



Family Finding and Engagement Beyond the Bench: Working Across International Borders

By Felicity Sackville Northcott and Wendy Jeffries

ABSTRACT

The unsupervised or hastily conceived movement of children out of foster care is not in the best interest of any child. Careful consideration of all possible permanency options must take place, and include the input of all potential care givers, stakeholders, and the child. Legal and judicial partners in the child welfare process must take a broader approach to family finding and engagement for every child in foster care so that more children find permanent homes. The goal of family finding and engagement may not be placing a child with a family member but can include locating non-custodial parents to terminate rights to free the child for adoption, to notify a non-custodial parent that his child is in care and explore his interest in reunification, or finding family members who may not be able to take physical custody of the child but can act as a resource for her. Each of these can be a viable permanent outcome in the best interest of the child and, therefore, should not be limited by geographic or cultural boundaries. All stakeholders in the permanency planning process can address these potential barriers by adopting a broader, more global, view of the range of permanent placements and family connections for all children in foster care.

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008¹ provides that, “within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence.” The law does not impose, or suggest, geographic limitations in stipulating the need to notify family members. Therefore, Fostering Connections requires that family finding and engagement occur regardless of where the child’s family may reside.

The focus of this paper is international family finding and engagement for the growing number of children in the United States foster care system who may have family connections

¹ *Fostering Connections to Success and Increasing Adoptions Act of 2008*, Public Law 110–351, *U.S. Statutes at Large* 122 (2008): 3949.

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outside of the country. First, children in foster care with potential kinship connections outside of the United States are not afforded the same due diligence in searching for family as children who have potential domestic connections. Data collected by International Social Service-USA branch (hereafter ISS-USA) under a Fostering Connections to Success Demonstration Project Grant² support this contention. Second, although certain logistical, fiscal, and practical obstacles exist to international family finding and engagement, it is both a legal and moral obligation to utilize existing resources, and to support creation of new resources, to overcome these barriers. Finally, this article will discuss best practices in international family finding and engagement and how legal stakeholders can, and must, collaborate with social service providers to ensure that permanency planning proceeds with the best interest of the child as the central focus. The article will provide information on how to access existing resources and suggest that additional resources must be developed to ensure that the mandate of due diligence is being met.

ALL FAMILIES ARE POTENTIALLY TRANSNATIONAL

In today's world, more and more individuals are traveling or moving to countries other than their countries of origin. Many push-and-pull factors contribute to the growing movement of people around the world: the globalized economy provides for jobs in foreign countries; people search for better educational opportunities; military service; study-abroad programs; domestic unrest; natural disasters; and economic crises. The United States is both a sending and receiving country as more Americans are living overseas, and immigration to the U.S. remains a goal for many around the world. In fact, nearly 6 million U.S. citizens live outside the country while fewer than 2 million people emigrate to the U.S. annually.³

Americans Living Overseas

Just as many individuals and families from other countries decide to relocate to the U.S., many Americans decide to live outside the U.S., either temporarily or permanently. Data on Americans living overseas are not collected or reported as comprehensively as data on immigration to the U.S., however, the numbers do suggest that a significant number of Americans have made their homes elsewhere.

Data from the 2000 U.S. Census approximates that 580,000 federal employees and dependents, including 226,363 military personnel, 30,576 civilian employees, and 319,428 dependents of military and civilian employees were living overseas.⁴ Interestingly, the Census Bureau decided against collecting the same data again in the 2010 Census because "it does not

2 International Social Service-USA (ISS-USA), in partnership with Rutgers University Institute for Families and New Jersey's Department of Children and Families, Division of Youth and Family Services are undertaking a three-year demonstration project entitled *Expanding Options for Permanency: International Family Finding for U.S. Children in the New Jersey Foster Care System*.

3 Julia Gelatt, *Annual Immigration to the United States: The Real Numbers*, MPI IMMIGRATION FACTS 16 (2007), available at http://www.migrationpolicy.org/pubs/FS16_USImmigration_051807.pdf.

4 Claire M. Smith, *Civilian Americans Overseas and Voter Turnout*, 2 OVF RESEARCH NEWSLETTER, no. 4 (2010), available at <https://www.overseasvotefoundation.org/files/counting%20american%20civilians%20abroad.pdf>.

know the number of private Americans living abroad under the other categories. No accurate estimate exists of the total number of Americans living abroad or of the other components of this population.”⁵ However, according to the Association of Americans Resident Overseas, an additional 5.1 million U.S. citizens live abroad.⁶ Also, 260,327 U.S. students studied abroad for academic credit in 2008/09.⁷ Of course, most of these students return to the U.S. and remain here after graduation, but some decide to return to live abroad at some point in the future. Adding up these various groups, nearly 6 million U.S. citizens currently live outside the country. Therefore, child welfare systems cannot continue to disregard the possibility that some of these expatriates are undoubtedly related to children in the foster care/child welfare system and could be potential resources for those children.

Immigrants to the U.S.

