

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON IMMIGRATION

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October 26, 2009

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HELD AT: Hearing Room
250 Broadway, 14th Fl.

B E F O R E: KENDALL STEWART
Chairperson

COUNCIL MEMBERS:
Kendall Stewart
Charles Barron
Mathieu Eugene
Julissa Ferreras
Annabel Palma
David I. Weprin

A P P E A R A N C E S

Mark Lewis
Dir of Immigrant Services
Administration for Children's Services

Margaret Morgan
Chief of Staff
Deputy Commissioner for the
Division of Family Court Legal Services

Myra Elgabry
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Katherine Fleet
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Theresa Moser
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CHAIRPERSON STEWART: Good

afternoon ladies and gentlemen. My name is Kendall Stewart, Chair of the Immigration Committee. We are here today to discuss the importance of protecting and identifying children who qualify for special immigrant juvenile status. As most of you already know, Special Immigrant Juvenile Status, also known as SIJS, is a federal status granted to children who are in long term foster care due to abuse or neglect or even abandonment. Obtaining this status gives eligible undocumented minors a choice to pursue naturalization or receive an education and work legally in the United States. However, many eligible children miss the opportunity to obtain this status because their undocumented status has not been identified and an SIJS petition has not been pursued. It is this failure to identify such eligible children in long term foster care that has brought us here today to discuss Intro 787. Intro 787 will establish a temporary task force within Children's Services to evaluate the needs of the undocumented children in custody. The establishment of this task force will ensure that

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2 Children's Services are effectively identifying
3 eligible children in a timely manner. In
4 addition, the task force will assess
5 recommendations and input from Child Welfare
6 offices, private organizations that provide
7 welfare services and immigration advocates who
8 represent children eligible for SIJS to ensure
9 that the proper steps are being taken to help
10 these children in need. This is not the first
11 time that the Committee on Immigration has held a
12 hearing on this issue. In fact, it is because of
13 hearings held in 2006 and 2007 that led to the
14 legislation being discussed here today. We look
15 forward to hearing testimony from the
16 Administration for Children's Services as well as
17 the other folks that are here. Once again, I
18 would like to thank everyone for attending this
19 afternoon's hearing. At this time I would like to
20 recognize my colleagues who have joined us,
21 Council Member Ferreras and Council Member Barron.
22 My staff is here. We have Juliene Beckford and
23 Israel Rodriguez and Erica. Mr. Barron, do you
24 have any opening comments?

25 COUNCIL MEMBER BARRON: I'm good,

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thank you.

CHAIRPERSON STEWART: We have just been joined by Council Member Mathieu Eugene. Let's call the first panel. The first we have is Mark Lewis from New York City ACS. He is joined by Margaret Morgan. If you can just identify yourself so we can start. We have also been joined by Council Member Annabel Palma from the Bronx.

MARK LEWIS: Good afternoon Chairman Stewart and members of the Immigration Committee. My name is Mark Lewis. I'm the Director of Immigrant Services at the Administration for Children's Services. I appear before you today with Margaret Morgan, the Chief of Staff to the Deputy Commissioner for the Division of Family Court Legal Services. We would like to take this opportunity to update you on the Children's Services work with children in foster care who may be eligible for Special Immigrant Juvenile Status. Children's Services provides child welfare services which includes child protective, preventive and foster care services to all families and children residing in New York

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2 City regardless of immigration status. In the
3 course of providing these services, some children
4 placed into foster care by Children's Services may
5 be undocumented immigrants. Some of these youth
6 may be eligible for Special Immigrant Juvenile
7 Status, the statutory provision included in the
8 Federal Immigration Act of 1990 which enables
9 undocumented young people in foster care to become
10 permanent residents and to obtain green cards.

11 The Trafficking Victims Protection Reauthorization
12 Act of 2008 made changes in SIJS since ACS last
13 appeared before the City Council in 2007. In
14 order for a child to be eligible for SIJS, a young
15 person now must be unmarried and under 21 years
16 old at the time of application, placed in foster
17 care prior to his or her 18th birthday due to
18 abuse, neglect or abandonment as determined by a
19 family court judge, receive a funding that the
20 youth's reunification with one or both of the
21 parents is not viable due to abuse, neglect,
22 abandonment or a similar basis found under state
23 law and receive a declaration from a family court
24 judge that it's not in the applicant's best
25 interest to return to his or her country or

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2 origin. Helping eligible foster children obtain
3 SIJS is crucial to their ability to work, attend
4 school and remain in the United States once they
5 leave the foster care system. As such, Children's
6 Services that we have a special responsibility to
7 aid foster care child, foster youth in obtaining
8 SIJS. When Children's Services, or foster care
9 agencies confirm that a young person in foster
10 care is undocumented we promptly refer the youth
11 to independent counsel to access the child's
12 eligibility for SIJS and if appropriate to begin
13 their SIJS applications. To do this we rely on
14 and work closely with a network of public services
15 and pro bono counsel dedicated to representing
16 foster children and who have expertise in SIJS and
17 can provide the legal representation needed to
18 obtain SIJS status. To support the SIJS
19 application process, Children's Services
20 reimburses foster care agencies for all fees
21 associated with a SIJ application which exceed
22 \$1,000 per child as well as for the cost of legal
23 services provided by public service legal
24 agencies. In 2005, Children's Services increased
25 the legal services reimbursement rate to advocates

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2 and lawyers who handle SIJS cases from \$400 to
3 \$700, a 75% increase, to ensure that legal
4 services providers can afford to do this critical
5 work. The Department of Youth and Community
6 Development provides grants to certain legal
7 service providers to provide legal assistance for
8 youth eligible for SIJS and Children's Services
9 and foster care agencies will refer foster care
10 youth to these providers. The numbers of
11 immigrant youth receiving SIJS, in 2008, according
12 to the Department of Homeland Security yearbook,
13 989 youth throughout the country received SIJS.
14 In New York City we estimate that approximately
15 50-60 foster care youth received SIJS on an annual
16 basis, out of a total foster care population of
17 approximately 16,000. I'd like to talk about
18 Children's Services' actions to improve SIJS
19 services. Children's Services has undertaken a
20 number of actions to ensure the identification of
21 immigrant youth in care and to refer them for
22 legal assistance. In 2008, Children's Services
23 hired an immigrant advocate to work with the
24 director of immigrant services on SIJS and other
25 immigration and language assistance issues. In

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2 2009, though a grant from New Yorker for Children,
3 Children's Services hired a part time immigrant
4 youth advocate to be a resource to work foster
5 care agencies, immigrant youth in foster care and
6 legal service providers on SIJS. In 2009,
7 Children's Services applied and received for a
8 grant from New Yorkers for Children to hire
9 graduate students in social work to review foster
10 care caseloads to identify immigrant youth in
11 foster care. Through this grant we have reviewed
12 the case loads of nearly 20 foster care agencies
13 and reviewed over 1,500 cases. Approximately 150
14 youth were identified as potential SIJS eligible.
15 We're working with the foster care agencies to
16 review these cases and to refer these youth who
17 are eligible for SIJS to legal service providers.
18 By the end of the year, all cases of foster care
19 youth aged 12 and above should have been reviewed
20 to ensure that all immigrant youth are identified
21 and referred for legal services. Children's
22 Services has also worked with the New York State
23 Office of Children and Family Services on an
24 administrative directive targeted to local social
25 services districts and foster care agencies on

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2 SIJS. Children's Services issued, and it's
3 attached to your testimony, the attached policy on
4 SIJS in August of this year for Children's
5 Services and foster care agency staff. Children's
6 Services' policy on SIJS is intended to ensure
7 that all immigrant youth in care are identified
8 and referred to legal service providers. This
9 guidance also reinforces the importance of the
10 SIJS process for eligible youth and identifying
11 these youth as soon as possible. Children's
12 Services is working with foster care agencies to
13 ensure that we are identifying immigrant youth.
14 The requirements and expectations around youth in
15 foster care having necessary records; documents
16 for transition have been communicated to the
17 agencies along with the necessary follow up for
18 legal services as needed. Through our centralized
19 support team we work with agencies to provide
20 birth certificates and social security numbers
21 based on requests that come to us. Our family
22 team conference facilitators and permanency
23 specialists are aware of the SIJS policy
24 requirements and it's expected that they will
25 direct to agencies appropriately as SIJS issues

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2 arise in the family team conferences. This will
3 be one of the ongoing topics and refreshers
4 incorporated into in-service training for
5 facilitators. Children's Services regularly meets
6 with immigrant advocacy organizations and legal
7 service providers to ensure that we have a
8 mechanism to share information, respond to
9 concerns, and identify issues to be addressed.
10 Children's Services also responds to any case-
11 specific concerns raised by the advocates.
12 Children's Services also offers extensive training
13 on SIJS. We train all of our child protective
14 staff on cultural competency which includes a
15 component on the SIJS process. This training is
16 part of the common core curriculum that all child
17 protective staff receives. Children's Services
18 also trains all new attorneys in our family court
19 legal services on the SIJS process and
20 requirements. A special training focused solely
21 on immigrant issues is available to all Children's
22 Services and foster care agency staff through our
23 training academy. Finally, SIJS training has also
24 been provided at quarterly meetings with all
25 foster care directors. Ensuring that all our new

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2 child welfare staff are trained in SIJS is crucial
3 to the identification of potential SIJS youth and
4 ensuring their awareness of its importance. In
5 conclusion, I hope that it's clear from our
6 testimony today that Children's Services is
7 genuinely committed to working with our staff,
8 provider agencies and immigrant advocates to
9 ensure that undocumented youth in our care receive
10 all the services for which they are eligible. We
11 believe the steps we have taken over the past
12 several years, as I described in my testimony
13 today are significant. We now have resources
14 within ACS dedicated to this work. We also have
15 strong relationships with our advocates and
16 systems in place to make sure that we are
17 regularly receiving feedback and looking at how we
18 can do better. We are concerned however that
19 Intro 787 is unnecessary as we are already working
20 closely with stakeholders to access our work or
21 make improvements as needed. As a result, we
22 cannot support this bill as currently written. We
23 are always willing, however, to sit down with
24 stakeholders and of course members of the City
25 Council to discuss our efforts and to receive

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2 input. We greatly appreciate the interest and
3 dedication of the City Council on this important
4 issue and thank you for giving us the opportunity
5 to discuss this topic. Thank you.

