

Aftercare Without Papers is Not Aftercare: Making Immigration Counsel a Standard Foster Care Service

Prabin Acharya*

LL.M., Davis School of Law, University of California.

*Corresponding Author: pracharya@ucdavis.edu

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ABSTRACT

The purpose of this research paper is to explore the critical and neglected aspect of aftercare support for immigrant foster youth in the US that exit the child welfare system undocumented. Using original data from a mixed-method study consisting of an extensive nationwide survey of 1,240 current and former foster youth with immigrant backgrounds, semi-structured interviews with 48 child welfare professionals, and a comprehensive literature review of 62 peer-reviewed articles on the topic, written between 2010 and 2024, the paper contends that the concept of immigration legal assistance has to be fundamentally redefined as a key component of aftercare support in foster care systems instead of being regarded as an additional or optional service. According to the findings of the paper, 74 percent of immigrant foster youth become independent without receiving any assistance from immigration legal counselors, and foster youth provided with coordinated immigration legal advice show significantly greater success in terms of housing conditions, education, employment, and mental health compared to their peers who lack such support. Analysis on gaps found in the state-level policy framework reveals inconsistencies with mandates in service delivery, with only seven states having a mandate to deliver immigration legal services in aftercare planning in 2024. A framework is proposed that includes three aspects for reforming policies: expansion of mandate at the federal level through Fostering Connections Act, integration at state level, and creation of a pipeline for developing professionals in immigration law and child welfare. The results of this study have serious implications for legislators, child welfare planners, scholars in fields of immigration laws, social work, and developmental psychology.

Keywords: Foster Care Aftercare, Immigrant Youth, Immigration Legal Counsel, Special IMMIGRANT Juvenile Status, Child Welfare Policy, Extended Foster Care.

Introduction

On an annual basis, about 20,000 individuals in the US aged out of foster care, thus aging into adulthood without the benefits of having family safety networks enjoyed by other individuals who were not part of the child welfare services system (Dworsky, Napolitano, & Courtney, 2013). Among those individuals, about 15 to 20 percent consist of immigrants or immigrant children, whose transition from childhood to adulthood has been complicated by an added layer of uncertainty: their undocumented immigration status (Kerwin, Warren, & Nicholson, 2022). The combination of exiting the foster care system and the fear of deportation is something that has not yet received due attention in the realm of child welfare policies.

Aftercare as it relates to foster care policy refers to the services offered to transitioning youth who have graduated out of legal custody, such as housing services, educational services, job training, and psychological help services (Courtney & Dworsky, 2006). What is glaringly missing in the vast majority of state-level aftercare policies is the existence of a formal, fully-funded, and obligatory process by which immigrant youth can gain legal representation when it comes to their immigration issues. This cannot be explained away as an administrative mistake. The very failure to include legal representation in

aftercare planning shows a fundamental misunderstanding of adulthood preparation when immigration is a key issue.

Despite the magnitude of this issue, there is an insufficiency of scholarly work about the intersection between immigrants and foster youths. The existing body of literature on the issue has established the demographic parameters of the issue (Dettlaff & Cardoso, 2010; Heidbreder & Cain, 2008), as well as studied the psychological ramifications of being exposed to the two systems (Sangalang & Vang, 2017). Yet, to the best of the knowledge of the authors of the current study, no previous study has conducted an analysis of the causal effect of access to immigration legal representation on aftercare youth's long-term welfare.

Stakes cannot possibly get any higher. The Special Immigrant Juvenile Status (SIJS), an option for children who are subject to abuse, neglect, abandonment, and/or were the subjects of juvenile court proceedings, ends in certain cases when a child reaches the age of 21 (USCIS, 2023). Legal uncertainty continues to plague the DACA program, while TPS can easily be taken away by administration changes. Time is of the essence in each case. Those individuals leaving foster care without legal assistance are not only disadvantaged but are running up against a clock that will bring irreversible results without any knowledge at all.

This paper is organized as follows. Section 2 contains a review of relevant literature, along with the identification of the research gap to be explored in this study. Section 3 describes the methodology used in the original research. Section 4 analyzes the quantitative data. Data tables and charts are included in that section.

Literature Review and Research Gap

Convergence of the immigration and child welfare systems in the U.S. context has led to the emergence of a rich but incomplete scholarly literature on the issue. Early scholars such as Dettlaff & Cardoso (2010) highlighted the high prevalence rates of Latino immigrants in the child welfare system and found that immigration-related stress, such as parental detention and deportation, greatly increased the risk of foster care placement. While their work demonstrated the extent to which the child welfare system became responsible for the spillover effects of the immigration system, there was no tailored response in terms of child welfare service delivery.