According to U.S. Census data,⁸ in 2009, more than one in five of all children (22%) in the U.S. had at least one foreign-born parent. Furthermore, 3% of all children residing in the United States were foreign-born themselves.⁹ These transnational families can include one or a combination of several categories, including legal permanent residents, naturalized citizens, refugees, and undocumented immigrants. Each of these groups has different legal statuses, but they share a high probability that they have family connections in another country.

Legal Permanent Residents and U.S. Naturalized Citizens

Just over 16 million legal permanent residents, and another 16 million naturalized U.S. citizens, live in the United States.¹⁰ We can safely assume two characteristics about these populations: First, many adults in both these populations have family still living in their country of origin. Second, the U.S.-born children of these populations *and* the population of naturalized and legal permanent resident children have a high probability of having relatives outside the U.S. When one of these children requires alternative care, or needs family resources and assistance in permanency planning, finding and engaging these international family connections is essential.

5 *Id.* at 6.

6 The Association of Americans Resident Overseas (AAR) 2010, <http://www.aaro.org>.

7 Institute of International Education, *Opendoors Fast Facts, International Students in the U.S. and U.S. Students Studying Abroad* (2010), available at <http://www.iie.org/Research-and-Publications/Research-Projects/~media/Files/Corporate/Open-Doors/Fast-Facts/Fast%20Facts%202010.ashx>.

8 U.S. Dep’t of Health & Human Services, Health Resources and Services Administration, Maternal and Child Health Bureau, *Children of Foreign-Born Parents*, CHILD HEALTH USA 2008–2009, 2009.

9 Federal Interagency Forum on Child and Family Statistics. *America’s Children in Brief: Key National Indicators of Well-Being, 2010, Focus on Family and Social Environment*, available at <http://www.childstats.gov/americaschildren/famsoc.asp>.

10 Randall Monger & James Yankay, U.S. Dep’t of Homeland Security: Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2010, ANNUAL FLOW REPORT* (2011), available at http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_fr_2010.pdf; Nancy Rytina, U.S. Dep’t of Homeland Security: Office of Immigration Statistics, *Estimates of the Legal Permanent Resident Population in 2009, POPULATION ESTIMATES* (2010), available at http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_pe_2009.pdf; James Lee, U.S. Dep’t of Homeland Security: Office of Immigration Statistics, *U.S. Naturalizations: 2010, ANNUAL FLOW REPORT* (2011), available at http://www.dhs.gov/xlibrary/assets/statistics/publications/natz_fr_2010.pdf; Jeanne Batalova, Migration Policy Institute, *US in Focus: Spotlight on Naturalization Trends*, MIGRATION INFORMATION SOURCE (2009), available at <http://www.migrationinformation.org/USfocus/display.cfm?id=737>.

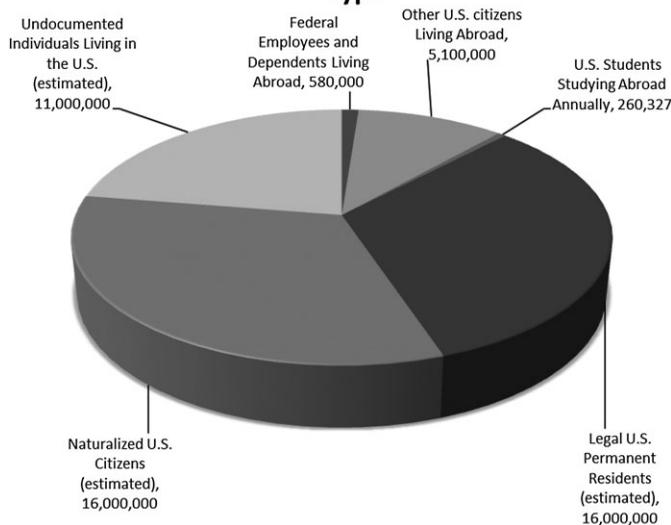
Undocumented Immigrants

The number of undocumented immigrants living in the United States is highly contested. The nature of the political and social debate about the role of these individuals, and the fact that many undocumented immigrants are uncoun­ted in census and community survey data, make an exact figure impossible. Reliable estimates put the number at just over 11 million. Children under 18 comprise an unknown percentage of this population. The remainder is adults who undoubtedly have family outside the United States. Regardless of the parent’s or child’s legal status, due diligence must be made in international family finding, engagement, and evaluation of family for permanent placement. It can often be difficult to identify other undocumented family members living in the community because of fears about legal ramifications of becoming known to social or legal services. It is important to reassure families that the focus of family finding and engagement is to protect the child’s best interests and not to enforce immigration statutes.

Trends in the Increase of Immigrants to the U.S.

Family finding and engagement must not be limited to children involved with child welfare agencies who are identified as being immigrants or children of immigrants. The previously mentioned census data on foreign-born individuals living in the United States both legally and undocumented, and the number of American expatriates, make it clear that the population of children with potential overseas family connections is far higher than those identified as simply immigrants or children of undocumented immigrants. In fact, the total number of legal permanent residents, naturalized citizens, and undocumented immigrants accounts for nearly one-sixth of the entire U.S. population. Importantly, these families are spread across the United States and may be indistinguishable from their native-born neighbors. The chart below illustrates the number and type of individuals with international family connections.