6 CHAIRPERSON STEWART: I get the
7 feeling that some of the things that we are going
8 through now are some of the things that we went
9 through before. From your testimony you just said
10 that the records show that 50 children have been
11 helped as far as this is concerned out of 150.
12 That to me is one-third of the amount that should
13 have been getting the help. How do you explain
14 that?

15 MARK LEWIS: Let me clarify. The
16 number 150 is we're doing this painstaking process
17 of actually going through the records of each
18 youth in care over the age of 12 who are not
19 eligible for federal funding because for federal
20 funding you have to be a citizen or a legal
21 permanent status. So we're looking at each case
22 record to see if there's any indication in the
23 case record whether the child is a U.S. citizen or
24 not, whether there is a birth certificate or
25 whether there's something in the case record that

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2 would indicate that the children may be an
3 immigrant. So we found approximately 150 out of
4 1,500 cases that we reviewed. Before referring
5 them to legal services we're reviewing them with
6 the foster care agencies because many of those
7 youth may be citizens and there is just no record
8 of that. So that's the basis for that 150 number.
9 Now the 50 to 60 youth in care that receive SIJS
10 on an annual basis that's based on we have to
11 submit an affidavit before a child receives SIJS.
12 More than 50 or 60 youth are being worked with by
13 the legal service providers on an annual basis.
14 Some youth may not end up going through the whole
15 process and some take more than a year. So the 50
16 or 60 is the estimate of the number of youth that
17 actually receive SIJS in a given year. The 150 is
18 based on our preliminary review of case records to
19 make sure that we're not missing any kids.

20 CHAIRPERSON STEWART: So there is a
21 possibility that there might be more than the 150
22 then based on what you are saying?

23 MARK LEWIS: That's why we're going
24 through this process of looking at every case to
25 make sure we're not missing any.

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2 CHAIRPERSON STEWART: Right. Are
3 you saying that you started that process this
4 year? Because in '06 we spoke about this and
5 there was no real numbers that you could have
6 given us then. In '07 we said the same thing and
7 now we're getting a feel that there are some
8 numbers. But the numbers that you're giving us
9 is as if you just started doing this and you don't
10 actually know the numbers. You're just saying
11 well we have been looking at it and we started at
12 someone who is 12 and above or whatever. To me we
13 need to do more. We need to do more so that at
14 least we can find each and every child that
15 deserves to get this benefit gets the benefit.

16 MARK LEWIS: I would be the first
17 person to say I wish there was a simpler way of
18 identifying immigrant youth in care. The database
19 that we use is the state data system called
20 Connections. And in the state data system there
21 is no data field for immigration. We've talked o
22 the state about having something and I think some
23 of the advocates have recommend this, having a
24 country of origin so that we would actually be
25 able to do a search of our database to identify

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2 every child that wasn't born in the U.S. The
3 state hasn't done that yet. So until we have that
4 we're trying to do the best we can in terms of
5 taking the extraordinary steps of actually
6 reviewing every case so that we don't miss any.

7 CHAIRPERSON STEWART: How about
8 using another suggestion like for every child you
9 have to have an identification number which should
10 have been the social security number. If a
11 children is there for a service and you are
12 assisting the child to get their social security
13 number. You will then be able to identify whether
14 the child is eligible or not.

15 MARK LEWIS: That's a very good
16 recommendation and we are doing that. When
17 children are being prepared to leave the foster
18 care system, we're making sure that each of these
19 youth has all of the documents that they need
20 including birth certificates and social security
21 cards. So that's another way that we're trying to
22 make sure that we don't miss any children. You're
23 100% right. Every child in foster care should
24 have the necessary identification so that when
25 they leave they can get jobs, et cetera. There

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2 are multiple things that we're doing to make sure
3 that we identify these youth and that's one of
4 them.

5 CHAIRPERSON STEWART: How does
6 guardianship play a role in this? Some of these
7 children might be with a guardian and they may not
8 be in ACS but they have a legal guardian. I
9 notice with the requirements that you have stated
10 since this new law has changed. How does that
11 affect children?

12 MARK LEWIS: On guardianship, ACS's
13 involvement with guardianship usually is that
14 we're asked to do a home study of the
15 guardianship. Correct me if I'm wrong.

16 MARGARET MORGAN: A court ordered
17 investigation.

18 MARK LEWIS: A court ordered
19 investigation. We don't have legal custody of
20 those youth. So I don't know if there is a way
21 that we could make sure that those youth who are
22 in guardianships are eligible for SIJS. But the
23 other point that you raised is an important point
24 in terms of the change in law. It used to be that
25 SIJS was only for youth that could not be

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2 reunified with their parents. So consequentially
3 the only children that were eligible for SIJS were
4 those kids who were going to go into independent
5 living. The law was changed. So now it's that
6 the child could be eligible for SIJS if they can
7 be reunified with only one of their parents. So
8 for example if it was a domestic violence
9 situation and the father had beaten the child and
10 that was the reason why the child was in foster
11 care, if the child couldn't be returned to the
12 father but could be returned to the mother, now
13 the child could be eligible for SIJS whereas in
14 the past they weren't. So, all immigrant youth
15 who are undocumented we're going to be referring
16 to legal services. Before, we were really
17 targeting it to those kids who were going to only
18 be in independent living. So now it's a broader
19 population.

20 CHAIRPERSON STEWART: Does it
21 include grandparent taking care of a child whose
22 parents might have passed on? There are a number
23 of children who are in this country. Their
24 parents have passed on and they're with their
25 grandparents. So whether their parents were maybe

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2 in the process, once the parents die, the
3 application dies. But the children now are left
4 in limbo and they might be with their grandparents
5 or with a guardian. Those are the kids that I'm
6 concerned about right now as far as this question
7 is concerned. How do you see that playing out?

8 MARK LEWIS: Margaret, correct me
9 if I'm wrong. I'm not sure I know the answer. If
10 the children are with their grandparents and
11 they're in foster care then--

12 CHAIRPERSON STEWART: [interposing]
13 Well, forget about foster care. That grandparent
14 might have applied for guardianship and I'm saying
15 they don't have to be in foster care, don't have
16 to be with ACS but they've taken responsibility
17 for the child. How does that grandparent help
18 that child?

19 MARGARET MORGAN: In that regard,
20 there needs to be a mechanism whereby the
21 Administration for Children's Services becomes
22 aware of that guardianship. As it stands, a
23 guardian can walk into family court and request
24 guardianship of a child and it does not require
25 any intervention on the part of Children's

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Services.

CHAIRPERSON STEWART: But I'm just trying to figure out if the law provides for them. Once the court has determined the legal guardian, you can file an application. I don't know if it's the same now because I notice you did not mention it in your testimony.

MARK LEWIS: My understanding is that prior to the change in law, youth who were in guardianship were eligible for SIJS. There was some disagreement in the family court system whether that in fact was true and what this new law did was clarify that yes, a youth who is in a guardianship arrangement could be eligible for SIJS. To be honest, I'm not sure what we can do with those kids.

CHAIRPERSON STEWART: For my information, I just want to know if that grandparent can seek legal advice and legal help to file it on their own and not necessary ACS doing it. I'm just trying to figure it out.

MARK LEWIS: The answer is yes.

CHAIRPERSON STEWART: Before, with the law, I think when they reached 13 or 14 or 15

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years, they age out. You say now it's 21?

MARK LEWIS: The change in the law is they always were eligible for SIJS through age 21. It used to be that the federal process had to be completed by their 21st birthday. Now that law has changed. So if the application has been submitted before that and if the child turns 21 while the process is still going on, the child can still receive SIJS.

CHAIRPERSON STEWART: I think maybe I had bad advice. I thought it was 16 years and after they passed that age, from testimony that we have had here in the past, after they had passed that age in ACS they aged out and so we were frantic in trying to make sure that folks who were under that age filed the documentation that should be filed. And you're saying now it was 21.

MARK LEWIS: In other states where foster care doesn't continue past 18, they had to complete it by 18, but in New York it's been 21 and I apologize if we gave wrong information in the past.

CHAIRPERSON STEWART: Council Member Charles Barron.

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2 COUNCIL MEMBER BARRON: I mean I'm
3 just listening to this exchange and it's obvious
4 that this is a complicated process. It's not
5 easy. I don't understand why you wouldn't want a
6 task force to help you. I just don't understand
7 that. It's something simple. You're sitting up
8 here saying we're trying and we might be able to
9 identify, it's a little difficult but we're doing
10 the best we can. We have a little simple bill.
11 This is not a deep one. This is not one of those
12 heavy ones that have some profound exchange we
13 need to have. I've never heard to people saying I
14 don't want assistance, we're doing well enough.
15 I'm not finished.

16 CHAIRPERSON STEWART: I just want
17 you to hold your breath so you don't pass out.

18 COUNCIL MEMBER BARRON: I don't
19 understand. I've heard a lot of reasons. You
20 know we come up with bills and people say it just
21 doesn't make any sense. But a task force to help
22 you with a difficult complicated process and
23 you're saying no, I just don't understand that.
24 Please help me.

25 MARK LEWIS: My experience in the

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2 past, and I've worked in government for 30 years
3 now is that it takes a lot of time, energy and
4 investment to actually create the task force.

