

Section 1: The Child Welfare System: An Overview

A 9-year-old refugee boy from East Africa arrived in the U.S. with cataracts, a condition he had lived with for some time. Eye doctors in the U.S. recommended surgery to remove the cataracts and prevent eventual blindness. According to their culture, the mother believed it was the father's place to decide whether or not to go ahead with the surgery, but the boy's father remained in Africa. The mother feared the surgery, assuming that, as in her homeland, surgery would likely end in death for her son. The family arranged a telephone call to the boy's father in Africa; however, he too was convinced that surgery would kill his son rather than cure him.

After being contacted by the child's teacher, the local child welfare agency arranged a meeting at the boy's school with an uncle and a brother, leaving the mother out of the meeting since she was working at the time. The child welfare authorities informed the relatives that the boy would be taken from school and surgery arranged, unless the family agreed to arrange the surgery themselves. A refugee resettlement caseworker intervened, requesting that the family be granted a few more days to work through this difficult decision. A friend of the family arranged for a doctor to speak with the family about the risks and benefits of surgery, allowing the family to share their questions and fears. Ultimately, the family agreed to the surgery on their own, without having it forced upon them. The boy came through the surgery without incident and is now doing well.¹

Refugees who are new to the U.S. face many confusing changes and systems. Among them is the U.S. child welfare system, a service system which is relevant to families but may be overlooked in orienting refugees to their new country.

This toolkit provides a very basic description of the U.S. child welfare system, emphasizing areas that are particularly relevant or potentially unfamiliar to refugees. This toolkit is intended to:

- Provide refugee resettlement staff a basic familiarity with the U.S. child welfare system so that they can, in turn, orient their refugee clients to relevant mainstream services as needed and available.
- Dispel misconceptions about the role of child welfare in the U.S.

This toolkit includes the following:

- A basic description of the child welfare system
- A chart of relevant resources available over the Internet
- Appendices of useful documents.

Goals and Services

The U.S. child welfare system is a mix of services focused on keeping children safe and healthy. These services support families so that they can continue living together. When that is not possible or not safe for the children, services also exist to care for children who cannot live with their families. Refugee families may be able to relate to the goal of **protection from harm**, a

fundamental purpose of the child welfare system that is also the main reason that refugees are resettled in the U.S.

The child welfare system is one piece of a larger social service system in the U.S. designed to help people in need; services for the elderly, the disabled, and the homeless are other elements of the social service system in the U.S. Social services in the U.S. are run by either public (or governmental) agencies, as well as *private* (non-governmental, sometimes with religious affiliations) agencies working together. The public agency has the legal responsibility for serving those in need, but they may contract with private agencies that receive government money to provide services and are subject to government supervision.

The three main goals of the child welfare system include:

- **Safety** – children are not harmed by the people with whom they live
- **Permanence** – children have a stable place to call home
- **Well-being** – children have the things they need for healthy growth and development.

The child welfare system carries out these goals through three main types of services:

- **Child protective service (CPS) agencies** that investigate reports of suspected harm to children
- **Prevention and family preservation services** that are usually provided in the home to help families remain together by improving the health and safety of their children's living environment
- **Foster care and adoption services** for children that cannot live with their families.

These services may be administered differently in each community – combined in one office or separated between several offices. Many other agencies also work with children and families involved with the child welfare system, including juvenile and family courts, private child welfare agencies, mental health, substance abuse, healthcare, education, and domestic violence services.

As indicated by the name “*child* welfare system,” children and their families are the primary focus for services. Some refugee families coming from cultures that are more hierarchical, that emphasize communal needs over individual needs, or that give more honor or attention to elders than to children, may perceive this focus on children as unusual or even uncomfortable. In some cultures, focusing on an individual child's needs may be viewed as spoiling the child or giving more rights to children than to their adult caretakers. Refugee families may require assistance in understanding the wider cultural context for these differences.

