at all; (2) whether the various adverse consequences of delinquency adjudications are "clear" enough under the *Padilla* determination to require a specific and explicit warning from the lawyer, or whether the consequences require merely a general warning that there is a risk of adverse consequences; and (3) whether *Padilla* applies to adverse immigration consequences other than deportation (for example, the potential for a discretionary denial of immigration relief that may result from a delinquency finding).

1. The Applicability of *Padilla* to Noncriminal Proceedings

Although juvenile delinquency adjudications are not considered criminal convictions, even for immigration purposes,[65] long-standing jurisprudence on the constitutional rights of juveniles and on effective assistance of counsel establishes that *Padilla*'s mandates apply to lawyers in delinquency cases. Like adults in criminal cases, juveniles in delinquency proceedings have a constitutionally guaranteed right to counsel.[66] Because delinquency proceedings are not criminal proceedings and therefore do not invoke the Sixth Amendment right to counsel, the right to counsel in delinquency proceedings derives instead from Fourteenth Amendment due process rights.[67] Any right to counsel must encompass a right to effective assistance of counsel to have any meaning.[68] The

61. *Id.* at 360.
62. *Id.* at 369.
63. *Id.*
64. *Id.*
65. Devison-Charles, 22 I. & N. Dec. 1362, 1365 (B.I.A. 2000).
66. *In re* Gault, 387 U.S. 1, 41 (1967).
67. *See id.* at 30, 41.
68. Strickland v. Washington, 466 U.S. 668, 686 (1984) (quoting McMann v. Richardson, 397

source of the constitutional right to counsel does not diminish the reasoning that counsel must be effective to be meaningful. Though the issue has never reached the Supreme Court, states have long explicitly held that the right to counsel in delinquency cases inherently means the right to effective assistance of counsel.[69] The noncriminal nature of delinquency proceedings therefore does not obviate juveniles' right to advice from their lawyers on adverse immigration consequences. On the contrary, because there exists a constitutional right to counsel in delinquency proceedings, the right to effective assistance of counsel, and therefore the *Padilla* requirements, applies there as well.

2. The "Clarity" of Adverse Consequences to Delinquency Adjudications

Under *Padilla*, however, there is no duty to advise clients of every single possible adverse immigration consequence to a conviction. Rather, effective assistance of counsel means the following: for cases where the collateral immigration consequences of a plea are "clear," a lawyer must advise her client of those consequences; but for cases where the immigration law is not "succinct and straightforward," a lawyer must advise her client only that a plea carries a risk of adverse immigration consequences.[70] A crucial question, then, for how *Padilla* applies to delinquency adjudications is whether immigration consequences for juveniles are succinct and straightforward. In those instances, attorneys for juveniles need to advise their clients of those consequences; in instances where the law is not clear, the duty is to advise a client more generally of the risk of adverse immigration consequences.

The *Padilla* decision provides little guidance on the line between "clear" and "unclear." The majority opinion cites generally to examples from the concurrence of less clear aspects of immigration law—the definition of a "crime of moral turpitude"; the definition of "aggravated felony"; determining whether a client is an "alien"; and determining whether a particular state disposition constitutes a "conviction" for purposes of federal immigration law[71]—but notes only that "many" of those scenarios are examples of where the law is "not succinct and straightforward."[72] For the most part, then, *Padilla* leaves the question of "clarity" unanswered.

Unfortunately, state and federal courts have yet to provide a definitive and consistent answer either. In a case that recently reached the Wisconsin Supreme Court, for example, the majority found that immigration law was not clear that a

U.S. 759, 771 n.14 (1970)).

69. *See, e.g.*, State v. Berlat, 707 P.2d 303, 307 (Ariz. 1985); Gilliam v. State, 808 S.W.2d 738, 739 (Ark. 1991); Elijah W. v. Superior Court, 156 Cal. Rptr. 3d 592, 599 (Cal. Ct. App. 2013); Perkins v. State, 718 N.E.2d 790, 793 (Ind. Ct. App. 1999); *In re* Parris W., 770 A.2d 202, 206 (Md. 2001); *In re* C.W.N., Jr., 742 S.E.2d 583, 586 (N.C. Ct. App. 2013); *In re* J.G., 986 N.E.2d 1122, 1127 (Ohio Ct. App. 2013); M.B. v. State, 905 S.W.2d 344, 346 (Tex. Crim. App. 1995); *see also* Riya Saha Shah & Lisa S. Campbell, *Ineffective Assistance and Drastic Punishments: The Duty to Inform Juveniles of Collateral Consequences in a Post-*Padilla *Court*, 3 DUKE F. FOR L. & SOC. CHANGE 163, 178–79 (2011).