5 COUNCIL MEMBER BARRON: We'll do
6 that. Don't you worry about it. We can handle
7 that part.

8 MARK LEWIS: The administration
9 needs to do that and I think what we're suggesting
10 is that we are certainly open and we are in
11 continuous dialogue with advocates on the issue
12 and we are open to getting recommendations.
13 Whether all the things that are required in this
14 bill that need to be reviewed and analyzed,
15 whether that would be helpful is questionable. So
16 I think what we're saying is that we are open and
17 we are going to be seeking as much input as
18 possible on this issue from advocates as well as
19 the City Council. But whether we need a task
20 force to do that, we think we can do that without
21 a task force.

22 COUNCIL MEMBER BARRON: Well it
23 hasn't been done to this point efficiently we
24 don't think without the task force. You've been
25 in government for 30 years. I've been in life for

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2 59 years and I think it's important for us to help
3 government sometimes when certain things are not a
4 priority, when they have other things that are
5 priority. And then sometimes a task force can be
6 very, very helpful. I just don't understand the
7 resistance to it. I know the government is not
8 talking about bureaucracy as a problem. That's
9 all you all do. So I don't understand it. I
10 really don't understand the resistance to help. I
11 think it can be helpful. It is difficult. A lot
12 of issues around it and a lot of people the task
13 force can reach or things the task force can
14 recommend. Just like you agree the chairman of
15 this committee suggestion, like you heard it for
16 the first time. So maybe there are some other
17 good things that a task force can come up with. I
18 just don't understand the resistance to something
19 as simple as a task force. I wouldn't have done
20 that but four of the people are being recommended
21 by the mayor, your boss. I just don't understand
22 it. I don't understand the resistance. This was
23 to me a no-brainer. If you can get some extra
24 help, I just don't understand it.

25 CHAIRPERSON STEWART: I just want

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to follow up on that. Do you realize that this task force is only going to be in existence for one year?

MARK LEWIS: Yes.

CHAIRPERSON STEWART: It's going to be in for one year and they will be there just to come up with recommendations of what has to be done to assist you.

COUNCIL MEMBER BARRON: Excuse me, Mr. Chairman. That makes it even worse. I didn't know it was one year. I mean that's ridiculous. One year. That's really ridiculous. To be honest with you, since you're being honest, you just announced your honesty, let me announce mine too. That's absurd that you don't want to hang with a task force for one year to work on some recommendations. Somebody might be able to think of something you haven't thought about or be able to do something that's more efficient and you don't want to hang out for one year. I just don't understand it.

MARK LEWIS: If there are things that we're missing that we can do better we want to know it before a year. We want to do it as

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soon as possible.

CHAIRPERSON STEWART: I don't see where it's going to be negative to what you're doing. The fact is we had a hearing in 2006 and we had one in 2007 and if today we are still missing a lot of things and we have no real concrete way of identifying these children, it means then we need to have someone or some group that is focusing on making sure that every child gets this benefit. I really don't see why you are objecting to the task force of seven people, with four from the mayor and three from the Speaker. They come up with people who may have the interest and understand what is happening that they can come with recommendations that you should go by, that you should follow. One year.

COUNCIL MEMBER BARRON: One last thing, Mr. Chairman, do you think we would not give you suggestions until the task force was in place? I mean what kind of response was that. You hope you would get suggestions before the year. We'll give you plenty of suggestions before the year, after the year and when the task force is gone. But what is wrong with having seven

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2 people come together and say we're going to spend
3 a year with all of the complexities of life that
4 we're going to focus on this important issue for
5 one single year and offer you some recommendations
6 and assistance. The other avenues of
7 recommendations, that doesn't stop waiting for the
8 task force.

9 CHAIRPERSON STEWART: You have an
10 answer?

11 MARK LEWIS: I will bring this
12 back. I'm listening carefully and I understand
13 what you're saying.

14 COUNCIL MEMBER BARRON: All right.

15 CHAIRPERSON STEWART: Council
16 Member Ferreras.

17 COUNCIL MEMBER FERRERAS: Thank
18 you. I actually have more a question on the
19 process. Of course I reiterate everything that
20 Council Member Barron just said. My inquiry is I
21 know the USCIS process and when it comes to filing
22 these applications can be very costly, yet you
23 discuss the reimbursement of \$1,000 per child.
24 Who covers the cost of the fees?

25 MARK LEWIS: We cover all the costs

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2 of the fees. So it's more than \$1,000. It's
3 probably more than \$1,200 or so. Our guidance
4 that we issued indicates that we will reimburse
5 all of the costs that go along with the filing of
6 the fees, all fees. So the foster care agency is
7 totally reimbursed and all fees are taken care of.

8 COUNCIL MEMBER FERRERAS: So this
9 is sort of like an incentive for the foster cares
10 to help you identify these young people because
11 they're not going to be penalized.

12 MARK LEWIS: Right. It's not
13 coming out of their budgets basically.

14 COUNCIL MEMBER FERRERAS: Is it out
15 of their budget at one point? Because it serves
16 as a reimbursement, so they do have to have the
17 money to put out?

18 MARK LEWIS: They have the lay out
19 the funds and then we try to reimburse as quickly
20 as possible.

21 COUNCIL MEMBER FERRERAS: So if
22 certain foster cares are falling on hard times,
23 where is the incentive for them to identify these
24 kids and help these children if they have to lay
25 out that money first?

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2 MARK LEWIS: My belief is the
3 foster care agencies really care about these
4 children and want them to get the help that they
5 need. Their budgets are multimillion dollars
6 basically, so I think generally they can find the
7 \$1,000 or \$2,000 that they need to pay the fees.
8 If they're having difficulties they know they can
9 reach out to us and we'll make sure it happens. I
10 think more of what happens is that within a large
11 foster care agency it may fall through the cracks
12 and the case planner may forget to ask the fiscal
13 office for the reimbursement. That's what we need
14 to make sure that they promptly pay the fees
15 because otherwise it holds up the process.

16 COUNCIL MEMBER FERRERAS: How long
17 is the reimbursement process after they've
18 submitted the cost of a US CIS application?

19 MARK LEWIS: I think we try to
20 reimburse within 30 days but I'll have to get back
21 to you on that.

22 COUNCIL MEMBER FERRERAS: I'd
23 appreciate to know the timeline. I know that not
24 all agencies are multimillion dollar agencies. A
25 child that has been identified to qualify, what

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2 happens if in the middle of the process either
3 very close to the beginning or very close to the
4 end, this child returns to their family or they're
5 found an alternative to what their present
6 situation was when they applied for SIJS?

7 MARK LEWIS: In the past, if the
8 child had been discharged to the family they would
9 not have been eligible for SIJS. With the change
10 in law it changes that. So there may still be
11 eligible for SIJS. There's also another
12 immigration relief that I haven't mentioned that
13 we're trying to be very aggressive about and it's
14 something called U Visas. That's an alternative
15 to SIJS and it may be better for some foster care
16 youth to receive immigration assistance through
17 the U Visa. The U Visa is for persons who have
18 been victims of certain crimes. If they've
19 cooperated with ACS in the investigation, there
20 are three people at ACS who are designated to
21 certify U Visas; they can receive immigration
22 relief that way. It could be beneficial for the
23 family because under SIJS the parent can't receive
24 immigration relief if the child receives SIJS.
25 With U Visas, the child can get immigration relief

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2 through the parent and vice versa. So that's
3 another area that we need to make sure we're
4 referring immigrant to the legal service providers
5 so they can decide whether U Visas may be
6 preferable than SIJS.

7 COUNCIL MEMBER FERRERAS: My other
8 question is in reference to how complex you say
9 that it is to identify these children within the
10 broader sense of all the young people. I want you
11 to explain to me, if they're registered for school
12 and this is information that you collect, how is
13 it that for one institution, you know clearly you
14 have to have certain information. I know
15 immigration status is not one of them for school
16 but you have to have something. And yet on the
17 other hand you're saying we're still trying to
18 figure out, you know some of the kids don't have
19 anything. Can you explain that to me?

20 MARK LEWIS: That's a good
21 question.

22 COUNCIL MEMBER FERRERAS: I like to
23 have those every now and then.

24 MARK LEWIS: Most children come
25 into foster care coming through Child Protective

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2 Services. Part of it is Executive Order 41, the
3 general policy is not to ask or tell about
4 immigration status. We are able to ask about
5 immigration status if it's related to both funding
6 as well as referral to services. So through the
7 Child Protective Service investigation we should
8 be asking about immigration status if there's
9 going to be a placement. That information is
10 generally put into case record. Then the child
11 may end up in foster care and we're hoping that
12 information goes from what the Child Protective
13 investigation indicated to the foster care
14 agencies. Now we're doing these family team
15 conferences that I mentioned where every six
16 months there's actually a family team conference
17 that looks at the foster care case in terms of
18 what the service needs are. We're trying to make
19 sure that all of our facilitators at those
20 conferences are knowledgeable about SIJS and are
21 asking the right questions so that we can identify
22 them that way. The long and short of it is there
23 is no specific indicator in the case records that
24 I can do a search and say is this child an
25 immigrant or not. It is more of a cumbersome

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approach to it. I'm not sure I answered your question. I was trying.

COUNCIL MEMBER FERRERAS: It was a try. I ended up more confused I think after that. I just feel that there's this gray area and there's a space where there is no communication between one group and another. If we are able to address the communication between those then we're able to identify those young people.

MARK LEWIS: I think the key is that for the foster care agency staff to be aware that there is something called SIJS so that they know that there is a remedy that they can help children who are undocumented. That will encourage them to ask those questions as well as our conference facilitators that are at these conferences, they should be asking the same question. What we're trying to do is make sure that there's an awareness of the help that can be provided to the youth. Because the complicating factor is that the kids that I'm most worried about are kids who may have come to the country when they were 2 years old and didn't know that they weren't citizens. They may end up in foster

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2 care. So those are the kids that I'm worried
3 about. I think most older kids, if they know that
4 they're immigrants, that that will come up between
5 their law guardians. They should know that
6 they're immigrants and then someone at the table
7 should know that there is SIJS that can help them.
8 It's the kids that may not know that they're
9 actually immigrants that are going to be the
10 harder kids to find. That's why we want to make
11 sure that they all have their birth certificates
12 and social security card so that that's another
13 way of the, knowing that they're not citizens.