Origin of the U.S. Child Welfare System

The U.S. child welfare system builds on the concept of *parens patriae*, meaning that the **government has a responsibility to protect children when parents cannot or do not provide for them.**² For many refugees, government involvement in family matters will be unfamiliar or even threatening. Families who experienced persecution by their former government may feel suspicious of government involvement in family matters. Refugee families should understand that the child welfare system, while not perfect, was developed to protect all children from harm and does not specifically target individual families or groups. However, the over-representation of minority children in child welfare statistics also indicates that professionals working in the child welfare system must recognize that biases, assumptions and cultural misunderstandings can affect assessments of abuse and neglect.

An East African father had come to the U.S. alone, while his wife and daughter had refuge in Western Europe. In order to bring his wife and medically fragile daughter to the U.S., the Western European government required a home study of the father's living situation in the U.S. This requirement infuriated the father, who could not understand why a home study was needed when it was clear that he was the father. He viewed the home study process as an intrusion and an insult to his parental role and authority, rather than as a protection of his daughter's needs. Ultimately the father discussed this with friends, family, politicians and refugee advocates who convinced him to cooperate with the process and the family reunification was able to proceed.³

Internationally, child welfare laws and services are built on the notion of the "best interests of the child," meaning that decisions about a child should take into consideration the child's perspective and be based on what is best for the child, rather than on what is best for the adults or government agencies dealing with the child. The United Nations' *Convention on the Rights of the Child* describes best interests as a "primary consideration" in matters dealing with children; U.S. federal and state child welfare laws also typically include references to a child's best interests.

Some laws in the U.S. are established by the federal government and are the same for every state (such as immigration laws), while other laws are established by each individual state. Child welfare laws are set out minimally by the federal government, meaning the federal government has established the least that must be done by each state in laying out its own child welfare laws. Generally, State governments then establish their own State child welfare laws and policies to implement those laws throughout the State. However, there are approximately 10 States that establish broad State laws and policies while each local jurisdiction (or county) develops and implements their own more detailed policy. Thus, child welfare laws and policies vary from state to state and sometimes within States from county to county. For example, the requirement of how and when to make contact with a child after receiving a child abuse report in Texas will be different from those requirements in California. In Texas, child welfare laws and policies are established and carried out at the State level; in California policies are established and carried out by each separate county.

Due to state-by-state variation, this toolkit can only include general descriptions of the U.S. child welfare system. A "Child Welfare Worksheet" is included as Appendix 3 to help refugee resettlement workers gather information about local child welfare laws and standards.

Several key federal laws provide the foundation for local child welfare statutes.⁴ Two of the most important include:

- **Child Abuse Prevention and Treatment Act (CAPTA)**, originally enacted in 1974 and amended most recently in 2003, establishes the minimum definition of child abuse and neglect as "any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act which presents an imminent risk of serious harm" to a child. CAPTA provides financial assistance to states for identifying, reporting and investigating child abuse and neglect and funds research and reporting on child maltreatment.

- **Adoption and Safe Families Act (ASFA)**, enacted in 1997, emphasized that the safety of the child, no matter where the child resides, is paramount. In addition, ASFA established time frames for achieving permanency so that children would not remain in foster care too long or find a permanent living arrangement with kin. ASFA provides guidance on when a petition for termination of parental rights can be filed, but in the U.S. only the court (judge) can make the decision to terminate a parent's rights so that a child can be adopted. ASFA also emphasized the placement of children with relatives before placing children with unrelated foster families.

Child Abuse and Neglect

The definitions of child abuse and neglect can vary from state to state and from culture to culture. The following story of a refugee family in the U.S. illustrates what can happen when physical discipline practices from one culture are applied in the U.S.

In one year, 10-year-old Sedekie learned how to make snow angels, catch a football and play video games. He started third grade with kindergarten-level skills and improved two grade levels in one year. Sedekie, his mother, [three] siblings, and [two] teenage cousins moved to the U.S. last year after spending two years in a refugee camp in Guinea. For Sedekie, the last year has been a mix of confusion, wonder, surprise and heartache. He wants to see his dad, who went missing three years ago when guerrillas massacred people in their village. "I miss my dad because I like him. He was nice," he said.