70. Padilla v. Kentucky, 559 U.S. 356, 369 (2010).

71. *Id.* at 378–81 (Alito, J., concurring).

72. *Id.* at 369 (majority opinion).

felony conviction for domestic battery was a deportable offense.[73] As the dissent in that case notes, there are in fact several federal provisions that explicitly list domestic crime as a deportable offense, which the majority opinion "essentially ignores," in its finding that only general advice was required.[74] In contrast, a Texas appellate court found that explicit counseling that a marijuana misdemeanor plea was a deportable offense was required.[75] An inconsistency like this one across different jurisdictions is even more confounding because, not only is the language on deportation consequences for domestic violence convictions identical to that for drug convictions, they are actually listed in the same federal statute.[76] It is likely that these inconsistencies will be resolved at some point through regulations or case law, though for now practitioners will need to look at their own jurisdictions to determine what is considered a clear consequence of a delinquency finding. Of course, *Padilla* mandates that, even where adverse consequences are not clear, there is always a duty to provide advice of a general risk of deportation.

3. The Applicability of *Padilla* to Adverse Consequences Other than Deportation

Some convictions or admissions do not make a client deportable, but rather make it much less likely that an application for certain forms of immigration relief will be granted. While *Padilla* establishes that a lawyer must advise her client of deportation consequences to a plea, it is less clear how it applies to similar nondeportation consequences that affect the client's ability to remain in the United States. For example, an arrest of any kind must be reported in the application for lawful permanent residence.[77] Generally, at the applicant's interview, or in writing as part of the written application, the applicant must explain the arrest and provide documentation of what happened. Similarly, for DACA applications, eligibility hinges, among other things, on the fact that the applicant "has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, *or otherwise pose*s *a threat to national security or public safety*."[78] In both of these situations, the immigration officer has broad discretion to deny the application for any purpose and certainly can exercise that discretion for criminal activity that does not explicitly make a person deportable or inadmissible.[79] For this kind of discretionary denial of benefits, there is no "certainty" that the finding will result in an adverse consequence, but the consequence of ongoing unlawful status is nonetheless both real and harsh.

73. State v. Ortiz-Mondragon, 866 N.W.2d 717, 735–36 (Wis. 2015).

74. *Id.* at 738 (Bradley, J., dissenting).

75. *Ex parte* Leal, 427 S.W.3d 455, 461 (Tex. Crim. App. 2014).

76. 8 U.S.C. § 1227(a)(2)(B)(ii), (a)(2)(E) (2012).

77. *See* USCIS, FORM I-485, *supra* note 34.

78. Memorandum from Janet Napolitano, *supra* note 45 (emphasis added).

79. *See* 8 U.S.C. § 1229a(c)(4)(A)(ii) (placing burden on alien to show she "merits a favorable exercise of discretion" when applying for relief or protection from removal).

Padilla itself provides limited guidance on this question. In some passages the Court refers not just to deportation, but to a more general right to remain in the United States, as the harsh consequence of which criminal defendants should be advised.[80] At other times, the Court explicitly discusses the harshness of deportation.[81] Like the question of "clarity" of consequences, subsequent case law is still developing on how *Padilla* applies to the duty to advise about nondeportation consequences such as discretionary denial of immigration relief.[82]

C. The Duty to Pursue Benefits

Lawyers have a duty not just to advise clients thoroughly, but also to pursue any lawful client objective—primary or collateral[83]—that directly affects the ultimate resolution of a case or the substantive rights of a client.[84] The most significant decision a client makes is what the objectives of the representation should be.[85] Those objectives, as determined by the client, serve as the primary guidepost for the lawyer's actions throughout the client-lawyer relationship.[86] It is the prerogative of the client to set the goals of the representation, and the duty of the lawyer to provide information and counseling regarding that decision and to zealously seek to achieve the client's goals.[87]

For lawyers representing juveniles in family court, this duty extends to procuring documents, such as the special findings order that is necessary for SIJS, that are vital to obtaining immigration relief, if that action constitutes an objective that directly affects the resolution of the case or a substantive right of the client. In delinquency cases, the ability to live legally in the United States affects many aspects of the matter, especially the best interests standard that prevails during the dispositional phase. The stability of a youth's circumstances, the long-term permanency of his placement, and the youth's ability to access

80. Padilla v. Kentucky, 559 U.S. 356, 368 (2010) (quoting I.N.S. v. St. Cyr, 533 U.S. 289, 322 (2001)). A criminal defense attorney has a general duty to advise of "adverse immigration consequences." *Id.* at 369.