Potential Overseas Family Connections by Type



Immigrant children and children of immigrants are no longer only located in the traditional six top immigrant states: California, Texas, New York, Florida, Illinois, and New Jersey. Nor are these families only from south of the United States border. In 2008, these top six states accounted for 65% of the children of immigrants. This percentage, however, was a decrease from 73% in 1990.¹¹ In fact, between 1990 and 2008, six **other** states experienced dramatic increases in their children of immigrant populations of more than 300% compared to an average increase of only 77% for the traditional six states. The six states with the largest gains in their children of immigrant population were:¹²

- North Carolina—508% increase
- Nevada—454% increase
- Georgia—444% increase
- Arkansas—400% increase
- Nebraska—350% increase
- Tennessee—348% increase

Many of these families come from Central and South America, but children of immigrants come from around the world. In fact, ISS-USA provided services for the State of New Jersey in nearly 60 countries between 2007 and 2010. U.S. Census data from 2008 on children of immigrants support these trends:¹³

- 22% have family from Asia (including 10% from East Asia and the Pacific, 8% from the Middle East/South Asia, and 4% from Southeast Asia)
- 11% have family from Europe, Canada, and Australia
- 8% have family from Africa and the West Indies.

These data highlight the diverse nature of the children who may have family connections abroad. More important, it cannot be guessed or assumed that these children do or do not have international family connections because of where they live, the language they speak, their last name, or their physical appearance. Based on these statistics, ISS-USA does not believe it is best practice to limit family finding outside the United States to families identified as immigrants. Rather, these numbers must compel inquiry for *every* child and *every* family about international family resources to support permanency planning for all children in the United States foster care system.

CHILDREN WITH TRANSNATIONAL FAMILIES INVOLVED WITH CHILD WELFARE

Knowing that a significant number of children in the United States have family outside the country, we must ask: “How many of these children become involved in the child welfare

¹¹ Karina Fortuny, *Children of Immigrants: 2008 State Trends Update*, 17 THE URBAN INSTITUTE BRIEF (2010).

¹² *Id.*

¹³ *Id.*

system?” and “How many other children involved in the child welfare system have potential family resources outside of the U.S.?” The answers to these questions are difficult to determine as federal, state, and local governments have not required their social workers to engage in family finding for relatives outside the U.S. in any systematic way.

We know that in FY 2009 an estimated 763,000 duplicate and 702,000 unique (never before involved with social services) children were victims of maltreatment in the U.S.¹⁴ No accurate data, however, show how many children involved with child welfare agencies have international family connections. In fact, while the U.S. Department of Health and Human Services tracks the percentage of Latino children involved with the child welfare system, “the portion of these children who are immigrants or children of immigrants is unknown, as these data are not collected uniformly at the state or national levels.”¹⁵ We can, however, get some idea of the number of children with international connections by looking at two smaller sets of data: the number of children of immigrants or children who are immigrants themselves who come to the attention of the child welfare system, and data ISS-USA is collecting as part of a federally funded project being conducted in New Jersey in partnership with the state’s child welfare agency.

Certainly not all, or even most, children of immigrants or immigrant children end up in the child welfare system, but many of these families are at increased risk for becoming involved with social service and law enforcement agencies due to poverty, language barriers, and lack of formal education. When these children do become involved with social services, it is critical to explore the possibility of family resources outside the U.S. Children of immigrants or immigrant children are a relatively small percentage of the overall number of children involved in the child welfare system, but the numbers are significant. Recent data from the National Survey of Child and Adolescent Well-Being show that “9.6% of children reported to child welfare agencies are living with a foreign-born parent or caregiver.”¹⁶ Using this statistic, and the 2009 data from Adoption and Foster Care Analysis and Reporting System (AFCARS), that 424,000 children were in care as of September 30, 2009,¹⁷ we know that approximately 40,704 children of immigrants are in care. There is a very high probability that these children have family outside of the United States. In addition, as mentioned previously, a growing number of American citizens are living abroad. Undoubtedly, some children in care are related to these expatriates. The actual number of children in care who have potential family connections outside the United States is much higher than the known data imply. Yet even if we rely solely

14 U.S. DEP’T OF HEALTH & HUMAN SERVICES, ADMIN. FOR CHILDREN & FAMILIES, ADMIN. ON CHILDREN, YOUTH & FAMILIES, CHILDREN’S BUREAU. CHILD MALTREATMENT 2009 (2010). Available at <http://www.acf.hhs.gov/programs/cb/pubs/cm09/cm09.pdf>.

15 Alan J. Dettlaff & Ilze Earner, *Children of Immigrants in the Child Welfare System: Findings from the National Survey of Child and Adolescent Well-Being*, MIGRATION AND CHILD WELFARE NATIONAL NETWORK RESEARCH BRIEF (n.d.), available at <http://www.americanhumane.org/assets/pdfs/children/pc-childofimmigrantpdf.pdf>.

16 U.S. DEP’T OF HEALTH & HUMAN SERVICES, Children’s Bureau, 11 *Child Welfare News*, no. 6 (2010), at 1, available at <http://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=118§ionid=3&articleid=2933>.