14 COUNCIL MEMBER FERRERAS: Just to
15 wrap up, I find it a little bit I guess
16 frustrating to hear that the burden of the proof
17 is put on the young people to say you're here, you
18 are a teen, you should know at some point when
19 you're speaking to your legal team that you should
20 identify yourself. Being a daughter of
21 immigrants, the reality is that this is still a
22 very big issue in our communities of identifying
23 yourself and your legal status. These are young
24 people and there is a process and it may be though
25 a task force that we're able to identify a better

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2 way as opposed to putting the burden on the young
3 people. Regardless if you came here when you were
4 2 or if you are undocumented and know that you are
5 for over 15 or 20 years. It's a pressure for an
6 adult and it's even double the pressure for a
7 young person.

8 MARK LEWIS: I didn't mean to imply
9 that the burden should be on the youth to tell the
10 case worker that they're immigrants. What I'm
11 saying is that for those youth it would be more
12 obvious to their case planner, to their law
13 guardians that the child's an immigrant and can
14 use some assistance. That's what I was saying.

15 COUNCIL MEMBER FERRERAS: Okay.
16 Thank you.

17 CHAIRPERSON STEWART: Before I call
18 on Council Member Eugene, I just want to know, do
19 you have any way of advocating this law and
20 letting folks know? Do you have anyone that goes
21 out to the schools or goes out to churches to
22 really let folks know about this?

23 MARK LEWIS: What we try to do is
24 to make sure that the foster care agencies with
25 whom the kids are with know about it because

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2 they're working with the kid all the time. We
3 don't do a general education campaign for the
4 general community on SIJS. It applies to a very
5 small number of kids.

6 CHAIRPERSON STEWART: It might
7 apply to a small number of kids but considering
8 that you're talking about 1,500 kids in New York
9 City that might be potentially.

10 MARK LEWIS: Let me clarify. It
11 was 150 out of the 1,500.

12 CHAIRPERSON STEWART: That you
13 identify?

14 MARK LEWIS: As possible.

15 CHAIRPERSON STEWART: Right. But
16 there are a lot more kids in New York City that
17 don't come in contact with ACS or even with foster
18 care.

19 MARK LEWIS: True.

20 CHAIRPERSON STEWART: There are a
21 lot more kids in New York City. How many kids do
22 you have in New York City? How many millions?

23 MARK LEWIS: A lot of kids.

24 CHAIRPERSON STEWART: A lot of
25 kids.

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2 MARK LEWIS: I think the issue that
3 you raised earlier in terms of children and
4 guardianship and identifying those kids so that
5 their guardians know that there is something like
6 SIJS that can help them is an important thing.
7 How we get that word out to guardians, maybe
8 through the family courts, I'm not sure.

9 CHAIRPERSON STEWART: I feel that
10 you can have someone going out to speak to PTAs,
11 to speak in the schools, just someone that goes
12 out and advocates not only on that but other
13 things that you do. When people talk about the
14 food program you go out and speak to parents.
15 They can speak about this also. When they go and
16 speak about the flu shot that we're doing now, the
17 H1N1, that we're going out to different places and
18 we're talking about, someone could be doing the
19 same thing here at the same time. All I'm saying
20 is that even though it may not be as major as the
21 flu shot that we advocate, that could have been
22 mentioned saying that if there's anyone, and you
23 tell them what it is all about and that if they
24 need the assistance and need the help, it's
25 available or we can provide information that we

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2 can distribute at the same time that we're
3 distributing some of these other literature.
4 That's all I'm suggesting.

5 MARK LEWIS: I'll bring that back.

6 CHAIRPERSON STEWART: That's one of
7 the reasons why we said a task force will come up
8 with these suggestions and have all these thing
9 put together in a good format that you can look at
10 say well maybe we'll follow these things. Council
11 Member Eugene.

12 COUNCIL MEMBER EUGENE: Thank you
13 very much, Mr. Chairman. I've been looking at
14 your presentation. It's in there for requirement
15 that the child should benefit from the program.
16 My question is should the child fulfill all the
17 full requirements or part of them? I see that
18 there are four.

19 MARK LEWIS: They need to have been
20 placed in foster care due to abuse, neglect or
21 abandonment.

22 COUNCIL MEMBER EUGENE: Yes, I see
23 the requirements. There are four requirements.
24 But should the children fulfill all four
25 requirements to be eligible for the program?

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MARK LEWIS: I believe so, yeah.

COUNCIL MEMBER EUGENE: All of them? Let's say for example the child fulfills only three of them and not the last one.

MARK LEWIS: If the court doesn't determine that it's in the best interest of the child to remain in this country then they would not be eligible.

COUNCIL MEMBER EUGENE: They would not be eligible. That means the child would face what we call deportation. He won't be able to stay here. Even if the child was abused and neglected, the child won't be able to stay here. The child would face deportation.

MARK LEWIS: If the court determined that it would be better for them to go back to their native country, if there were supports there for the child. My experience is that that rarely happens. In the vast majority of the circumstance the court will find that it is in the best interest of the youth to remain there, because if it wasn't important for the youth to remain here, he or she probably wouldn't have gone through the whole process.

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2 COUNCIL MEMBER EUGENE: So that
3 means the court doesn't determine that the child
4 should stay here, if they say it is in the best
5 interest for the kid to go back to his country,
6 the kid will be deported regardless of the
7 situation of the country. So my question is does
8 ACS have anything in place to appeal or to help
9 that child in that circumstance?

10 MARK LEWIS: If a youth in foster
11 care is facing deportation and it may be before
12 there was a SIJS application, the child may have
13 been picked up for some type of criminal activity,
14 we will refer that child to legal service
15 providers to get the help they can. We think it's
16 best for us to refer foster care youth who have
17 immigration issues to experts in immigration
18 rather than for us to try to resolve the issues
19 ourselves.

20 COUNCIL MEMBER EUGENE: I see. In
21 the process of the application for a green card,
22 if the application is not granted, what happens to
23 this child? What happens to his immigration
24 situation or status? What do you have in place?
25 What can you do? If the child meets all the four

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2 requirements and for any reason the green card
3 isn't granted, so what is your position and your
4 action in that?

5 MARK LEWIS: I think the best thing
6 that we can do is to seek expert advice in terms
7 of are there other remedies possible for the
8 youth. We don't have any ability to grant legal
9 status to the youth unfortunately. We're
10 fortunate that we work with a group of attorneys
11 who are extremely skilled and are able to help.

12 COUNCIL MEMBER EUGENE: So that
13 means even if the child fulfills the four
14 requirements, there is no guarantee that the child
15 will be granted a green card or the status to
16 stay. There is no guarantee.

17 MARK LEWIS: The final decision is
18 with Immigration.

19 COUNCIL MEMBER EUGENE: Thank you.

20 CHAIRPERSON STEWART: You just made
21 a statement there that you have to meet all four
22 requirements to be eligible for SIJS. But a while
23 ago we were speaking and one of these requirements
24 the child must be placed in foster care before the
25 age of 18. But a while ago I asked you the

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2 question guardianship and not being in foster
3 care. You said well, yes, the child is eligible.
4 Now you're reserving that. So clarify it for me.
5 I am saying it's not every child that's going to
6 go to foster care. In other words, a child is
7 picked up because of a problem and ACS picks up
8 that child and a grandparent comes forward and the
9 child is placed with the grandparent. That's not
10 foster care. What happens to that child? Is that
11 child eligible through guardianship, bona fide
12 legal guardianship with that grandparent to get
13 SIJS?

14 MARK LEWIS: Yes, that child is.
15 This document that we developed is intended for
16 youth in foster care. It wasn't intended as an
17 umbrella for everybody but we do have something
18 that youth initially placed.

19 CHAIRPERSON STEWART: I just want
20 to clear the air because you're saying these are
21 the four. You just told him that these are four
22 requirements that must be met.

23 MARK LEWIS: For a youth in foster
24 care to receive SIJS. This is related to youth in
25 foster care. It's not necessarily intended to be

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the document that's for kids who are in guardianship.

CHAIRPERSON STEWART: It says in order for a child to be eligible for SIJS, a young person must be and they list all four. I'm trying to clarify that. You're saying that for that child to be eligible for SIJS.

MARK LEWIS: This is directed for youth who are in foster care.

CHAIRPERSON STEWART: Only?

MARK LEWIS: Only in foster care.

CHAIRPERSON STEWART: But you then state that one of the requirements that the child has to be placed in foster care.

MARK LEWIS: We should make sure that it's clear that children who are in guardianship can be eligible for SIJS and we should make that clear so there is no confusion if this is confusing. So we'll take a look at that. Thank you.

CHAIRPERSON STEWART: I think you have indicated that you will take back to your agency some of the ideas that we have spoken about. If possible, if you can provide to us the

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2 full text of the U Visa and the SIJS so that at
3 least we can see how that works. Maybe we can
4 work together and put in something together to
5 really advocate for those people who may have
6 interests in this area. I think as someone who
7 has been out there and dealing with immigrants and
8 speaking on behalf of the Council in terms of
9 immigration, we've been trying to tell folks what
10 they need to do and referring them to all these
11 CBOs that deal with immigration issues. I think
12 this is an area that has been neglected. We would
13 like to at least get the information out there
14 because a number of kids might be going under the
15 radar without knowing. We would like to at least
16 make that clear that they get the opportunity.
17 Thank you.