Hardest of all: He had to leave his mother ... for two weeks as Child Protective Services investigated allegations of corporal punishment at home. He and several other children stayed with members of [their church], and recently returned to their three-bedroom apartment. As with many refugees, the family is struggling to acclimate to cultural differences in their new country, said Isaac Munji, a counselor working with the family through Bethany Christian Services. In the U.S., children question parents' authority and immigrant parents are challenged to raise their children under new rules, Munji said. "It takes a long time for parents to understand that disciplining children here is different," Munji said. "A lot of (physical) discipline happens in African countries and seems natural. Here, it is a big issue." The separation took a toll on Sedekie. At school, he rarely smiled and didn't want to talk about it or let others know he wasn't going home at night. He was asked to write about a special person in his life. He chose his mother. "She loves me," he wrote. "Sometimes she gives me big hugs. She makes rice for me."⁵

As this story of Sedekie shows, what is considered common discipline practice in one culture may be interpreted as maltreatment by U.S. child protection standards. In a very general sense, abuse is an action against a child, while neglect is a lack of action for the child.⁶ There are four types of abuse and neglect typically described in U.S. child welfare law. These include:

- **Physical abuse:** Causing injury to a child through actions such as beating, kicking, biting, burning, or shaking; this is usually intentional injury, though sometimes excessive punishment or not protecting a child from injury by others (such as a violent spouse or partner) can be considered abuse.

- Some refugee families come from cultures which favor physical discipline, such as beating with a belt, stick or hand, holding one position for long periods, kneeling on hard objects such as rice, or placing painful substances such as pepper oil in eyes or other openings. Though customary in their countries of origin, such practices would be as viewed as abusive in many U.S. states. Refugee families should be oriented to these differences in discipline practices and informed about alternative non-physical forms of discipline more common in the U.S.

Physical discipline—or corporal punishment—is discouraged in the U.S., however, abuse is often identified as punishments or actions that leave marks or bruises rather than all forms of physical discipline. Nonetheless, the distinction between discipline and abuse can be a matter of the intensity or frequency of the punishment. In some cases abuse can be a slap or spanking delivered too hard or to a vulnerable part of the child’s body, for example the child’s face or back. In the words of one CPS official, “Most parents accused of abuse did not intend to be abusive.”⁷ Refugees who have experienced violence in their homelands may connect with the idea of protecting their children from all forms of violence, including violence in the home. Refugee families may need support and encouragement in using new and unfamiliar discipline methods.

Despite the cultural differences in disciplinary practices faced by refugee families, it is important that refugee parents still feel the authority to discipline and guide their children in the U.S., rather than abandoning all discipline due to vague fears of the U.S. child welfare system. Parenting education meetings can be an effective means of empowering refugee parents to adapt their discipline practices to their new environment. For more on these issues, see “Raising Children in a New Country: A Toolkit for Working with Newcomer Parents” at <http://www.brycs.org/clearinghouse/clearinghouse-resource.cfm?docnum=1597>.

- Sexual abuse: Any kind of sexual activity or sexual contact with a child by an adult or older child (teenager) is considered sexual abuse, including prostitution, pornography, or not protecting a child from sexual abuse by others in the home.
 - Some refugee girls may have willingly or unwillingly exchanged sexual relationships with older men—or “sugar daddies”—for money, as a means of survival during displacement or refugee camp life. Parents or caregivers who allow such practices to continue in the U.S. may be considered guilty of sexual abuse or neglect for failing to protect their child. Parents who allow, or force, the marriage of young daughters to older men may also be charged with sexual abuse or neglect as failure to protect, though such charges may be investigated by either child welfare or law enforcement officials, depending on State laws. Refugee teens and adults should also be informed of their state’s statutory rape laws.⁸
- Emotional abuse: Persistent actions by a caregiver that harm a child’s emotional health, such as screaming, name calling, rejecting and withholding affection.
 - Some refugees may come from cultures where harsh verbal reprimands or insults are acceptable forms of discipline; however, persistent use of such actions may be considered emotional abuse in the U.S.
- Neglect: This is the broadest category, resulting in the most reports to CPS, and covers failure to provide for a child’s basic physical and educational needs, including:

- **Physical neglect** – failing to provide sufficient food, housing, clothing or supervision
 - **Educational neglect** – failing to send a child to school or to seek special education needed for a child
 - **Medical neglect** – failing to meet a child’s medical and mental health needs;
 - **Emotional neglect** – disregarding a child’s emotional and psychological needs.
- Substance abuse and mental health problems, such as depression, can often result in various forms of neglect. However, being poor or homeless may only mean that a parent needs other services to provide for the family while not necessarily meaning they are neglectful.
- Lack of appropriate supervision is considered a form of neglect. Refugees who are used to more informal or casual childcare arrangements, or who come from communities where adults provide discipline and guidance to any child in the community, not merely their own, may expect there to be similar communal supervision in the U.S. These parents may be unaware of the traffic or crime risks to unsupervised children, not to mention U.S. norms for more organized child caring arrangements. Some refugee parents may also rely on older siblings to babysit younger siblings. Caseworkers should investigate local child welfare guidelines regarding appropriate babysitting ages and responsibilities and talk with newcomer families about local childcare options.
- Inappropriate dress for the season can be another form of neglect of which refugees should be aware. Refugee families resettled in cold climates will need assistance and resources to dress children appropriately for cold weather.
- Children who are school age but are kept home can be considered victims of educational neglect. Refugee families will need to be informed of the ages that children in their community are required to be in school, usually age 5 to age 16 or 17, but these requirements vary from State-to-State.

Some states also add **abandonment** as a separate form of neglect.

- Abandonment refers to children who have been left without a caretaker, whether the parent or guardian has intentionally or unintentionally left a child on their own.
- A refugee family who moves to another community but leaves a young child behind could be charged with abandonment, while a family who leaves a teenager behind could be charged with neglect due to a lack of supervision. Refugee adolescents may be the most at risk for being left on their own, particularly those who have been resettled with distant family—such as relatives by marriage or relatives they do not know well—or parents they have not seen for many years. Refugee teens who have experienced a lot of independence prior to resettlement may find it hard to obey a new adult caregiver in the U.S. imposing curfews and discipline, thus causing friction between the youth and adult relatives.

Local child protective service (CPS) offices receive reports of child abuse and neglect and then investigate the reports to decide if abuse and neglect has occurred.

Making a CPS report

Every State has its own system for receiving and responding to reports of child abuse and neglect. In general, reports can be submitted by phone, mail or fax to statewide hotlines, local child protective services, or law enforcement agencies. The Childhelp National Child Abuse Hotline, at 1.800.4.A.CHILD (1.800.422.4453), is available around the clock to receive child protection inquiries in 140 languages and to direct callers to local emergency and support resources. To find child abuse reporting numbers for your State, visit:

http://www.childwelfare.gov/pubs/reslist/rl_dsp.cfm?rs_id=5&rate_chno=11-11172.

Check if your agency has any protocol for making CPS reports. If not, talk with your supervisor about what steps you should take if you suspect a client is mistreating a child. Some communities may require that a written report or form be completed before a CPS investigation will begin. Look into these things before a problem arises so you feel prepared to respond appropriately when needed.

Determining if the behavior you have seen constitutes abuse or neglect may be the most difficult decision. Knowing your community's legal definitions of abuse and neglect is an important first step. A *Child Welfare Worksheet*, included as [Appendix 3](#), can help you gather this kind of relevant information from your local public child welfare agency. In addition, refer to [Appendix 4](#) for a list of *Physical and Behavioral Indicators of Abuse* to understand how abuse and neglect can show up in a child's appearance and actions. However, keep in mind that your role is only to report suspicions of child maltreatment, while the CPS agency has the responsibility to investigate and determine if maltreatment occurred.

Mandated Reporters

While anyone can report suspicions of child maltreatment, each State has laws identifying individuals or professional groups who are required to report suspected child abuse and neglect. At present, 18 States require all individuals to report child maltreatment while 34 States note certain categories of professionals—such as attorneys or clergy—who are exempt from mandatory reporting for confidentiality reasons. Mandated reporters who fail to report despite knowing or having reason to believe that a child is being mistreated could be subject to fines or criminal charges, depending on State laws. Someone who knowingly submits a false report of child maltreatment may also be subject to penalties, depending on individual State laws. Find out your State's laws regarding mandated reporters, since some refugee resettlement workers will be considered in this category.