17 U.S. DEP’T OF HEALTH & HUMAN SERVICES, ADMIN. FOR CHILDREN & FAMILIES, CHILDREN’S BUREAU, TRENDS IN FOSTER CARE AND ADOPTION—FY 2002-FY 2009, AFCARS DATA (2010), available at http://www.acf.hhs.gov/programs/cb/stats/_research.

on the figures we can account for, we know with certainty that the standards of due diligence in finding and engaging these family members is not being met, with one notable exception: the State of New Jersey.

The New Jersey Department of Children and Families-Division of Youth and Family Services (hereafter DYFS), a state-based child welfare system, is at the forefront of ensuring that due diligence is being met for children in their care who may have family connections outside the United States. In addition to a long-standing contract with ISS-USA to provide intercountry services, DYFS is revising both its policy and procedure to reflect best practices in international family finding. Prior to the current federally funded project to enhance these services and research the outcomes for these children, ISS-USA predicted that, based on the percentage of children of immigrants and New Jersey's foster care population, about 1,500 children in DYFS care potentially have international family connections. Yet, traditionally ISS-USA has provided services for only about 160 children a year in New Jersey. These data illustrate that despite DYFS' extraordinary commitment to family finding and engagement, a significant number of children with overseas families are still not being included in the permanency planning process.¹⁸ However, we do know that there has been an increase in the number of cases referred for international case management and, perhaps most importantly, an increase in the number of children placed with family outside the U.S. This can be attributed to both the increase in training on how to manage these cases and an awareness of the need to search for and engage families for every child in DYFS care.

Finally, to fully understand our assertion that a potentially large pool of children have probable overseas family connections and resources, it is essential to understand the numerous ways in which children become separated from family across international borders and how children become involved with the child welfare system in our country.

Children become involved with the child welfare system for many reasons. In the majority of instances, children with international family connections end up in the care of a child welfare agency for the same reasons as other children. The most common causes of children being taken into the care of a child welfare agency, or who are in need of alternative care, are: (1) a parent(s) is incarcerated, (2) a parent(s) is deceased, (3) parent(s)' rights are terminated, (4) parent(s) abandons the child, and (5) parent/guardian abuses and/or neglects the child. In addition, however, children with family resources outside of the U.S. come to the attention of their local child welfare agency for other reasons. For example, international parental abduction results in the child being moved from her state of habitual residence to a foreign country, often the abducting parent's country of origin. Children also can be trafficked into the U.S. When law enforcement authorities or social service agencies discover that there is no adult relative in the country to care for a child, she can be placed into the care of the local child welfare agency. Similarly, a U.S. citizen child can be taken into social service custody as a result of her parent(s) being sent to their home country through immigration enforcement.

Regardless of the specific number of children who become involved with the child welfare system and how they become separated from family, states need to exercise greater diligence in

¹⁸ Final data on the increase in referrals for overseas family finding for children in DYFS's care will not be available until after the completion of the current project in 2012.

family finding for, and engagement of, families outside of the United States for U.S. citizen foster children. Although there are potentially tens of thousands of children in the United States with international family connections, ISS-USA has handled only a small number of cases from each state on a yearly basis. If each state placed children with families overseas in only 1% of their cases, the total savings to states would be in excess of \$160,000,000 and would result in the permanent placement of over 4,000 foster children with family.¹⁹ (Please see ISS-USA's Estimated Minimum Number of Children with International Family Connections by state in Appendix A.)

COMMON OBSTACLES AND BARRIERS TO DOMESTIC AND INTERNATIONAL INTERJURISDICTIONAL PLACEMENTS

Ongoing concerns about the process of domestic interjurisdictional placements within the United States apply equally to international placements. In general, problems in domestic interjurisdictional placements are commonly encountered in international cases as well. The genesis of these problems can be traced to similar causes, each of which must be addressed by increased training, staffing, access to resources, revised policy, and protocol.

A 2006 report prepared for U.S. Health and Human Services, Administration for Family and Children (HHS-ACF) Children's Bureau entitled "Interjurisdictional Placement of Children in the Child Welfare System: Improving the Process" (hereafter, the ACF Report) cited eight barriers to interjurisdictional placement: staffing and resources; training and knowledge; staff attitudes and beliefs; educational and medical expenses; criminal background checks; communication; permanency; and tracking and reporting. A 2009 survey by AdoptUSKids of Interstate Compact on the Placement of Children (ICPC) staff and coordinators also documented the biggest obstacles reported by ICPC personnel to timely interstate placements.²⁰ In this report, the cited obstacles to exploring the possibility of an interstate placement included that it is "[s]een as too much work/it's difficult/it won't be successful." Although these are recognizable concerns, it is likely these sentiments have to do with fear of the unknown and/or lack of knowledge, training, or resources to feel confident in handling these types of cases. ISS-USA has found that in addition to these barriers and obstacles to interstate placements, respondents to a needs assessment survey of New Jersey DCF-DYFS employees cited several other barriers to interjurisdictional placements both domestically and internationally (see Figure 1).

