

Hi, I'm your host Nikki and you're listening to the [Juvenile Justice Information Exchange Resource Hub](#) podcast, or what we like to call the "**JJIE Hubcast**." Our aim is to bring often underrepresented issues in the juvenile justice system to light. This season is going to be dedicated to sharing information about immigrant youth in the juvenile justice system. We will talk about who are immigrant youth in America, how they are involved in the juvenile justice system, and what policies are working or recommended by experts in the justice field. For each episode, we will post a transcript with references to related resources for anyone who wants to follow up on any information we discuss.

This episode will cover some basic information about immigrant youth in the US, including demographics, jurisdiction questions, and some forms of relief undocumented immigrant youth may seek.

### **Let's talk about "who are immigrant youth?"**

- According to the National Institute of Food and Agriculture, immigrant youth are "defined as those under age eighteen who are either foreign-born or U.S.-born to immigrant parents"
  - <https://nifa.usda.gov/sites/default/files/resource/immigrant-youth-fact-sheet-2017-08-11.pdf>
- Between 1994 and 2017, the immigrant youth population increased by 51%, accounting for one-quarter of the total 75 million U.S. children. That is 19.6 million immigrant youth in America as of 2017.
  - <https://www.childtrends.org/indicators/immigrant-children>
- Of the nearly 20 million youth, most immigrant children are second-generation, meaning one or both of their parents immigrated from another country and the youth was born here on American soil. Only about 2.9 million immigrant youth are first-generation. According to the National Juvenile Justice Network, or NJJN, there are approximately one million children under the age of 18.
  - <http://www.njjn.org/our-work/supporting-immigrant-youth-caught-in-the-crosshairs-of-the-justice-system>
- There are some challenges to estimating how many immigrant youth (both citizens and noncitizens) are involved in the juvenile justice system. State and local governments do not collect reliable data on how many immigrant youth are taken into custody and involved in the justice system. Budget constraints, lack of reliable measures, and possible public scrutiny are often cited reasons as to why jurisdictions cannot accurately measure the number involved.
- So, to recap:
  - There are nearly 20 million immigrant youth in the U.S
  - Most immigrant youth are second-generation

- And estimating the number of youth involved in the JJS can be challenging due to intake systems

**Next, let's talk about a major issue at the intersection of the juvenile justice system and immigrant youth: jurisdiction. So whose responsibility are immigrant youth in the juvenile justice system?**

- State and local governments control most juvenile justice issues, whereas the federal government, specifically Immigration and Customs Enforcement (ICE), holds jurisdiction over immigration concerns. Experts propose that ICE stay out of youth justice proceedings and leave immigrant youth in the system to localities.
  - <http://www.sharedjustice.org/domestic-justice/2017/9/28/a-call-for-clarity-seeking-justice-for-noncitizen-youth-in-the-juvenile-justice-system>
- In the 2018 update of the Annie E. Casey Foundation's Noncitizen Youth in the Juvenile Justice System we learn what consequences immigrant youth might face since 2017 when President Trump signed an executive order and the Department of Homeland Security released a memorandum that impacted immigrant youth in more ways than one. All undocumented immigrants became targets for possible deportation, funding of sanctuary jurisdictions was in jeopardy, and local law enforcement became more empowered to take action against immigrants.
  - <https://www.aecf.org/resources/noncitizen-youth-in-the-juvenile-justice-system-2018-update/>
- Two programs that are potential dangers to immigrant youth are 287(g) programs and Secure Communities Programs (or S-Comms). Under the executive order and DHS policy, local governments have more power to enact immigration proceedings. 287(g) agreements allow state and local law enforcement officials to act as immigration officers. Using the 287(g) program allows officers to investigate the immigration status of people and lets them have access to ICE databases or issue immigration holds. According to the 2018 updated Non-Citizen Youth report, studies have shown that the 287(g) agreements "lead to racial profiling and constitutional violations." The S-Comm programs were created under President George W. Bush but later disbanded by President Obama in 2015. The executive order re-instated S-Comm procedures, meaning that information sharing between local law enforcement and the Department of Homeland Security is now operational again. Every fingerprint taken can be sent to the DHS to be run against civil

immigration databases. This can increase the amount of ICE holds there are in detention facilities, and there is no rule outlawing this for immigrant youth proceedings.

- <https://www.aecf.org/resources/noncitizen-youth-in-the-juvenile-justice-system-2018-update/>
- So, to recap:
  - State and local governments have jurisdiction over juvenile justice issues while the federal government holds control of immigration issues
  - Since 2017, immigrant youth have faced higher chances of deportation
  - And the use of 287(g) agreements and S-Comms has increased

**Now, finally for today's episode, let's talk about some options for undocumented immigrant youth who are seeking pathways to become documented.**

**The Immigrant Legal Resource Center** published a "collection of one-page fact sheets" on different options for undocumented immigrant children. We will discuss, according to ILRC, the most common forms of relief for immigrant youth and give an overview of what the benefits are, who is eligible, and what are the requirements for the different pathways.