Whether mandated reporters or not, refugee resettlement caseworkers play a key role in the lives of refugee clients and may be one of the few, or only, social service providers involved with a newcomer family. Although resettlement casework often focuses on the adults, children are equally important and provide a different window into overall household functioning. Children should periodically be given the opportunity to talk with caseworkers apart from other adult relatives. If abuse or neglect is suspected, resettlement caseworkers should involve CPS; they should not conduct investigations themselves.

The Role of Child Protective Service (CPS)

Child protection agencies provide a range of services to children and their families. CPS workers investigate community reports of abuse and neglect and determine whether the reports are true or not. Their primary responsibilities include:

- **Screening** child abuse and neglect reports to determine whether the reports warrant further investigation
- **Responding** to credible reports by investigating whether the abuse and neglect allegations are “founded/substantiated” or “unfounded/unsubstantiated,” and assessing the child’s current safety or risk of future harm; this assessment determines whether the child can safely remain in the home or will be temporarily removed due to safety concerns and placed with relatives, friends, a foster family or shelter.
- **Case planning**, once an assessment is completed, usually involving the family and case manager working together to set goals for change so the child(ren) can remain in the home or can be returned home.
- **Intervention and service delivery** by ensuring that the services outlined in the case plan are delivered in a timely manner.
- **Evaluating case progress** on a regular basis so CPS can determine if the child can safely remain in the home or be returned home and whether the family still needs services.⁹

Even before coming to the U.S., some refugee families will have heard stories of CPS workers removing children from their families. Some stories may be accurate and some may be exaggerations of events, or may only reflect part of what actually occurred. Ask refugee families what they already know or have heard of CPS and child welfare in the U.S. in order to understand their perceptions and assumptions.

In some cultures, children may be sent by parents to live with other relatives, friends or acquaintances for short or long periods during difficult times or for access to schooling and other opportunities. Unlike these voluntary and informal arrangements with which some refugees may be familiar, the removal of children by CPS is a formal official process in which refugee families will have input but not control, and which sometimes results in the permanent removal of children from their families. Refugees should understand that CPS involvement is not a type of free voluntary childcare service.

Child Welfare Services Beyond CPS

Due to concerns about hygiene and roach infestation in the home, an East African family was referred to CPS following the birth of their fifth child. With the help of an interpreter from a refugee resettlement agency, CPS worked with the family on household cleaning products, home hygiene, and access to other local resources. This relationship with CPS and other child welfare workers ultimately led the refugee mother to end an abusive relationship and move with her children into subsidized housing. “CPS was extremely helpful to fund the assistance that the family required to understand how they could successfully function within the U.S. system.”¹⁰

As noted previously, in addition to CPS, child welfare agencies also typically provide services to keep families together (family preservation) as well as foster care and adoption services for children who cannot safely remain with their families. As this case illustrates, CPS can work with families to create a safe environment so children can remain in their own homes, and they can refer families to other local social services as needed.

Prevention services are provided to prevent child maltreatment from occurring in families identified as “at risk” of abuse and neglect. These services are proactive—before a problem arises—such as parenting education classes. Often these services are provided after CPS has been contacted and CPS has determined that no abuse and neglect has occurred, but has determined that the family is in crisis and is in need of services to prevent abuse and neglect from happening. Services to prevent the removal of a child from the home are often called **family preservation services**, indicating a focus on keeping families together. Such services usually build on a family’s strengths and arrange for an intensive complement of social services to support a family during a critical period. Services such as substance abuse counseling, medical care, prenatal care, or government financial assistance through programs such as Temporary Aid to Needy Families (TANF), Women Infants and Children (WIC), subsidized housing or Food Stamps are often provided.