Practically, what these numbers mean is that in many states, staff is not pursuing the possibility that a relative or adoptive placement, which may be in the child's best interest, is located outside the jurisdiction. We will examine a few of the cited obstacles that we believe are particularly pertinent when discussing international family finding and engagement, and then will suggest specific resources to help overcome these complex problems.

¹⁹ Based on the calculation that the average cost per year, per child in foster care is \$40,000 and 1% of the total number of children in foster care ($n = 423,773$) is 4224. $\$40,000 \times 4224 = \$168,960,000$.

²⁰ BARBARA DALBERTH, JENNIFER HARDISON, DEBORAH GIBBS, & SUSAN SMITH, INTERJURISDICTIONAL PLACEMENT OF CHILDREN IN THE CHILD WELFARE SYSTEM: IMPROVING THE PROCESS. (Report prepared by RTI International for U.S. Dep't of Health & Human Services, Admin. for Children & Families, Children's Bureau, 2006), available at <http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/IJReport.pdf>.

Barrier:	Outside of N.J., but within the U.S.	Outside of the United States
Supervisor	27.8%	48.3%
Litigation Personnel	37.7%	49.6%
Co-worker (excluding supervisor or litigation personnel)	31.2%	47.2%
Past Training *	59.8%	72.8%

FIGURE 1. Total percentage of respondents who answered that the category was a “Significant Barrier,” “Somewhat of a Barrier,” or “Little Bit of a Barrier”

* Based on responses, we believe this means that there was a lack of content in past trainings that provided the DCF employee with sufficient information to manage these interjurisdictional cases. Importantly, for our purposes, it is clear that the barriers mentioned above are far more significant when a case involves an international component.

Staffing and Resources: The ACF report states that “[i]nadequate numbers of staff is a recognized barrier to interjurisdictional placement,” and “insufficient financial support for essential services presents challenges in meeting needs of children placed across jurisdictions.”²¹ The aforementioned needs assessment survey conducted by Rutgers University Institute for Families found that a significant number of New Jersey DCF-DYFS workers not only thought that there were no staff and/or resources available to assist with an international placement, but also expressed that they lacked understanding of those resources with which they were familiar (see Figure 2).

Again, it is important to note that when an international component is added to the case, the DCF staff are far less confident in, and comfortable with, their ability to manage the case.

Training and Knowledge: A key barrier to the timely placement of children across jurisdictions is the lack of knowledge about, and training on, the ICPC guidelines and requirements. The report cites this lack of awareness to be equally problematic for child welfare *and* judicial professionals. The ACF report recommends that “[t]raining on the importance of considering relatives no matter where they reside, how to search for relatives, and interjurisdictional placement procedures are all important strategies of addressing this barrier.”²²

Second, the report suggests that providing case workers with access to expert consultation in these cases reduces the hesitancy to place children across jurisdictions. The Rutgers needs assessment survey found that respondents unfamiliar with the ICPC requirements were far more likely to avoid or resist undertaking international family finding and engagement. Results indicate a reported lack of understanding with international cases involving children for all levels of job classifications, and a need for training to broaden awareness of available services and to implement effective work procedures (see Figure 3).

Social service and legal stakeholders must be provided with training on both domestic and international interjurisdictional placement procedures. The Interstate Compact is signed by all states, yet it cannot be successful unless individual staff members are willing to consider family across state lines and to follow the guidelines set forth in the compact. Increased knowledge of the ICPC process and of domestic interjurisdictional placements in general will encourage staff

21 *Id.* at 1–5.

22 *Id.* at 1–7.

Self-selected Job Category	...outside of N.J., but within the U.S.	...outside of the United States
Caseworker	44.8%	84.3%
Paralegal/Litigation Specialist	63.6%	80.7%
Casework Supervisor	25.5%	70.2%
Supervisor	36.0%	69.4%
Manager	46.2%	69.3%
TOTAL across all categories	28.3%	77.4%

FIGURE 2. Percentage of DYFS staff DISAGREEING with the statement “I am comfortable with my understanding of the resources to assist with placement . . .”

Self-selected Job Category	...N.J., but within the U.S.	... the United States
Case Specialist	33.4%	75.3%
Paralegal/Litigation Specialist	63.8%	73.6%
Casework Supervisor	25.5%	66.7%
Supervisor	36.0%	70.2%
Manager	46.2%	77.0%
Total	28.5%	73.1%

FIGURE 3. Percentage of DYFS staff DISAGREEING with the statement “I am confident in my ability to facilitate cases outside of . . .”

to consider international family finding and engagement. As the data from the needs assessment indicate, when staff are not confident in their understanding of, or ability to manage, ICPC cases, staff is also unlikely to consider pursuing international family connections.

Staff Attitudes and Beliefs: The ACF report states that there is a range of “child welfare and judicial staff attitudes and beliefs” that “influence their effectiveness in facilitating interjurisdictional cases.”²³ These include the individual staff person’s openness to considering cross-jurisdictional placement, the willingness to relinquish responsibility for the child and the mistrust of other jurisdictions’ child welfare systems. This barrier is exacerbated when an international placement is being considered. Respondents to the New Jersey DCF-DYFS Needs Assessment believed that both individual and institutional beliefs and practices discouraged interjurisdictional placements.