- Let's start with Special Immigrant Juvenile Status, which "provides a path to lawful permanent residency for children who are under the jurisdiction of a juvenile court and cannot be reunified with one or both parents due to abuse, neglect, abandonment, or a similar basis in state law." Some of the benefits of SIJS are: children are allowed to stay in the US and can obtain permanent residency (better known as a green card), which also comes with eligibility for employment. For a youth to receive SIJS status: a juvenile court must declare a child as a court dependent, legally appoint the youth to a state agency, or legally place the child into the care of a court-appointed individual or entity. Quoted from the ILRC publication "the juvenile court must find that it is not in the child's' best interest to return to their country of origin." The youth must also be under 21 and not married to receive SIJS status (decisions are made based off of age and marital status as of the application date).
- Next, the Violence Against Women Act protects noncitizen youth who have been abused by a U.S. citizen or permanent resident and also protects those with a parent who was abused by a U.S. citizen or permanent resident spouse. Some requirements for the VAWA are: children/ spouses must qualify as so under immigration law, the abused must be of "good moral character," and the abuse must qualify as battery or extreme cruelty (mentally or physically). Good moral character is a legally defined term, but the status of GMC is ultimately granted by the immigration officer

- <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1101&num=0&edition=prelim>

So those are two ways that immigrant youth experiencing abuse can become documented in the US.

- Another pathway, which can be related, is the U Nonimmigrant status visa, or better known as the U-Visa, which may be issued to noncitizens who “have been the victim of a qualifying crime in the United States and have indicated their willingness to be helpful in the investigation or prosecution of a crime.” Some of the qualifying crimes are: domestic violence, sexual assault, kidnapping, blackmail, and more
- U visas allow noncitizens to remain in the US for four years with temporary status, provides employment eligibility, and after three years the noncitizen may apply for lawful permanent residency. U visas can also come with benefits for family members and allow access to public benefits.
- There is a 10,000 limit to how many U visas may be issued each year; however, the number of petitions has exceeded this limit for the past several years so this status can be hard to attain.
- Lastly, the ILRC also notes Asylum as a common form of visa for noncitizen youth. In the words of the ILRC, Asylum is “for noncitizens who fear persecution in their home country because of their race, religion, nationality, political opinion, or membership in a particular social group.” Some benefits of asylum status are: noncitizens may remain in the US and obtain a green card, employment authorization, and permission to travel to other countries (usually not their home country). To receive asylum status, some requirements are: application for asylum must be done within one year of arriving into the US (with some exceptions), the noncitizen must have faced persecution or fear of persecution by their country’s government, and the noncitizen must not be facing conviction of a serious crime. Keep in mind that asylum relief is complicated and a consultation with an immigration expert is required before applying. We should note that while asylum was highlighted as one of the most common forms of relief by the ILRC, asylum status has been under scrutiny recently by the current administration.
  - [https://www.ilrc.org/sites/default/files/resources/immig\\_opt\\_undoc\\_immig\\_child-20180831.pdf](https://www.ilrc.org/sites/default/files/resources/immig_opt_undoc_immig_child-20180831.pdf)
- So, to recap
  - Special Immigrant Juvenile Status, the Violence Against Women Act, and U-Visas are some of the most common forms of relief for immigrant youth to seek
  - Asylum status was identified as another common form; however, under the Trump administration asylum status is under question

**Okay**, we've discussed the demographics of the immigrant youth population in America, jurisdiction issues faced within the immigration and juvenile justice system, and some of the forms of relief immigrant youth may seek. Our next episode will dive into how immigrant youth are involved with the juvenile justice system and what consequences they might face due to involvement in both the immigration and juvenile justice systems.

- Remember you can find the transcript and review related resources at <https://jjie.org/hub/snapshots/>
- I'm your host, Nikki, and you've been listening to the JJIE Hubcast.

## Resources

Child Trends. (2018). *Immigrant children*. Available at:

<https://www.childtrends.org/?indicators=immigrant-children>

National Juvenile Justice Network. (2018). *SUPPORTING IMMIGRANT YOUTH CAUGHT IN THE CROSSHAIRS OF THE JUSTICE SYSTEM* [PDF]. Washington D.C. Retrieved from

<http://www.njjn.org/our-work/supporting-immigrant-youth-caught-in-the-crosshairs-of-the-justice-system>

The Annie E. Casey Foundation. (2018). *Noncitizen Youth in the Juvenile Justice System 2018 Update*. Baltimore, MD: Angie Junck and d Rachel Prandini.

<https://www.aecf.org/resources/noncitizen-youth-in-the-juvenile-justice-system-2018-update/>

The Immigrant Legal Resource Center. (2018). *Immigration Options for Undocumented Immigrant Children* [Ebook]. Retrieved from

[https://www.ilrc.org/sites/default/files/resources/immig\\_opt\\_undoc\\_immig\\_child-20180831.pdf](https://www.ilrc.org/sites/default/files/resources/immig_opt_undoc_immig_child-20180831.pdf)

Thompson, K. (2017). A Call for Clarity: Seeking Justice for Noncitizen Youth in the Juvenile Justice System — Shared Justice. Retrieved 28 September 2019, from

<http://www.sharedjustice.org/domestic-justice/2017/9/28/a-call-for-clarity-seeking-justice-for-noncitizen-youth-in-the-juvenile-justice-system>

U.S. Department of Agriculture

<https://nifa.usda.gov/sites/default/files/resource/immigrant-youth-fact-sheet-2017-08-11.pdf>