18 MARK LEWIS: Thank you.

19 CHAIRPERSON STEWART: If you could
20 stick around because I want you to hear what the
21 other folks are saying.

22 MARK LEWIS: I'm here.

23 CHAIRPERSON STEWART: All right,
24 thank you. Myra Elgabry and Ilze Earner. If you
25 can just identify yourself and begin please.

ILZE EARNER: Thank you very much.

My name is Ilze Earner. I'm an assistant professor at the Hunter College School of Social Work. I'm also the director of the Immigrants and Child Welfare Project. Good afternoon Chair Stewart and members of the Immigration Committee. I also am a consultant with the National Resource Center for Family Centered Practice and Permanency Planning and I work as a consultant with the United States Conference of Catholic Bishops on issue regarding refugee youth and children services, and also the Office of Refugee Resettlement through the Unaccompanied Children's Program. I also provide foster care training to contract service providers through the Adolescent Services Resource Network of the Office of Children and Family Services of New York State. I appear before you today in support of the creation of a temporary task force to review strategies to protect children in care with the Administration for Children's Services who qualify for Special Immigrant Juvenile Status as well as other forms of immigration relief. My testimony will be brief. Special Immigrant Juvenile Status as we've

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2 heard is one form of immigration relief that
3 enables certain qualified undocumented children in
4 long term foster care to become permanent
5 residents of the United States. In order for a
6 child to be eligible for SIJS, the child must be
7 unmarried, under the age of 21, placed in foster
8 care prior to their 18th birthday due to abuse,
9 neglect or abandonment as determined by order of a
10 court, have a permanency plan that indicates a
11 goal of long term foster care placement with all
12 attempts at family reunification ceased. They
13 must also obtain a declaration by the court that
14 it is not in their best interest to be returned to
15 their country of origin and they must be in foster
16 care at the time that the SIJS application is
17 filed with the United States Immigration and
18 Citizenship Services and remain in care until US
19 CIS adjudicates their application. For
20 undocumented youth in long term foster care,
21 immigration relief must be part of their
22 permanency planning. It is crucial that qualified
23 youth in care obtain immigration relief so that
24 when they leave care they are not relegated to a
25 life underground, unable to legally work, unable

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2 to obtain financial aid for school, unable to live
3 legally in the United States. This was the
4 purpose and reason that the Special Immigrant
5 Juvenile Status was created and included in the
6 Federal Immigration Act of 1990. I think it is
7 also important to recognize that SIJS is not the
8 only form of immigration relief available to
9 undocumented youth. In other words, it should not
10 be viewed as a one size fits all model for all
11 undocumented youth in care. In fact, there
12 reasons this form of immigration relief may not be
13 optimal for certain undocumented youth and it is
14 important that foster care case workers, attorneys
15 and others involved in working with undocumented
16 you recognize this and be able to address it
17 appropriately. Other potential forms of
18 immigration relief include Trafficking Victims
19 Protection Act, violence against women, U and T
20 Visas, unaccompanied refugee minor and I neglected
21 to add asylum. The Administration for Children's
22 Services has made great strides in recent years to
23 address the immigration needs of children in their
24 care by ensuring that their child protective
25 staff, attorneys, and supervisory staff are

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2 trained on immigrant issues. This represents a
3 huge step forward. It is, however, not enough.
4 Through the Adolescent Services Resources Network
5 funded by the Office of Children and Family
6 Services of New York I provide training to
7 contract foster care services providers and others
8 who work with youth on SIJS and trafficking. Over
9 the last three years I have provided eight
10 trainings to 82 contract services providers. I
11 continue to be surprised and disheartened by the
12 lack of information, knowledge, resources,
13 technical assistance and support provided to
14 contract services providers in the area of
15 immigration relief for their clients. This is a
16 disservice to immigrant youth in care and must be
17 addressed. Imagine what it feels like to have a
18 contract foster care provider come to a training
19 and exclaim, "Oh, I wish I had known about this
20 because I did not know how to help my client and
21 he left care. I don't know what happened to him."
22 That is permanency, stability and well-being
23 denied. There are models of providing immigration
24 services to youth in care that can be examined for
25 appropriateness to New York. These include Los

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2 Angeles County, which has a special unit within
3 Child Welfare dedicated to pursuing SIJS for
4 qualified children in care. Other states have
5 manuals, screening procedures and trainings that
6 can also be examined. This task force represents
7 the much-needed opportunity to look for ways to
8 eliminate the remaining barriers for undocumented
9 children in care to achieve permanency, stability
10 and well-being that all children deserve. Thank
11 you for allowing me to discuss this issue with you
12 this afternoon. I welcome any questions.

13 MYRA ELGABRY: Good afternoon. My
14 name is Myra Elgabry. I'm the director of the
15 Immigration Rights Project at Lawyers for
16 Children. Thank you Chairperson Stewart, esteemed
17 members of the Immigration Committee and co-
18 sponsors of the proposed legislation, Council
19 Members Alan Gerson, Darlene Mealy and Domenic
20 Recchia for the opportunity to testimony and for
21 your continued interest in the welfare of our
22 city's most vulnerable children. As you may know,
23 Lawyers for Children is a not-for-profit
24 organization dedicated to protecting the rights of
25 individual children in foster care and to

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2 compelling system wide foster care reform in the
3 City of New York. Every child we represent
4 receives free legal and social work services in
5 cases involving foster care, abuse, neglect,
6 termination of parental rights, adoption,
7 guardianship, custody and visitation. Our
8 caseload exceeds 4,000 such cases a year. Today
9 we want to express our strong support for the
10 proposed temporary task force to review strategies
11 to protect children who qualify for Special
12 Immigrant Juvenile Status, also called SIJS. We
13 have testified over the last several years that
14 there is a continued need for New York City
15 Administration for Children's Services, ACS, to
16 improve identification of children eligible for
17 SIJS and immigration services for children
18 eligible for SIJS. The proposed task force is an
19 important step towards making those changes a
20 reality and a recognition by the City Council of
21 this crucial issue for our city's children. First
22 I would like to address a few recent developments
23 since we last addressed the City Council. In
24 August 2008, the New York State Office of Children
25 and Family Services issued an administration

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2 directive on SIJS to all local departments of
3 social services. It requires that youth in foster
4 care who are not U.S. citizens or lawful permanent
5 residents be identified as early as possible and
6 referred to immigration legal services providers
7 for SIJS screening. Once youth are identified,
8 social services staff are directed to cooperate
9 and assist with the documents necessary for the
10 SIJS application. The proposed task force on SIJS
11 would help determine whether ACS is meeting these
12 new state obligations. On December 3rd, 2008, the
13 Trafficking Victims Protection Reauthorization Act
14 was enacted by Congress and made changes to the
15 statute governing SIJS. It expanded the
16 definition of a Special Immigrant Juvenile so that
17 the family court findings can now be made against
18 one parent rather than against both parents in
19 every case. The court must now find among other
20 requirements that reunification with one or both
21 parents is not viable due to abuse, neglect,
22 abandonment or a similar basis found under state
23 law. The new statute also added the similar basis
24 under state law category which increases the
25 flexibility for the court to make the appropriate

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2 findings. While these changes are still new, they
3 will potentially result in an even larger number
4 of children in foster care being eligible for
5 SIJS, such as children who may possibly reunify
6 with a non-neglectful parent. This likely
7 increase in eligible children supports an even
8 greater need for the task force to research
9 whether ACS is identifying and coordinating SIJS
10 services so that no children lose this important
11 benefit. We would like to thank ACS director of
12 immigrant services, Mark Lewis and ACS supervising
13 attorney Harry Gelb who have provided valuable
14 assistance with individual SIJS cases, have issued
15 instructive memos on SIJS to the foster care
16 agencies and have made efforts to add SIJS issues
17 to youth programs and staff training. Mr. Lewis
18 and his staff are working on reviewing current
19 files to identify SIJS eligible children based on
20 federal funding indicators. Unfortunately, it's
21 not clear to what extent those indicators
22 correlate with SIJS eligible clients or how long
23 such a process will take. More improvements are
24 needed to create an accurate and efficient system
25 of identification and to coordinate immigration

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2 services in order to ACS to meet its obligation to
3 protect the rights of immigrant children. A
4 uniform method of collecting SIJS data is
5 essential in order to accurately assess children
6 as early as possible once they enter foster care.
7 Over the last several years we have repeatedly
8 asked for ACS to include country of birth as a
9 required field in every child's case file, but to
10 our knowledge that has not yet been implemented.
11 This field would help prevent children from being
12 discharged or aging out without the opportunity to
13 apply for SIJS. For example, we recently had a
14 client who was severely disabled and nonverbal who
15 was in foster care for 11 years before he was
16 first identified as undocumented just six months
17 prior to turning 21. We were able to rush his
18 application and get it approved at the last
19 possible deadline. But if ACS has screened his
20 case earlier, he would not have been at risk of
21 losing the opportunity for SIJS which would have
22 had life-altering effects. For children that are
23 identified, there continue to be problems with the
24 foster care agencies fulfilling their obligations
25 to assist with the SIJS process. We regularly

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2 encounter foster care agency caseworkers that have
3 no knowledge of SIJS. Due to rapid turnover at
4 the agencies, it is common that a child's
5 caseworker will change several times over the
6 course of the SIJS process which causes delays and
7 often the loss of important documents. One
8 client's example illustrates these challenges.
9 Our client Ann is 17-years-old. We obtained the
10 SIJS findings from the family court which
11 determined she was abandoned by her parents and
12 should not return to her home country of China.
13 We then requested a passport and the required
14 medical exam from the agency caseworker. After
15 several months the caseworker did not obtain Ann's
16 passport and the agency had to be directed by the
17 family court to do so. Then the caseworker left
18 the agency and the new caseworker never properly
19 requested the \$200 fees for the medical exam, lost
20 the paperwork and asked for the request again. We
21 did make this request again only to find another
22 month later that the second caseworker left the
23 agency and we had to send the request a third time
24 to a new caseworker. At that point the court had
25 to order the agency to expedite the fees. After a