In addition, a surprising number of respondents felt that children’s needs are best served in the United States regardless of their family situation. For example, 35.7% believed that every child has the right to be raised in the U.S.

ISS-USA credits the behavioral and attitudinal resistance to interjurisdictional placements to a lack of knowledge about, and understanding of, a variety of variables including how other states/countries monitor the well-being of children, the reliability of social workers in other jurisdictions, and what happens if something goes wrong with an interjurisdictional placement. Preliminary data from the ISS-USA demonstration project show that when staff know about *how* things work in other countries, and *what* happens if something goes wrong, they are more open to considering family-finding activities.

23 *Id.* at 1–7.

Communication: The ACF report indicates that communication between the jurisdictions involved in inter-state placements is complicated and time consuming. The report states that some workers “do not perceive that they are free to communicate directly with local workers in another State.”²⁴

International communication can be challenging as well. The obvious problem of not being able to speak the language of the person with whom you are trying to communicate is only one barrier. Many workers do not have access to long-distance or international calling plans, and many agencies and individuals are not familiar with low-cost alternatives to the major carriers such as SKYPE, and Google Voice. Subscribing to these lower cost alternatives and using real-time translation services are ways to alleviate this communication barrier. Other options include e-mail and surface or air mail.

Tracking and Reporting: The ACF report finds a serious inability of states to track and report on interstate placements. This problem is true of both the sending state (the state the child was living in before being moved) and the receiving state (the state to which the child was moved). The report indicates that many of these interjurisdictional placements “fall off the radar screen.” Research on international placements supports this finding. There is little to no reliable quantitative data on the number of U.S. children placed overseas either with family or through adoption.²⁵

The Child and Family Services Reviews (CFSRs) provide necessary information to the Children’s Bureau and should include information on domestic and international placements. However, this review and feedback system is only as good as the data that individual states enter into the system since state-level data are the source of these reviews. The inconsistency in reporting makes it impossible to get either an accurate picture of interjurisdictional placements or a clear view of how individual jurisdictions manage the care of children moving into or out of their borders. However, it is misleading to try and compare a state’s effectiveness in child welfare based on nationally collated data.²⁶ National data “lack reliability for interstate comparisons due to variations in state laws, policies, definitions and data collection processes.”²⁷ Similarly, attempting to evaluate or judge the effectiveness of a foreign child welfare system based on any individual U.S. state’s procedures is equally misleading.

Home Studies: Finally, home studies, which the ICPC and Hague International adoption cases require,²⁸ are not specifically mentioned as an obstacle or barrier to interjurisdictional placements, but in practice they pose a serious barrier to timely decision making and permanency outcomes. A lack of trust of other jurisdictions’ social service staff, complex licensing requirements, and difficulties in scheduling a home study for a child not in the care of the jurisdiction where the home study is to be completed are three of the major stumbling blocks to expedient case work.

²⁴ *Id.* at 1–9.

²⁵ The ratification of the Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption in April 2008 will resolve the problem of tracking the number of children adopted *from* the United States.

²⁶ *Can States be Compared Based on Child Welfare Data, Issue Brief* (Child Welfare League of America, Oct. 2003) at 1.

²⁷ *Id.* at 1.

²⁸ ISS-USA believes that in any case where a family outside of the U.S. is being considered as a permanency placement for a child in the U.S. foster care system a thorough home study should be completed.

Need or desire to place	Outside N.J., but within the U.S.	Outside the U.S.
In my office, there is an unmet need for assisting with cases...	44.2%	53%
Within DYFS, there is an unmet need for assisting with cases ...	50.1%	58.7%
In my office, there is a desire not to place children ...	30.5%	47.1%
Within DYFS, there is a desire not to place children ...	42.1%	47.7%

FIGURE 4. Percentages of respondents who answered “Slightly Agree,” “Agree,” and “Strongly Agree” to specific statements about the need or desire to place children.

Gilmore et al. argue that interstate licensing requirements “often preclude the conducting of home studies in one state (i.e. the receiving state) by social workers not licensed in that state.”²⁹ They then suggest that the ICPC resolves this problem by allowing “states to ensure that good social work is conducted in another state prior to placement.”³⁰ The Compact may indeed ensure that proper procedures are followed, but it does not address the fundamental distrust of other jurisdictions’ child welfare system. This mistrust is a leading reason why social workers hesitate to pursue interjurisdictional cases. In fact, despite all states being party to the Compact, there has not been a significant increase in, or understanding of, interjurisdictional placements. For our purposes, we have found that the hesitancy to place a child in another state is tame compared to the intensity with which some social workers fight to keep a child from being placed with family in another country even when placement is in the child’s best interest (see Figure 4). A standardized home study process can alleviate some concerns expressed by social workers. Internationally, a standardized form would be extremely useful in ensuring that judges and other legal advocates could quickly understand and assess the potential family placement overseas. Currently, home studies from foreign countries can be vastly different from those with which U.S. judges or lawyers are familiar. The standards and requirements for a complete home study vary from country to country, and vary from informal to highly technical and complex. ISS-USA provides training and technical assistance to the ISS Federation Units around the world which provide home studies for cases originating within the U.S.³¹ In addition, all ISS Units are staffed by social workers who are licensed in the country within which they practice where such licensing requirements exist.