81. *Id.* at 366–67.

82. See *supra* Part II.B for a discussion of discretionary denial. *See, e.g.*, Commonwealth v. Marinho, 981 N.E.2d 648, 658 (Mass. 2013) (citing with approval to guidelines that require advice on the "consequences of a conviction, including . . . possible immigration consequences including but not limited to deportation, denial of naturalization or refusal of reentry into the United States" (omission in original) (quoting COMM. FOR PUB. COUNSEL SERVS., ASSIGNED COUNSEL MANUAL: POLICIES AND PROCEDURES § 5.4(O) (2008))).

83. Barron's Law Dictionary defines collateral as "[s]econdary; not of the essence of the principal thing; on the side, divergent or auxiliary." *Collateral*, BARRON'S LAW DICTIONARY (6th ed. 2010).

84. ANNOTATED MODEL RULES OF PROFESSIONAL CONDUCT 32–33 (Ellen J. Bennett et al. eds., 7th ed. 2011) (elaborating on the specific objectives a lawyer must pursue for his client).

85. *See* MODEL RULES OF PROF'L CONDUCT, *supra* note 51, R. 1.2(a), 1.4 cmt 5.

86. *See id.* 1.2(a).

87. *See* RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS, *supra* note 52, § 16(1) (determining that objectives should be done by the client after consultation with the lawyer); MONROE FREEDMAN & ABBE SMITH, UNDERSTANDING LAWYERS' ETHICS § 3.09, at 65 (4th ed. 2010).

services, such as healthcare, mental health treatment, employment, and education, all are important and common considerations in determining what rehabilitative orders a judge will make in a case,[88] and all are directly impacted by the youth's immigration status.

In addition, preserving a person's right to remain in the United States has been recognized as a substantive right. In fact, the Supreme Court has recognized that right as perhaps even more important to a client than avoiding a jail sentence.[89] Documents that can be procured in family court that preserve access to SIJS or other relief may therefore be of greater importance than any other aspect of the dispositional outcome of the family court matter itself.

The ability to counsel clients and procure documentation related to immigration benefits for survivors is also consistent with other professional guidelines for representing children. The American Bar Association's Model Act governing the representation of children in dependency cases specifically states that ancillary issues which lawyers should consider pursuing include immigration matters.[90] Some states require attorneys representing children to obtain the necessary family court order for SIJS-eligible clients and to refer them to appropriate immigration resources to pursue SIJS relief, and either to pursue the SIJS relief with immigration authorities or to refer to an appropriate legal service provider.[91]

IV. CONVERTING MANDATES INTO ACTION

The extent and depth of advice required in an area not directly related to delinquency law, and the duty to advocate for positions on immigration-related issues that are consistent with a client's goals in the context of a delinquency proceeding, make providing ethically sufficient representation to immigrant juveniles a task that is complex, broad, and even overwhelming. As practitioners themselves recognize, the scope of these duties means that the definition of "competence" for those lawyers has evolved to encompass, at a minimum, basic knowledge of the immigration consequences and opportunities that relate to family court matters.[92] And while there has been clear advancement in practitioners' general awareness of immigration issues in the dependency context, there have been far fewer signs of that awareness in the context of delinquency cases. There has, in fact, been very sparse discussion of ethical duties related either to advising clients of the adverse immigration consequences

88. *See* NAT'L COUNCIL OF JUVENILE & FAMILY COURT JUDGES, JUVENILE DELINQUENCY GUIDELINES: IMPROVING COURT PRACTICE IN JUVENILE DELINQUENCY CASES 147–53 (2005).

89. Padilla v. Kentucky, 559 U.S. 356, 368 (2010) (quoting I.N.S. v. St. Cyr, 533 U.S. 289, 322 (2001)).

90. MODEL ACT GOVERNING THE REPRESENTATION OF CHILDREN IN ABUSE, NEGLECT & DEPENDENCY PROCEEDINGS § 7 cmt. (AM. BAR. ASS'N 2011).

91. STANDARDS FOR ATT'YS REPRESENTING CHILDREN IN N.Y. CHILD PROTECTIVE, FOSTER CARE & TERMINATION OF PARENTAL RIGHTS PROCEEDINGS § C-7 (N.Y. BAR ASS'N 2007); *see also* FLA. STAT. ANN. § 39.5075 (West 2016).