Some States provide **wraparound services**, a particular approach to family preservation services emphasizing a teamwork approach to serving families by seeking family input about their perceived needs, focusing on family strengths and abilities, and encouraging coordinated efforts with other community service providers to keep children and families living together in their own homes.

While prevention and preservation services aim to keep children in their own homes, foster care and adoption services are available for children who cannot safely return to their own homes. Foster care is one of several substitute care arrangements—meaning any out-of-home placement where care and nurture is provided by someone other than the child’s parent or usual caregiver—available to children who cannot remain at home. The most common types of substitute care include the following:

- **Kinship care:** Substitute care is provided by a relative. For child welfare cases these placements have the formal recognition of the court. But the vast majority of kinship care placements are informal arrangements made within families or communities and not considered part of the child welfare system. Therefore, relatives do not usually receive financial help from the child welfare agency unless they are licensed foster parents. However, these relatives may apply for TANF and Medicaid at their local social services office. Non-parental relatives caring for children should establish legal guardianship to ensure the relative’s ability to make important medical and educational decisions for the children.¹¹
- **Family foster care:** Substitute care provided by another family who has been screened, licensed and trained to care for children who are separated from their parents for a variety of reasons.
- **Group home:** A type of substitute care, more often for older youth, that provides a homelike setting in which a number, usually over seven, of unrelated youth live under the care and supervision of house parents, staff or caseworkers.
- **Residential treatment:** Intensive institutional care, usually short-term, in a state-licensed 24-hour care facility for children needing special emotional, behavioral, physical or mental health services.
- **Emergency shelter care:** A temporary placement, usually in an institutional setting rather than a home-like setting, designed for short-term use while a more permanent long-term placement is arranged.

The Courts

Each state designates a particular court system to handle children and family issues. Most often these are called juvenile court, family court, or dependency court, but in some states trial courts handle child welfare cases in addition to other types of adult cases. Some Native American tribes

have their own court systems which may handle child welfare proceedings involving Native American children. Juvenile and family court judges have a range of responsibilities which may include deciding whether a child should be removed from their family and placed temporarily in substitute care, determining whether abuse or neglect occurred, deciding whether a parent's rights should be terminated, and determining whether a child should be adopted.¹²

Children who are separated from parents and living in the U.S. with extended family may also go through court proceedings to have their relatives establish legal guardianship for them, thereby allowing the relative to make important decisions about medical care, schooling and other issues. Guardianship proceedings vary from state to state; they often take place in probate courts, but they may also occur in circuit court, state Supreme Court, superior court, county court or family court.

Some refugees may be intimidated by court, assuming that court is only a place for criminals or the highly educated, or they may be reminded of corrupt or discriminatory government practices from their home countries. Courts play a significant role in U.S. public life. In some sense, the court systems in the U.S. function like "elders"—providing guidance, mediation, decision-making and interpretation of U.S. laws. Courts are intended to protect the rights of all people in the U.S., even children. Refugees should be encouraged to seek knowledgeable help if they become involved in court proceedings, whether child welfare related or otherwise.¹³

Child Labor

Both the federal government and state governments establish laws regarding the type and amount of work children are allowed to perform. The U.S. Department of Labor implements national laws and programs regarding employment, including the Fair Labor Standards Act (FLSA) which restricts the work hours of young people under age 16 and designates certain occupations as too dangerous for young workers.

In general, 14 is the minimum age for most non-farm work. However, youth of any age can:

- Deliver newspapers
- Perform in radio, television, movie, or theatrical productions
- Work in businesses owned by their parents (except in mining, manufacturing or certain dangerous jobs)
- Perform babysitting or minor chores in a private home, and
- Gather and make evergreen wreaths.¹⁴

A summary of *When and Where is Your Teen Allowed to Work* can be found at:

<http://www.brycs.org/clearinghouse/clearinghouse-resource.cfm?docnum=4584>.

A complete description of youth jobs exempted from the FLSA, including youth working in agriculture, is available at: <http://www.dol.gov/elaws/esa/flsa/cl/exemptions.asp>. Many states have also established their own child labor laws; state information and Web links are available at <http://www.dol.gov/dol/topic/youthlabor/Statelaborlaws.htm>.