Until a universally accepted home study process is achieved, lawyers, GALs, and judges must be more open to accepting home studies from other countries that may look very different from what they normally see. The judiciary can be proactive in requiring that specific items be included in any home study they receive. Providing specific information to the overseas social worker on what must be included will save time and preclude the possibility that the home study will need to be redone.

29 Ursula Gilmore, Elizabeth Oppenheim, & Daniel Pollack, *Delays in the Interstate Foster and Adoption Home Study Process*, 8 UC DAVIS J. OF JUV. LAW & POLICY 55, 62 (2004), available at <http://jjlp.law.ucdavis.edu/archives/vol-8-no-1/3.%20Study.pdf>.

30 *Id.*

31 For additional information about ISS-USA and the ISS Federation, please visit www.iss-usa.org.

BEST PRACTICES IN INTERNATIONAL FAMILY FINDING AND ENGAGEMENT

The Fostering Connections to Success legislation mandates that family finding must take place for every child in care regardless of where his or her family is located. Research by ISS-USA and Rutgers University has shown that family finding outside the United States has been overlooked while the need for it grows as the U.S. population continues to diversify. The process of finding family and engagement outside the U.S. can seem daunting and difficult, but resources are available to assist with ensuring due diligence in family finding and engagement across international borders.

The Fostering Connections to Success Act defines intensive family-finding as efforts that utilize search technology to find biological family members for children in the child welfare system. Furthermore, notification of relatives must include the following:

- Specify the child is/has been removed from custody of parent(s).
- Explain options for relatives to participate in care/placement of the child.
- Describe requirements to become foster care providers and outline available services and supports.
- Describe how to enter into a kinship guardianship assistance agreement (if state has chosen this option).
- Explain consequences if relatives do not respond to the notice.

How do we ensure that this process occurs when the identified family is outside the United States? What does the legal stakeholder do if she knows that there is family outside the United States that the social work partner has not included in family finding and notification?

First, family can be searched for through a variety of means including contacting the foreign consulate in the United States of the country in which the individual lives. A list of consulates can be found at <http://www.state.gov/s/cpr/rls/fco/>. Interpol can be useful in some circumstances even when a criminal allegation is not involved (<http://www.interpol.int/public/icpo/default.asp>). A list of countries that cooperate with Interpol can be found at <http://www.interpol.int/Public/ICPO/Members/default.asp>.

Ministries of Justice and Ministries designated to work with children in various countries may also be able to assist with on-the-ground services in foreign countries. (In some countries these sections of the government may be referred to as “Departments” or “Offices.”) Visit the country’s government Web site and search for the appropriate government entity that deals with children and families. U.S. Embassy staff in the country where you are searching for or evaluating family connections may also be able to help 1) identify which government agency you need to contact, 2) locate professional social workers who can evaluate the family, or 3) locate legal or law enforcement personnel who may be able to assist you with family finding. A list of U.S. embassies in foreign countries can be found at <http://www.usembassy.gov/>. Be aware that embassies and consulates are staffed by diplomats and not social workers. Their staffs cannot undertake the work themselves and should be viewed as a resource, not a service provider. ISS-USA can provide these services through cooperative agreements with ISS Units, which have social workers on staff, in over 100 countries around the world.

If the legal stakeholder—a judge, GAL, CASA volunteer, or attorney—is aware of family connections outside of the United States but the social work partner is not, this presents an opportunity to support the social worker in family finding. It is crucial to ask whether the social worker has inquired about the existence of family outside the United States in every case, not just in those involving immigrant children or children of immigrants. Legal professionals and members of the judiciary should be just as active as the social workers in asking these questions and discussing the potential connections. In fact, the legal/judicial partners involved in a child's case must be proactive with the family identification and finding. Social workers and/or child welfare agencies are not always aware that relatives outside the U.S. are considered as viable options and may disregard any leads in this area without guidance from legal or judicial partners. Often a judge's request to look for a potential family member or to seek out a non-custodial parent in another country will compel a social worker or social work supervisor to pursue those leads more diligently.

Second, the requirement to notify relatives does not simply include the notification that the child is in care. The case worker must also talk with the family about their right to act in the capacity of relative caregiver, either through foster care or adoption (if applicable). This requirement stands regardless of where that family is. Most importantly, even if they are not willing or able to act as a relative caregiver, they can still be part of the permanency planning process and/or act as an ongoing or aging-out resource for the child.

The steps that would be taken to license or approve a family for taking custody of a child domestically can, and must, be followed for international family placements. There is no international licensing agreement. Rather, the point is that the steps required for domestic licensing should be followed in an international case to ensure the safety and well-being of the child. These steps would include a comprehensive home study and criminal and/or child abuse background checks.