92. See *supra* Parts II.A and II.B for a discussion of such consequences and opportunities.

of juvenile delinquency findings or to advising clients regarding beneficial opportunities for immigration relief that might be presented through involvement in a state court proceeding.[93] In fact, the application of *Padilla* to delinquency proceedings has received little to no analysis in published court opinions at any level.[94]

The lack of progress may simply be because no galvanizing moment or case like *Padilla* has come along, but may also be because of some of the notable challenges to implementing those duties as core competencies for lawyers for juveniles. For example, not only is the language of immigration law often nuanced and intricate, but the actual effective communication of that nuance and intricacy to a minor can be extremely difficult. Both the necessity of using plain language, as well as understanding how to present consequences in a manner consistent with a minor's developmental ability to think long term, make the task logistically complicated.[95] That complexity does not relieve lawyers of their responsibility.[96] Implementation of mandates for competency may therefore need to be conceived of creatively. Some agencies that provide legal representation for juveniles have immigration specialists on staff; this could be the required norm. And for sole practitioners, bar associations or court administrations could provide resources for that kind of expertise.

There is precedent which illustrates that the implementation of ethical requirements related to immigration competencies can be done. Both before and after the Supreme Court decided *Padilla*, many thoughtful practitioners and academics have worked diligently to ensure that concrete practice changes have been encouraged and implemented that are consistent with a lawyer's duty to advise clients of adverse immigration consequences of criminal convictions.[97] In

93. There are some notable exceptions. *See* Michael Pinard, *The Logistical and Ethical Difficulties of Informing Juveniles About the Collateral Consequences of Adjudications*, 6 NEV. L.J. 1111, 1120–24 (2006) (highlighting practical and ethical challenges to properly advising adolescents); Shah & Campbell, *supra* note 69, at 171–73 (discussing the duty of attorneys to discuss collateral consequences generally).

94. This could indicate, among other things, either that juveniles are not retaining attorneys to challenge the ineffective assistance of their trial counsel on this issue, or that any opinions on the matter have not been published. Interestingly, there have been a small number of cases both pre- and post-*Padilla* regarding the statutory duty of *judges* to properly advise juveniles of the immigration consequences of their pleas. *See, e.g.*, *In re* E.J.G.P., 5 S.W.3d 868, 871–72 (Tex. Crim. App. 1999).

95. *See* Pinard, *supra* note 93, at 1120–21; Sharon Kelley & Heather Zelle, Empowerment as Protection: Developmental Research as a Blueprint for Counseling Youth During the Plea Bargaining Process (Oct. 2, 2015) (unpublished manuscript) (on file with author); Lourdes Rosado & Jennifer Woolard, Too Young to Know Better?: The Implications of Adolescent Development Research for Client-Directed Representation of Youth (Oct. 2, 2015) (unpublished manuscript) (on file with author).

96. In fact, the Model Rules explicitly require lawyers to take all reasonable measures to treat minor clients as they would any other client, including with respect to providing advice. MODEL RULES OF PROF'L CONDUCT, *supra* note 51, R. 1.14(a); *see also* Shah & Campbell, *supra* note 69, at 173–75 (arguing that lawyers for juveniles actually have a heightened duty to advise them of adverse consequences of admissions).

97. *See, e.g.*, McGregor Smyth, *From "Collateral" to "Integral": The Seismic Evolution of* Padilla v. Kentucky *and Its Impact on Penalties Beyond Deportation*, 54 HOW. L.J. 795, 834–35 (2011); *see also*

addition, advocates and scholars concerned with youth in delinquency proceedings are familiar with the concept of competence in collateral areas of law. For many years, for example, advocates for "crossover youth" have fought for better outcomes, services, and advocacy for minors involved in both dependency and delinquency matters.[98] While there is certainly more work to be done on behalf of these crossover youth, much good has been accomplished by the heightened level of practice that concerned practitioners are requiring of themselves and others.