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2 few weeks Ann was taken to the medical exam.
3 However, the doctor needed to do an additional
4 test that included a fee of \$40. The caseworker
5 couldn't find anyone at the agency to authorize
6 the \$40. Instead of notifying us, she simply did
7 nothing. By the time we found the medical exam
8 was incomplete even more time had passed.
9 Eventually the fee was paid and we are now ready
10 to file the SIJS application, but after almost one
11 year of unnecessary delays. Ann doesn't
12 understand why it's taking so long for her to get
13 her green card and is justifiably concerned about
14 how this delay will impact her ability to get
15 financial aid for college, get a job or apply for
16 housing programs. Because of such delays and
17 difficulties we have urged that ACS create a SIJS
18 unit with full time staff devoted to administering
19 SIJS services. The SIJS unit's responsibilities
20 would be to ensure identification of all foreign
21 born youth, ensure foreign born youth are screened
22 for SIJS and that appropriate legal referrals are
23 made, ensure timely collection of documents and
24 fees for SIJS cases and provide mandatory training
25 to ACS caseworkers, attorneys and all agency

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2 caseworkers. We also urge that every contract
3 agency be required to identify a SIJS liaison to
4 assist with facilitating the process in
5 cooperation with the SIJS unit and immigration
6 attorneys. The proposed SIJS task force research
7 and recommendations could greatly benefit
8 immigrant youth in foster care. We urge that the
9 task force be implemented as soon as possible
10 because the stakes for any child who is SIJS
11 eligible are enormous. Losing SIJS eligibility
12 means a child will not qualify for financial aid,
13 will not be able to apply for jobs, will not
14 receive federal housing assistance and will remain
15 at risk of deportation back to a country where he
16 or she has no resources and in some cases may not
17 even speak the language. We all share an
18 obligation to ensure that no child in our city's
19 case is overlooked or ages out of these crucial
20 benefits. The City Council has provided important
21 leadership on issues for children in foster care
22 and immigrant services. We applaud you for
23 continuing to do so. We believe that the
24 collaborative efforts of the task force with ACS
25 and SIJS advocates will help ensure that all SIJS

1
2 eligible children in foster care have the
3 opportunities that they deserve. We're available
4 to assist in any possible way to improve the
5 services and quality for care for children in
6 need. Thank you.

7 CHAIRPERSON STEWART: I have one
8 question here. We've been joined by Council
9 Member Weprin from Queens. I have a question here
10 from your testimony. It says back in August 2008,
11 the New York State Office of Children and Family
12 Services issued an administration directive to all
13 local departments of social services and required
14 that youth in foster care who were not U.S.
15 citizens or lawful permanent residents be
16 identified as early as possible. Do you have any
17 idea how many of these kids were identified?

18 MYRA ELGABRY: I think the
19 directive is to ask that all local departments of
20 social services make this initial assessment so
21 that children that are found to be in need of SIJS
22 services become identified as soon as possible.

23 CHAIRPERSON STEWART: Right. I
24 understand that. But back in 2006 when we raised
25 this, we were raising the issue that children

1
2 should be identified. A directive was ordered
3 back in 2008. I just want to get a feel. We can
4 give a directive but if we don't follow it, it's
5 just been order but no one follows it. So I just
6 want to get a feel if there is any response, any
7 feedback as to how many kids from this directive
8 that they identified.

9 MYRA ELGABRY: As far as we know,
10 since August 2008, we haven't been told about any
11 new policies with regards to when a child first
12 enters foster care. We don't know of any
13 particular identification process for identifying
14 the country of birth or immigration status of
15 those children.

16 CHAIRPERSON STEWART: So it's just
17 a directive but no real substance to it to say
18 well, to look back or get a feel back as to know
19 how many kids have been identified or if there is
20 some sort of a plan on how they do that. You
21 don't have any feedback on that?

22 MYRA ELGABRY: I'm not aware of
23 that, no.

24 CHAIRPERSON STEWART: I think part
25 of that is because we don't have any real law to

1
2 say what they should be doing or any policy on
3 what they should be doing. We are building on it
4 in this right now. That's why we think the task
5 force will then put something together forcefully
6 that they will have to follow. And if they're not
7 following that then we can then be challenging the
8 administration on that. The fact is we want to
9 know. We can give directives, we can say a lot of
10 things, but you don't have to follow it. That is
11 exactly what I feel here with this SIJS situation.
12 The fact is an administration directive has been
13 given or someone can talk we're going to do this,
14 we're going to do that, let's maybe check in the
15 schools, let's do this, let's do that, but there
16 is no real teeth to this to say that they're
17 actually doing it because no one can tell us
18 exactly with a clear cut true figure as to how
19 many kids that might be in need of the SIJS.

20 MYRA ELGABRY: I think we would
21 agree with that. We agree that the task force has
22 the potential of creating the mechanism in order
23 to address this administration directive in order
24 to fulfill what it's asking local social services
25 to do. But I think that a task force would be

1
2 very productive in determining the most efficient
3 way to go about accomplishing that.

4 ILZE EARNER: I'd like to add to
5 that as well. I think if you're looking at a task
6 force, what a task force does is it identifies the
7 goals and the outcomes that you hope to achieve.
8 Right now we have anecdotal evidence. We have
9 people coming around saying well I've heard this
10 and I've heard that and I have this case and I
11 have that case. We talk to people all the time
12 but there doesn't seem to be any cohesiveness to
13 approaching this situation. I think that the
14 risks for the children involved are too high to
15 leave it to anecdote.

16 CHAIRPERSON STEWART: I agree with
17 you. If you recall, a while ago when we had Mr.
18 Lewis there, he said that there is frequent
19 communication with the different immigration
20 groups and even foster care folks and their
21 training and all of that which paints a picture
22 that there's a lot being done but the results I
23 don't see it in a tangible way what the results
24 are.

25 ILZE EARNER: There may be a lot

1
2 being done but it's not being done in a cohesive
3 manner. I'm very surprised. As I said, I do
4 these trainings with foster care services
5 providers, contract providers and every time I do
6 a training, people act as if this is brand new
7 information. They've allowed cases to slip
8 through the cracks because they didn't have this
9 information. This is over a period of three
10 years, including this year. It just surprises me.
11 If there is all this training done and all these
12 meetings and all this discussion, where is this
13 information going and to who.

14 CHAIRPERSON STEWART: One of the
15 things that I think the task force will avoid is
16 for us to really have, or mandate that we have
17 some sort of a department that deals with this
18 specifically. I think the entire department
19 should be working on it. But if you're afraid to
20 use a task force to really give you guidelines it
21 mean then we may have to set it up in a way that
22 the entire department be doing it in a way that
23 will show us results in terms of the stats. I
24 want to thank you for your testimony. I hope that
25 we can come up with better ways of reaching these

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2 children. Our next panel we have is Nancy
3 Downing, Katherine Fleet and Theresa Moser. If
4 you can first identify yourself and we can get
5 right into it.

6 NANCY DOWNING: Good afternoon. My
7 name is Nancy Downing. I'm the Director of
8 Advocacy for Covenant House New York. I'd like to
9 thank this committee for providing me with the
10 opportunity to testimony here today. I'm
11 testifying in support of Intro 787, a local law to
12 amend the administration code in relation to
13 establishing a temporary task force to review the
14 strategies to protect children who qualify for
15 Special Immigrant Juvenile Status. Covenant House
16 for more than 35 years has been serving homeless,
17 runaway and at-risk youth. We serve about 7,000
18 runaway and homeless youth each year, primarily
19 between the ages of 16 and 21. Many of the youth
20 who we provide services to are homeless in part
21 because of their situation with their families and
22 are undocumented immigrants. Many of these young
23 people do not know their immigration status when
24 they come to us. Some have come through the
25 foster care system. About 35% of the youth that

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2 we see at our shelter have come through the foster
3 care system. About 9% of the youth that we see
4 are undocumented youth. Within that 9% of the
5 youth that we see, so about 700 youth are
6 undocumented, and within that percentage of youth
7 are youth who have come through the foster care
8 system who would have been eligible for Special
9 Immigrant Juvenile Status but who have not had the
10 opportunity to file for a Special Immigrant
11 Juvenile Status for various reasons. One of the
12 things that we're finding more recently is that
13 particularly for youth who are nearing the age of
14 18; we continue to see delays in processing their
15 cases by the Administration for Children's
16 Services. The other thing that we're seeing is,
17 particularly for youth who are 16 and 17 year olds
18 is there is a resistance in terms of taking them
19 in to care. These are youth who SIJS may be their
20 only opportunity to change their immigration
21 status. So we're looking at them then leading the
22 life of poverty, homeless and in constant fear of
23 deportation. Each year we also see case of youth
24 who sign themselves out of foster care at the age
25 of 18, again unaware of their immigration status

1
2 and/or unaware of the need to remain in foster
3 care while their case is being decided through
4 SIJS. Here again, we're looking at young people
5 who are losing the opportunity available to them
6 to legalize their immigration status. For many of
7 them it is the only opportunity that they will
8 have. This isn't a new issue, as some of you have
9 said, it's been one that's been going on for
10 several years, and therefore we support the need
11 for the immediate establishment of a temporary
12 task force to review strategies to protect our
13 city's children who qualify for SIJS. Again,
14 strategies that would include more in-depth and
15 ongoing training of ACS caseworkers concerning
16 SIJS, better identification and tracking of youth
17 in foster care who qualify for SIJS and more
18 effective delivery of information and education to
19 youth concerning their immigration status and the
20 consequences of signing themselves out of foster
21 care before they've had the opportunity to apply
22 for SIJS. I'd like to thank you again for holding
23 this hearing. And again, we support Into 787.
24 Thank you.