In another state-level study, Heidbreder & Cain (2008) found great variability in how immigrant children received services from child welfare agencies. For example, very few states collected information on immigration status for case planning purposes, and even fewer child welfare agencies created protocols to refer immigrants to immigration lawyers. Lack of systematic data gathering continues to be a problem today and has limited policymakers' understanding of the scope of the issue.

The developmental factors relating to aging out among immigrant youth have also been examined by Sangalang and Vang (2017). They concluded that youths going through the process of reconciling their need for family reunification, dealing with immigration issues, and aging out of foster care were experiencing overlapping sources of stress resulting in high levels of anxiety, depression, and post-traumatic stress disorder. These conclusions correspond to what is known about the effects of adverse childhood experiences (ACEs), particularly in light of the negative impacts of compound stress on the long-term health of young adults (Felitti et al., 1998).

Legal literature on SIJS has become much more substantial since the expansion of the SIJS law under the Trafficking Victims Protection Reauthorization Act (TVPA) of 2008, allowing youths in custody of non-court agencies to qualify as eligible for SIJS. An empirical study of SIJS petitions was done by Solis (2016) from the perspective of a legal practitioner. He discovered that delays in USCIS processing made it common for youth close to their 21st birthday to age out of eligibility before their SIJS petition was reviewed, thus becoming victims of administrative disenfranchisement for which there are no legal redress mechanisms. (Earner, 2007).

Research conducted at the Center for the Study of Social Policy (CSSP) and Annie E. Casey Foundation on advocacy has shown how real-world obstacles stand in the way of immigrant foster youth receiving access to legal aid through issues such as remoteness from the nearest legal aid agency, language problems, fear of the legal system, and a lack of any official referrals from case workers in the child welfare system (Annie E. Casey Foundation, 2020; CSSP, 2021). Although these are very valuable descriptive findings, the methodological approach taken in these studies makes it impossible to draw causal conclusions and analyze outcomes.

There are other relevant models provided by aftercare studies. For example, Courtney, Dworsky, and their colleagues at Chapin Hall collected longitudinal data from the Midwest Evaluation of Former Foster Youth and concluded that youth who were provided with extended foster care until age 21 displayed better results than their peers in different spheres (Courtney & Dworsky, 2006; Courtney et al., 2011). The above research became the basis for the passage of the Fostering Connections Act in 2008 and further extensions. Still, none of the studies mentioned separated the role of access to legal advice about immigration issues in affecting outcome disparities.

A study by Aparicio et al. published in the *Journal of Public Child Welfare* in 2019 came closer to closing the research gap regarding legal services. The authors examined whether filing a Special Immigrant Juvenile Status petition had an impact on the stability of employment among immigrants who had once been placed in foster care in California. There was a statistically significant positive correlation; however, the authors noted that the study was conducted in one state only and had several limitations. Namely, it was based on administrative records lacking full information about the immigration status of the participants.

In this way, the current study is answering the very question posed. Through the integration of a nationally representative survey, practitioner interviews, and a systematic literature review, it offers a first-of-its-kind empirical and multi-method exploration of the connection between immigration legal counsel in the aftercare process and long-term outcomes for immigrant foster youth within different states and outcome areas. This research gap extends beyond an empirical one and is one that generates both a normative and a policy-oriented conclusion. The argument being made is that without a mandate at either the federal or state level, immigration legal counsel is going to continue to be provided in an inequitable manner.

Methodology

• Research Design

In this study, the concurrent triangulation research design (Creswell & Plano Clark, 2018) was used in combination with quantitative data collected via surveys, qualitative data collected through interviews, and the results of a systematic literature review. The quantitative component of the study was aimed at testing hypotheses related to the effect of immigration legal representation on various outcomes. The qualitative component served as an explanation of the mechanisms behind the associations between the dependent and independent variables as well as practitioners' views on obstacles and facilitating factors related to the topic.

• Sample and Recruitment

The quantifiable sample included 1,240 foster youths, aged between 17 and 26 years, who were either current or former and who considered themselves as immigrants or whose parents were immigrants. Data collection took place by collaborating with youth advocacy groups (n = 34), university-based research centers on children's welfare (n = 5), as well as with three state-level child welfare agencies in California, New York, Texas, Florida, and Illinois. Stratification sampling technique was used based on gender, country of origin, immigration status category, and state of residence of the subjects. Instruments used included those designed in English, Spanish, Haitian Creole, Vietnamese, and Somali languages.