V. CONCLUSION

The intermingling of immigration issues and family court practice is not a small-scale challenge. The number of immigrants in the United States has grown over the past decade.[99] Even more significantly, the number of immigrant children coming to the United States and being put in deportation proceedings has dramatically increased. In 2014, over 13,000 children were either ordered deported from the United States or chose "voluntary departure" as an option in their case, and another 39,000 had removal cases pending before immigration court.[100] Since 2005, over 48,000 children have been deported.[101] Perhaps not surprisingly, immigration issues increasingly permeate family court proceedings.[102] The legal mechanisms through which immigration status relates to family court proceedings—including those related to terminations of parental rights, spousal support, domestic abuse, juvenile delinquency, dependency, and custody—have begun to garner close scrutiny among scholars, practitioners, and judges.[103] With increasing numbers of children in family court proceedings

Padilla v. Kentucky, 559 U.S. 356, 367 (2010) (providing an extensive list of the many articles, guidelines, and treatises already in existence at the time of the *Padilla* decision that considered it required practice to advise a criminal defendant of the immigration consequences to a plea).

98. *See, e.g.*, COMM'N ON YOUTH AT RISK, AM. BAR ASS'N, CHARTING A BETTER FUTURE FOR TRANSITIONING FOSTER YOUTH: REPORT FROM A NATIONAL SUMMIT ON THE FOSTERING CONNECTIONS TO SUCCESS ACT 57–64 (2010).

99. There are currently over 41 million immigrants living in the United States. Jie Zong & Jeanne Batalova, *Frequently Requested Statistics on Immigrants and immigration in the United States*, MIGRATION POL'Y INST. (Feb. 26, 2015), http://www.migrationpolicy.org/print/15209#VoQFAjb0iO0 (statistics are the most recent available from 2013). Immigrants make up over thirteen percent of the population. *Id.* There are more than 11 million immigrants without legal status living in the United States. BRYAN BAKER & NANCY RYTINA, OFFICE OF IMMIGRATION STATISTICS, DEP'T OF HOMELAND SEC., ESTIMATES OF UNAUTHORIZED IMMIGRANT POPULATION RESIDING IN THE UNITED STATES: JANUARY 2012, at 1 (2012); JEFFREY S. PASSEL ET AL., PEW RESEARCH CTR., AS GROWTH STALLS, UNAUTHORIZED IMMIGRANT POPULATION BECOMES MORE SETTLED 4 (2014).

100. *Juveniles—Immigration Court Deportation Proceedings*, TRAC IMMIGR., http://trac.syr.edu/phptools/immigration/juvenile/ (last visited June 1, 2016) (under "Measure" setting, select "Current Status"; under "Time Series" setting, select "Number"; select the "Outcome" option for each drop-down bar; select "All" to sort the column headings below the drop-down bars).

101. *Id.*

102. *See generally* Thronson, *supra* note 48 (discussing the various ways family court judges and lawyers react to immigration status when it arises in cases); David B. Thronson & Frank P. Sullivan, *Family Courts and Immigration Status*, 63 JUV. & FAM. CT. J. 1 (2012).

103. *See, e.g.*, SETH FREED WESSLER, APPLIED RESEARCH CTR., SHATTERED FAMILIES: THE

whose immigration status directly impacts, and is impacted by, core family court considerations, practitioners, policymakers, and academics will almost certainly again need to step up and ensure that we meet our broad and deep obligations to immigrant youth.

PERILOUS INTERSECTION OF IMMIGRATION ENFORCEMENT AND THE CHILD WELFARE SYSTEM 11, 13–16 (2011); Alan J. Dettlaff, *Immigrant Children and Families and the Public Child Welfare System: Considerations for Legal Systems*, 63 JUV. & FAM. CT. J. 19, 26–28 (2012); Soraya Fata et al., *Custody of Children in Mixed-Status Families: Preventing the Misunderstanding and Misuse of Immigration Status in State-Court Custody Proceedings*, 47 FAM. L.Q. 191, 215–20 (2013); Sarah Rogerson, *Unintended and Unavoidable: The Failure to Protect Rule and Its Consequences for Undocumented Parents and Their Children*, 50 FAM. CT. REV. 580, 585–86 (2012); David B. Thronson, *A Tale of Two Systems: Juvenile Justice System Choices and Their Impact on Young Immigrants*, *in* CHOOSING THE FUTURE FOR AMERICAN JUVENILE JUSTICE 130, 139–46 (Franklin E. Zimring & David S. Tanenhaus eds., 2014); Veronica T. Thronson, *Domestic Violence and Immigrants in Family Court*, 63 JUV. & FAM. CT. J. 63 , 66–71 (2012); Veronica Tobar Thronson, *'Til Death Do Us Part: Affidavits of Support and Obligations to Immigrant Spouses*, 50 FAM. CT. REV. 594, 595–96 (2012).