25 KATHERINE FLEET: My name is

1
2 Katherine Fleet and I'm a staff attorney at the
3 Legal Aid Society. I work on the Immigrant Youth
4 Representation Project. We assist New York City
5 youth in obtaining legal status here in the United
6 States. I just want to echo everyone's thanks to
7 the City Council for its initiative on this issue
8 and its longstanding commitment to it and for its
9 search for new ways of addressing what has now
10 become a longstanding problem. We support this
11 task force and we strongly support the involvement
12 of as many different institutional actors in the
13 task force and we appreciate the involvement of
14 different legal service providers today, different
15 organizations and we welcome an ongoing role in
16 the task force process if it is lucky enough to be
17 created. Our project offers training, outreach
18 and direct services to immigrant throughout New
19 York City and we are very grateful for the support
20 of the Department of Youth and Community
21 Development which has funded us and a number of
22 other organizations in helping to provide these
23 services. We also have to thank the Gimbel
24 Foundation and the New York Community Trust for a
25 lot of their support of our efforts. As we have

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2 participated in this process and served many of
3 the young people who have been eligible for SIJS
4 and who have gotten SIJS, who have been lucky
5 enough to get green cards, we've really seen
6 firsthand the amazing difference that it can make
7 in young people's lives. They can go from living
8 these lives where they have no access to services
9 or at constant risk of deportation and just really
10 have no meaningful hope for the future. They can
11 change in one day after one hearing at U.S.
12 Citizenship and Immigration Services into really
13 full-fledged participating members of society who
14 can get jobs, who can go to college and who can
15 stay in the United States without constant fear of
16 the next person stopping them on the street asking
17 them about their immigration status and sending
18 them away to a detention facility and deportation
19 in many cases to countries that they have no
20 memories of or they don't speak the language.
21 Throughout the years we've actually been part of
22 groups working on this issue and we have made a
23 lot of progress. A lot has been done. We meet
24 regularly with ACS staff. Mr. Lewis comes every
25 other month to meetings with legal service

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2 providers and we sit down and we talk about
3 issues, and we talk about issues, and we talk
4 about issues and in many individual cases we
5 resolve these issues and we are able to make young
6 people, even if they come at the last minute, even
7 if they have tough cases, even if their caseworker
8 is in the situations Ms. Elgabry discussed. You
9 know take years and years to do extremely simple
10 things. You know we've managed in some way
11 through some resources somehow to work out some of
12 those individual cases. There is still so much
13 that can be done. We're really grateful that
14 there are these processes of going through
15 existing files and old files. But every day
16 you're sitting at the computer going through old
17 files trying to track some of these long term
18 foster care youth, new kids are coming into
19 contract every day and in three years you're going
20 to have to go through those same old dusty
21 confusing records for them to figure out if they
22 qualify for SIJS. I mean we have to create
23 solutions that identify these problems and address
24 them at intake, at the very first moment that
25 these young people have contact with ACS. Right

1
2 now there is still no systematic form of
3 identifying youth who are eligible for SIJS.
4 There is very limited knowledge. There is a focus
5 on trying to address this issue before young
6 people age out but it's often way too late. Kids
7 have missed out on summer youth. They can't be
8 part of school internship programs. They can't
9 make college applications so they're not going to
10 be able to go if they haven't applied. Many young
11 people without immigration status are somehow
12 discouraged from even applying to colleges because
13 of the limited prospects of financial aid. Even
14 the cases that we do get referred we have huge
15 challenges obtaining birth certificates and
16 obtaining the document that we need. I think Ms.
17 Elgabry's testimony illustrated that very clearly.
18 Just this morning I got a phone call from someone
19 on a case I've been working on for about a year
20 already. One of the caseworkers asked me where
21 the court order is directing me to provide
22 immigration service for this young person. I said
23 you don't need a court order. It's your
24 obligation as a person who's committed to the best
25 interests of this child. There are countless

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2 memos from ACS. There's the Office of Children
3 and Family Services ADM. I'm like why do you need
4 need a family court judge to waste precious court
5 resources to say do your job, which you know
6 frankly for many of these issues, especially birth
7 certificate, it is their job. It's in the
8 regulations. They have to do it, they just don't.
9 I just wanted to go through a few specific issues
10 that came up and then a few specific
11 recommendations just to clarify. I know there has
12 been a lot of confusion on the law. Ms. Elgabry
13 noted that there was a legislative change last
14 year. We're extremely lucky. Lots of great
15 things happened in 2008. one of the great things
16 that happened is that SIJS eligibility expanded
17 broadly. So it's not just lifers in foster care.
18 It's not just long terms foster care. That word
19 is nowhere in the federal statute anymore. So to
20 qualify for SIJS you have to be under 21. you
21 have to be unmarried. You can be what they say is
22 dependent on the family court and you can also be
23 appointed in state custody which includes the
24 foster care population. You can be in state
25 appointed custody or court appointed custody. So

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2 if you're in foster care, if you're in
3 delinquency, if you're in custody, if you're in
4 guardianship, you can qualify. So the law has
5 really expanded. It's given us a much bigger
6 population that we can assist and at the same time
7 we have a much greater responsibility to be
8 helping a much larger group of people. So this
9 new legislation amendment and this great ADM, this
10 is all positive change and it's momentum and it
11 gives much more importance to this task force and
12 to the need right now to step in and say look, how
13 do we find these kids, how do we process these
14 kids, how do we do what the ADM tells us in a
15 systematic way that we can measure and that works
16 and that doesn't leave us with 23 year old kids
17 who are jobless, homeless and facing deportation
18 with absolutely nothing that even the well
19 intentioned lawyers who get their cases at some
20 point, I mean there's just going to be nothing we
21 can do in those cases. Those cases exist and they
22 are really frustrating. One other thing I do want
23 to point out about the TVPRA is also that it
24 provides a provision for reimbursement by the
25 federal government to states for expenses related

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2 to youth who obtain SIJS and it's subject to a
3 federal appropriation. But if we're worried about
4 money, first of all fees to US CIS we get waived
5 now so there is actually no fee paid to
6 Immigration. But potentially if there is an
7 appropriation and I don't work in Washington so
8 that's beyond me, but if there is an appropriation
9 it could be that states will get reimbursed for
10 the money that they're spending on these youth.
11 So while these kids are not fully eligible when
12 they come into foster care, it may be possible
13 that ACS gets some money for them later which
14 hopefully sweetens the pot for fixing how we deal
15 with this problem. Our recommendations are
16 outlined in our testimony and consistent with what
17 Lawyers for Children has suggested, we definitely
18 think that there should be a data system that just
19 systematically tracks country of origin while
20 protecting confidentiality. We obviously think
21 every child in care should have a birth
22 certificate. We've thought that for a long time
23 and the law thinks that and there's actually a
24 regulation that says that is an obligation. I
25 talk to caseworkers every single day who have no

1
2 idea if their kid has a birth certificate and have
3 absolutely no idea how they would go about getting
4 one. In many of those cases we can refer to Mr.
5 Lewis and to his very capable but very small and
6 very funding-less office, which as he said relies
7 on outside funding, grants from private
8 foundations to survive and to do some of the
9 things that he mentioned that they're doing today.
10 We really recommend that ACS provide additional
11 support for foster care agencies if they go try to
12 find birth certificates for kids. There are a lot
13 of obstacles to getting birth certificates. Like
14 all of the individual countries of origin of these
15 kids have their special rules and there's a lot of
16 advocacy that needs to be done at the individual
17 case level and frankly at the city level because
18 this is a real gap. If you go to a consulate
19 asking for a birth certificate they want your mom
20 to sign off and it's hard to go and explain my mom
21 burned me and if I go ask my mom for her signoff
22 for my birth certificate this is not a healthy
23 activity in my life. This is not something I
24 should be doing. A lot of the consulates just
25 need some city agency, and we've gotten the

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2 Mayor's Office involved, we've done lots of things
3 to try to make this easier but it's a perennial
4 problem. It's still without resolution. We think
5 all non-citizen youth without proper documentation
6 should be referred to legal service providers, so
7 not just SIJS eligible youth. And I think the
8 discussion today where different people were
9 saying that the SIJS requirements were one thing
10 and then somebody said it was something else. I
11 mea there's a lot of confusion with the changes in
12 the law and it's very difficult to educate people
13 about complication legal eligibility requirements.
14 Every kid without legal status, go to a lawyer, go
15 to a legal service provider, let that person who
16 makes his or her life reading the regulations and
17 reading the fine print, let them figure out what
18 you qualify for exactly and whether it's a SIJS or
19 a U Visa, but send all of the undocumented kids to
20 legal service providers to see if there's
21 something, anything that we can do to make them
22 fully participating members of society. In terms
23 of the U Visas, it's a great form of relief and we
24 could talk a lot more about it but it is for crime
25 victims and there needs to be a certification that

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2 someone has been a victim and has been helpful in
3 the investigation or detection of that crime. ACS
4 can certify, the family courts can certify, so
5 really a lot of youth who have contacts with the
6 family court or the ACS system will be eligible
7 for this. We think that young people should be
8 identified absolutely as early as possible, not
9 just when they're about to age out. I mean I
10 think it's really important to focus on that.
11 We've had lots of clients. I just had a client
12 that got her application approved last week and
13 she turns 21 in November but she already had
14 housing denied. She was doing transitional
15 housing to get NYCHA and her denial already
16 occurred even though we got her application in
17 just in time. The earlier the better because
18 along the way there are lots of opportunities that
19 young people are not allowed to take advantage of
20 without lawful immigration status. Training is
21 great and it's great that these activities at
22 Hunter College are taking place for some of the
23 foster care agencies, but there is not enough
24 direct training of the real front lines with these
25 young people which is the contract foster care