States have discretion to waive non-safety related licensing standards on a case-by-case basis to increase every child's available permanency options. States may define and waive standards that they determine are not essential to the child's safety. These waivers may be particularly useful in international placements. The square footage requirement, for example, is often a problem in foreign countries where homes tend to be smaller than in the United States. In the U.S., new homes have averaged just over 2,000 square feet since 2004, while in England the average house size is just less than 1,000 square feet.³²

The problem of notifying relatives of what will happen if they do not respond to notifications about a relative child's status as being in need of alternative care is highly problematic in international cases. In ISS-USA's experience, there is resistance on the part of courts and social service agencies to translate documents into the native language of the person receiving them in many cases. No one would expect a family with limited English proficiency to enter a U.S. court for any permanency planning without interpreters, but there seems to be little concern about proper notification for overseas relatives, including the translation of documents that would allow the family to become engaged in the permanency process. The courts and other legal stakeholders can help resolve this problem by using existing translation

32 WENDELL COX & HUGH PAVLETICH, 2ND ANNUAL DEMOGRAPHIA INTERNATIONAL HOUSING AFFORDABILITY SURVEY: 2006 (Demographia, 2006), *available at* <http://www.demographia.com/dhi2006.pdf>.

services or seeking out translation services in their jurisdiction. In some states, a “Language Line” is available for real-time interpreter services, and the agencies that manage those can often provide a referral for document translations as well.

CONCLUSION

None of the barriers and obstacles to international family finding and engagement outlined above is insurmountable. They do, however, require that legal and social service practitioners be creative in looking for solutions. In addition, every state and local jurisdiction must have national resources that they can use to expediently resolve complex interjurisdictional cases.

The number of children in the U.S. foster care system who may have family connections outside the United States is potentially very large. We cannot continue to ignore those families, nor can we look for families of only some children and not others. We must make international family finding and engagement a routine part of good social work case practice and sound legal practice, keeping the focus of all our advocacy, social work, and legal practice in child welfare cases on the child. Article 3 Section 1 of the U.N. Convention on the Rights of the Child states: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, *the best interests of the child shall be a primary consideration.*”³³

33 U.N. General Assembly, *Convention on the Rights of the Child* (United Nations, Treaty Series, 20 November 1989, vol. 1577, p. 3), available at <http://www.unhcr.org/refworld/docid/3ae6b38f0.html>.

APPENDIX A

ISS-USA's Estimated Minimum Number of Children with International Family Connections by State

State	# of Children in Foster Care on Sept. 30, 2009 ³⁴	Estimated MINIMUM Number of Children with International Family Connections ³⁵	# of Cases from the State ISS-USA handled in 2010
Alabama	6,894	861	2
Alaska	2,166	270	0
Arizona	10,175	1,271	6
Arkansas	3,657	457	0
California	60,198	7,524	2
Colorado	7,927	990	0
Connecticut	4,761	595	2
Delaware	814	101	0
District of Columbia	2,111	263	0
Florida	19,156	2,394	1
Georgia	8,020	1,002	0
Hawaii	1,455	181	0
Idaho	1,446	180	0
Illinois	17,080	2,135	1
Indiana	12,437	1,554	0
Iowa	6,564	820	0
Kansas	5,691	711	1
Kentucky	6,872	859	1
Louisiana	4,786	598	3
Maine	1,646	205	0
Maryland	7,052	881	2
Massachusetts	9,650	1,206	1
Michigan	17,723	2,215	0
Minnesota	5,410	676	0
Mississippi	3,320	415	0
Missouri	9,912	1,239	0
Montana	1,639	205	0
Nebraska	5,343	668	0
Nevada	4,779	597	0
Montana	1,639	205	0

³⁴ CHILDREN'S DEFENSE FUND, STATE OF AMERICA'S CHILDREN 2011 (2011), I-8, *available at* <http://www.childrensdefense.org/child-research-data-publications/state-of-americas-children-2011/pdfs/welfare.pdf>.

³⁵ 9.6% of all children in foster care are children of immigrant parent(s), and 2.9% of all children were immigrants themselves. Data source: Detlaff & Earner, *supra* note 15.

State	# of Children in Foster Care on Sept. 30, 2009 ³⁴	Estimated MINIMUM Number of Children with International Family Connections ³⁵	# of Cases from the State ISS-USA handled in 2010
Nebraska	5,343	668	0
Nevada	4,779	597	0
New Hampshire	930	116	0
New Jersey	7,809	976	112
New Mexico	2,009	251	1
New York	27,992	3,499	3
North Carolina	9,547	1,193	0
North Dakota	1,224	153	0
Ohio	12,197	1,525	0
Oklahoma	8,712	1,089	0
Oregon	8,650	1,081	0
Pennsylvania	16,878	2,110	1
Rhode Island	2,112	264	0
South Carolina	4,938	617	0
South Dakota	1,484	186	0
Tennessee	6,723	840	0
Texas	26,686	3,336	0
Utah	2,759	345	0
Vermont	1,062	133	0
Virginia	5,927	741	1
Washington	9,922	1,240	1
West Virginia	4,237	530	0
Wisconsin	6,785	848	0
Wyoming	1,155	144	0
Puerto Rico	5,351	669	0

For additional information about the services of ISS-USA or to request technical assistance on any case involving international family finding and engagement, please contact question@iss-usa.org.