

New study: 88,000 U.S. citizen children lost parent to deportation

The United States government deported the lawful immigrant parents of nearly 88,000 citizen children between 1997 and 2007, most for relatively minor crimes, according to a new report released today by the University of California, Davis, and University of California, Berkeley, law schools. The deportations often resulted in psychological harm, behavioral changes and problems in school for the children left behind.

The report, "In the Child's Best Interest?", is based on analysis of data provided by the U.S. Department of Homeland Security, interviews with affected families and comparisons of U.S. and international human rights standards. The study was a joint project of the Immigration Law Clinic at the UC Davis School of Law and the International Human Rights Law Clinic and the Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity at the UC Berkeley School of Law. It is available on the Web at <http://www.law.ucdavis.edu/news/images/childsbestinterest.pdf>.

Drastic revisions to U.S. immigration laws in 1996 led to large numbers of deported lawful permanent residents (green card holders), who now make up nearly 10 percent of immigrants deported from the U.S., according to the report. More than 68 percent of the deported green card holders were deported for minor crimes, including driving under the influence, simple assault and non-violent drug offenses, it found.

"It is often the children in these families who suffer the most," said Raha Jorjani, a clinical professor of law at UC Davis and supervising attorney for the UC Davis Immigration Law Clinic. "This nation should take into consideration the impact on families of uprooting individuals with such strong ties to the U.S."

Current immigration laws severely restrict the ability of judges to consider the impact of deportation on children, the report notes. The authors recommend restoring judicial discretion in all cases involving the deportation of lawful permanent residents with U.S. citizen children.

"As Congress considers immigration reform, it's time to focus on how the current system tears apart families and threatens the health and education of tens of thousands of children," said Aarti Kohli, director of immigration policy at Berkeley Law's Warren Institute. "This report makes a strong case for restoring judicial discretion so immigration judges can weigh the best interests of children when deciding whether to deport a parent."

The report examined deportation records between April 1997 and August 2007. The nearly 88,000 legal residents who were deported during this decade had lived in the U.S. an average of 10 years, and more half had at least one child living at home, the study found. About half of the children were under age 5 when their parent was deported.

In 1996, Congress also significantly broadened the category of crimes considered an "aggravated felony," the report notes. Although this category initially included only the most serious offenses, it now includes nonviolent theft and drug offenses, forgery and other minor offenses, many of which may not be felonies under criminal law. Lawful permanent residents convicted of an aggravated felony are now subject to mandatory deportation and other severe immigration consequences.

"Parents who are deported on the basis of criminal convictions are being punished twice for the same mistakes," Jorjani said. "Even after successfully completing their criminal sentences, they are subject to penalties within the immigration system — and risk losing their families."

Families interviewed for the study reported negative health impacts, such as increased depression, sleeplessness, and anxiety. Children also reported plummeting grades, increased behavioral problems, and the urge to drop out of school to help support the family.

The study compares U.S. immigration policy to international standards that more adequately address potential family separations in deportation hearings.

"The rights to health and education are firmly entrenched in international human rights law, and nearly every major human rights treaty recognizes the need for special protection of children," said Laurel Fletcher, director of the International Human Rights Law Clinic at the UC Berkeley School of Law. "The U.S. should consider revising its policy to mirror European human rights standards, which permit judges to balance a nation's security interest with the best interests of the child when considering deporting a parent."

"In the Child's Best Interest?" makes a number of recommendations to U.S. policymakers, including:

- restoring judicial discretion in cases involving the deportation of lawful permanent residents who have U.S. citizen children
- establishing clear judicial guidelines in these family deportation cases
- reverting to the pre-1996 definition of "aggravated felony"
- collecting data on U.S. citizen children of deported lawful immigrant parents to gain fuller understanding of impact of deportation laws

Co-authors of the study include J.D. candidates and research analysts at UC Davis School of Law and UC Berkeley School of Law.

About the Clinics

The Immigration Law Clinic at the UC Davis School of Law provides legal representation to indigent noncitizens in removal proceedings before U.S. Immigration Courts, the Board of Immigration Appeals, and federal courts, including the U.S. 9th Circuit Court of Appeals. The clinic provides this necessary service to Northern California's low-income immigrant communities while enabling students to gain practical, real-world experience. Clinic students take on all major aspects of litigation, including interviewing clients and witnesses, preparing legal briefs, drafting pleadings and motions, and arguing complex legal issues. The clinic regularly conducts naturalization and other workshops in the community. Responding to the impact of increased collaboration between criminal and immigration enforcement agencies, the clinic has been at the forefront of indigent detention and deportation defense. For more information, please visit: www.law.ucdavis.edu.

The International Human Rights Law Clinic at the UC Berkeley School of Law implements innovative human rights projects to advance the struggle for justice on behalf of individuals and marginalized communities through research, advocacy, and policy development. The clinic employs an interdisciplinary model that leverages the intellectual capital of the university to provide innovative solutions to emerging human rights issues and develops collaborative partnerships with researchers, scholars, and human rights activists worldwide. Students are integral to all phases of the clinic's work and acquire unparalleled experience employing strategies to address the most urgent human rights issues of our day. For more information, visit: www.humanrightsclinic.org.

The Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity at the UC Berkeley School of Law is a multi-disciplinary, collaborative venture to produce research, policy reforms and curricular innovation on issues of racial and ethnic justice in California and the nation. The institute's mission is to engage the most difficult topics in a wide range of legal and policy subject areas, providing valuable intellectual capital to public and private sector leaders, the media, and the general public, while advancing scholarly understanding. Central to its methods are concerted efforts to build bridges connecting research, civic action, and policy debate so that each informs the other, while preserving the independence, quality and credibility of the academic enterprise. For more information, please visit: www.warreninstitute.org.

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