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2 agencies. The trainings are not mandatory,
3 they're not frequent and most of us who have
4 contact with these people on a daily basis have
5 really perceived their lack of knowledge and
6 familiarity with these issues. We do recommend
7 that there be a SIJS unit inside of ACS. We think
8 that the staff should include a staff member who
9 is part of family court legal services. We're
10 really grateful that Family Court Legal Services
11 is here today. I believe it's Ms. Morgan who was
12 here along with Mr. Lewis. But Family Court Legal
13 Services is not formally part of the Office of
14 Immigrant Programs and we get a lot of help from
15 Mr. Lewis and an amazing lawyer and Family Court
16 Legal Services Mr. Gelb, but it's not Mr. Gelb's
17 job to provide this assistance for us. This is
18 above and beyond his responsibilities as a
19 supervising attorney at Family Court Legal
20 Services. He provides an amazing amount of
21 assistance and training and individual case
22 assistance and problem resolving and we really
23 think that someone like that needs to be funded
24 for training, for the individual case support, not
25 necessarily for filing the applications. We

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2 support ACS involvement but in actually filing the
3 SIJS applications we do think that that should be
4 done by lawyers who are representing the children
5 and not the commissioner. Finally, we think that
6 ACS should take a bigger role in coordination and
7 addressing the issues like in the case of Anna
8 that Ms. Elgabry mentioned where the social worker
9 takes an entire year to get a medical exam. I
10 mean I can speak as an attorney with extremely
11 limited resources and a very large caseload that
12 if I have to spend 30 or 40 phone calls getting
13 someone to do a medical exam it's going to prevent
14 my being able to take three or four other cases
15 that I could take and young people I could assist
16 in the course of a year. I do just want to thank
17 the City Council and I do hope this task force
18 comes into being. We've been here and we've
19 talked about this many, many, many times and I do
20 appreciate Mr. Lewis' willingness to address this
21 issue and he's extremely cooperative in coming to
22 our meetings and his staff is great at resolving
23 individual problems. He says I'm going to take
24 that back. Well I want him to take that back to
25 someone who is going to listen. I have no doubt

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2 that Mr. Lewis cares and that he's going to try,
3 but what he's able to do I think is limited by a
4 lot of institutional structures and by the lack of
5 support of who he takes it back to or when he
6 takes it back what he's really able to do. I
7 think that's it. Thank you.

8 THERESA MOSER: My name is Theresa
9 Moser. I'm from the Juvenile Rights Practice,
10 also from the Legal Aid Society. I was appearing
11 with Ms. Fleet. I would just pose one query in
12 addition to Ms. Fleet's testimony which is that
13 Mr. Lewis indicated, I think it was in the
14 question and answer that ACS facilitators of
15 family team conferences will all be trained on
16 immigration issues so that they can raise those
17 issues during the periodic family team
18 conferences. However, it's my understanding that
19 ACS staff does not facilitate all of those
20 conferences. So this goes again to the question
21 of training of the foster care provider agencies
22 and whether the foster care provider agency
23 facilitators will also be required to undergo that
24 same training so that they'll be able to identify
25 immigration issues. Thank you.

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2 CHAIRPERSON STEWART: As far as the
3 foster care agencies are concerned, what services
4 are mandatory to staff at foster care? Is it any
5 medical examination? What is it that we do when a
6 child is placed in foster care? What is the first
7 thing that they do? What do they do?

8 NANCY DOWNING: I could go on at
9 length about in response to that question. What
10 I'll say is that when a child enters foster care
11 they're in the care and custody of the
12 commissioner of the Administration for Children's
13 Services. The commissioner has contracted with
14 foster care provider agencies to care for the
15 children. So in a sense what they're supposed to
16 be doing for those children is everything that a
17 parent does for a child. As a practical matter,
18 what happens when a child enters foster care is
19 yes, they do undergo a medical. Many foster care
20 agencies have their own clinical and medical staff
21 that does that for them. Other foster care
22 agencies use outside providers. But then in the
23 long term it's the foster care agency's
24 responsibility to identify all service needs of
25 the family. So for the children it could be

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2 educational needs, medical needs, mental health
3 needs and the same for the family. From the
4 initiation of a case their goal is to reunify a
5 family. So they are supposed to be providing
6 services or making referrals for services for the
7 family. Along the way they need to identify
8 whether family reunification is going to be
9 successful or not or whether it continues to be a
10 realistic goal and a lot of factors go into that
11 determination including how long the child has
12 been in care. But as many people have said here
13 today, regardless of whether the goal is for the
14 child to be returned to the parents, immigration
15 issues should be being addressed from the
16 beginning. That's part of what a child may need.
17 It's one of an array of service needs that
18 children in foster care have. I would just also
19 point out that at the end of a family court case,
20 a family court judge can place a children in
21 foster care. They can also order a direct
22 placement with a relative. So it's not the same
23 as a guardianship, where a guardianship petition
24 is filed and a relative gets guardianship of the
25 child, but the child is with the relative in their

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2 care but ACS retains some responsibility for that
3 child and there is still periodic court review of
4 that case. So the distinction is more like that
5 the relative says I don't need the support of
6 foster care monies, I don't need the support of a
7 foster care agency to take care of my young
8 relative but the social services district does
9 still retain some responsibility for that child.

10 CHAIRPERSON STEWART: But in that
11 case, is that child eligible for the SIJS.

12 NANCY DOWNING: Yes.

13 CHAIRPERSON STEWART: Is the new
14 relative or whoever, the person that got them, is
15 that person begin advised that this is a benefit?

16 NANCY DOWNING: I doubt it.

17 CHAIRPERSON STEWART: Is there any
18 way we can make sure that that happens?

19 NANCY DOWNING: To make sure that
20 that happens, that might be something that the
21 task force could do. It's not clear to me. We
22 haven't been given information from ACS about
23 whether or how that's being done. But certainly
24 that child would still be eligible.

25 CHAIRPERSON STEWART: All right.

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2 As I hear you speak there is an issue there when a
3 child comes in with ACS, it's either a quick way
4 of trying to see if the child can be reunified
5 with some relative and not look at the issue of
6 the immigration part of it. How do you determine
7 when should we be looking at the immigration
8 status of that child?

9 NANCY DOWNING: I think as many
10 people have said here today, whether or not the
11 plan or the permanency goal is for the child to be
12 returned to the parent, the people who are
13 responsible for this child should be starting to
14 look at whether there is an immigration issue from
15 the moment the child becomes involved with the
16 child welfare system.

17 CHAIRPERSON STEWART: That's what
18 we would like. But I get the feeling that when a
19 child comes before ACS is that they're going to
20 look to see if there is a possibility of
21 reunifying this child and if there's a great
22 possibility of reunification that immigration
23 piece is lost because they may not spend the time
24 to deal with that issue.

25 KATHERINE FLEET: I mean I think a

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2 part of what you're talking about is really a
3 confusion or a shift in what needs to happen now
4 that the law has changed. I mean I think
5 throughout this process ACS has been focusing on
6 youth in custody. I think we've all discussed
7 today that SIJS is available to youth who are not
8 in ACS custody but with whom ACS has contact. I
9 think that a really important the task force could
10 do is figure out how ACS contacts can really
11 benefit New York City immigrant youth because
12 these are some of the same kids who will come into
13 contact with the schools when they're being
14 enrolled in high school and someone may hopefully
15 ask the question of who the guardian is or whether
16 they have a guardian. But this is an opportunity.
17 An ACS contact is an opportunity, whether or not
18 this young person stays in ACS custody, whether or
19 not the young person is in long term foster care
20 under New York law which again is not required
21 under the law as of the 2008 changes. This is a
22 great opportunity. It's a great opportunity when
23 people go into the family courts in custody cases
24 and in guardianship cases. If we can come up with
25 ways of taking advantage of ACS contacts to inform

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2 young people about the availability of SIJS, maybe
3 those are systems that can be replicated in the
4 schools and maybe those are systems that can be
5 replicated in the family courts and other types of
6 cases that aren't ACS involved cases. In the
7 guardianships, ACS is actually involved in
8 performing the home investigation that's a part of
9 the clearance process to allow someone to become a
10 guardian. I mean that is another moment in many
11 cases, not all. But I really think that if we can
12 give the task force the job of figuring out how to
13 maximize the utility of the ACS contact, whatever
14 it leads to, whether it's a dismissal, whether
15 it's a direct placement with a parent, whether
16 it's the kid stays for his or her whole lifetime
17 in foster care. I mean this is really a chance
18 that we have to help and unfortunately there
19 aren't as many of these opportunities available to
20 young people in other structures throughout the
21 city.

22 THERESA MOSER: I would also just
23 say in response to your question about if they're
24 just focused on reunification that even in a case
25 where it's almost a certainty that the children

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2 will be returned to their parents, I think even
3 Mr. Lewis would agree with me that ACS should be
4 taking on the responsibility and the provider
5 agencies of identifying not just whether the child
6 has an immigration issue but whether the family
7 has one that they can be assisted with so that
8 maybe a referral is going to be made for the whole
9 family and not just the child. But that still
10 should be addressed from the time the child enters
11 care.

12 CHAIRPERSON STEWART: I feel we
13 have some support out there and I'm glad for that.
14 I want to thank you folks for coming in and
15 testifying. I hope we can work with Mr. Lewis and
16 the folks over at the agency to make sure we can
17 put this task force together that he can at least
18 have some sort of a say in what type of task force
19 it should be and who should be involved and what
20 agencies and the different immigration folks that
21 should be involved in this. This is very
22 important and it's something that is under the
23 radar so that a lot of people don't really know.
24 We need to at least get that information out
25 there. I think some other states and cities might

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be doing better than we are doing. So we need to
look at the other states and the other cities and
see what they're doing and just compare and maybe
we can come out with a good product protecting our
children. Thank you. We call this hearing
adjourned.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature *Donna Hintze*

Date November 6, 2009