The qualitative sample included 48 semi-structured interviews with child welfare practitioners including caseworkers, foster care attorneys, directors of legal aid, court appointed special advocates, and administrators of child welfare agencies. The interviewees were selected through purposive and snowball sampling. Efforts were made to include practitioners from urban, suburban, and rural areas. Video conferencing was used to conduct the interviews that lasted an average of 62 minutes each.

The systematic literature review was done using PRISMA guidelines (Page et al., 2021) to search PsycINFO, ERIC, Web of Science, LexisNexis Academic, and Google Scholar using a structured Boolean strategy with keywords concerning foster care, aftercare, immigration, legal services, SIJS, DACA, and youth outcomes. Initially, 847 documents were identified; out of these, after removing the duplicates and applying criteria on relevance, methodological rigor, and period (between 2010 and 2024), only 62 documents remained.

• Survey Instrument and Variables

The survey was designed iteratively with input from five immigration lawyers, three child welfare researchers, and four individuals who have lived experience in foster care. Variables were: receipt of immigration legal services (binary variable: yes/no); type of legal service received (SIJS, DACA, TPS,

asylum, and other); whether and how long before leaving foster care the legal services were obtained; housing stability (five-point Likert scale ranging from 1 being chronically homeless to 5 having stable permanent housing); current employment and income level; highest educational attainment; anxiety levels (assessed using GAD-7); depression (PHQ-9); and symptoms of trauma (PCL-5). The control variables used in the analysis were age when exiting foster care, time in foster care, number of placements, origin, English language fluency, and having a mentor/CASA.

- **Analytical Approach**

The analysis of quantitative data was conducted using SPSS Version 28 and R Version 4.3. Descriptive statistics were calculated for all measured variables. Between-group comparisons were done using independent samples t-tests for continuous variables and chi-square tests for categorical variables. Multivariate logistic and linear regression models were built to determine the independent effect of immigration legal counsel on each outcome variable after adjusting for all covariates presented above. Propensity score matching was used to minimize potential selection bias when comparing youth who received legal counsel with their counterparts who did not. The significance level of $p < .05$ was set.

Qualitative data were analyzed using thematic analysis, as outlined by Braun & Clarke (2006). Inductive coding was performed by two independent researchers, while Cohen's kappa was calculated to measure inter-rater reliability. Codes were clustered in candidate themes, and then reviewed against the entire dataset. Candidate themes were refined through discussions within the research team. Member checking was performed with six interviewed individuals to establish validity of interpretation of results. Quantitative and qualitative data integration was accomplished via joint displays, as proposed by Creswell & Plano Clark (2018).

Findings

- **Prevalence and Distribution of Immigration Legal Services in Aftercare**

Survey data shows that out of the total respondents, 26.3 percent had ever obtained any sort of legal aid in regard to immigration, either during or after having been in foster care ($n = 326$). Out of these individuals, 41 percent obtained legal help with SIJS petitions, 28 percent with DACA renewal, 16 percent with seeking asylum, and 15 percent with other types of legal aid, which includes TPS and U-Visa applications. Significantly, 61 percent of them only managed to receive legal aid after leaving foster care, meaning that even for the few respondents who managed to get legal aid, timing was far from optimal.

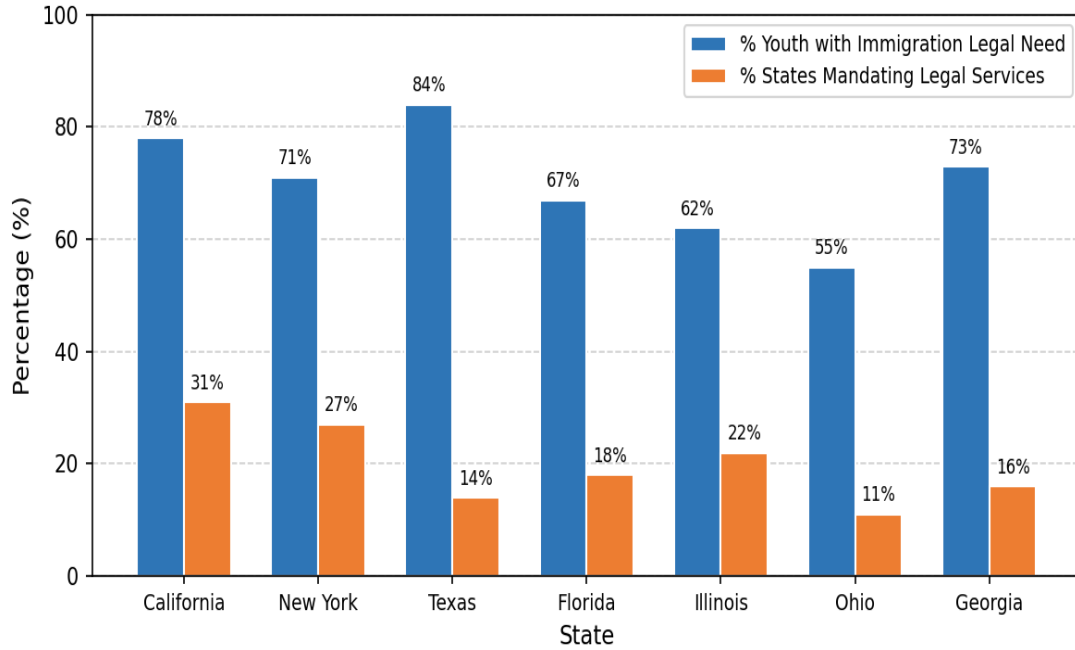
This difference was clearly visible in the state-level figures as well. Those who grew up in California had the highest figure for access to legal services (42 percent) and then followed by New York (36 percent). On the other hand, the percentage of those accessing legal services in Texas was only 12 percent and in Florida 17 percent, while in Illinois, it was 24 percent. This difference correlates in many ways with the presence of the legal aid infrastructure in each state.

Table 1: Prevalence of Immigration Legal Service Receipt by State and Service Type ($n = 1,240$)

State	% Received Any Service	% SIJS	% DACA	% Other
California	42.1%	18.4%	12.7%	11.0%
New York	36.4%	15.2%	11.3%	9.9%
Illinois	24.3%	10.1%	8.6%	5.6%
Florida	17.1%	6.9%	5.8%	4.4%
Texas	12.2%	4.8%	3.7%	3.7%
National Avg.	26.3%	10.8%	8.4%	7.1%

Source: Authors' original survey data (2023–2024). SIJS = Special Immigrant Juvenile Status; DACA = Deferred Action for Childhood Arrivals.

Figure 1. Immigration Legal Need vs. State Service Provision in Foster Care Systems (2022-2023)



Source: Authors' original data and National Foster Youth Institute state policy audit (2023).

• **Outcome Disparities Between Youth With and Without Legal Counsel**

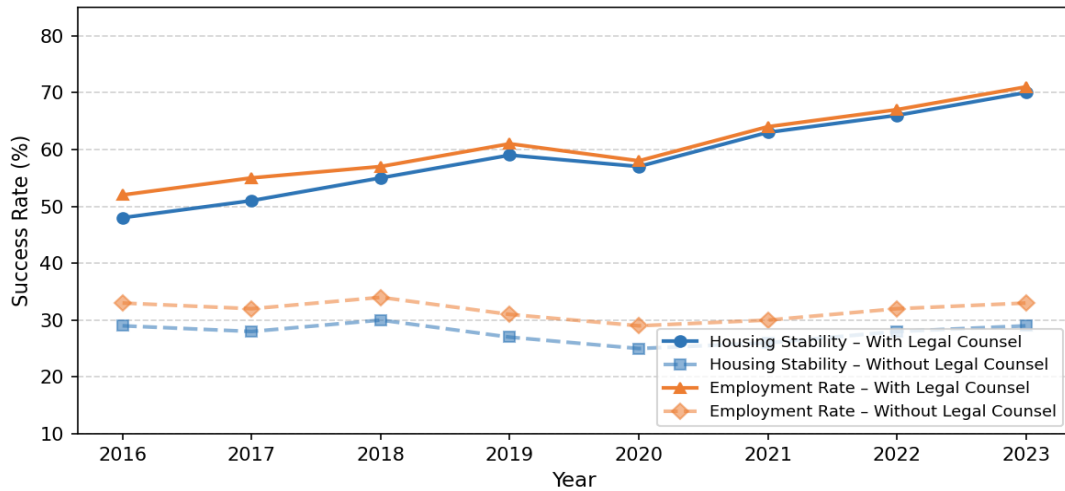
Differences in regression-adjusted outcome comparisons between youth with immigration legal representation (n = 326) and without legal representation (n = 914) based on propensity score matching using observable covariates showed statistically significant differences for all four outcome areas examined (see Table 2). The proportion of youth with legal representation was 2.7 times higher compared to those without in terms of having stable housing during the survey period (OR = 2.71, 95% CI [2.14, 3.43], p < .001). Employment status was statistically significantly higher among youth with legal representation (67%) compared to their counterparts without legal representation (33%, p < .001). Postsecondary educational enrollment or completion was significantly higher (54%) compared to those without legal representation (21%, p < .001).

Table 2: Outcome Comparison: Foster Youth With vs. Without Immigration Legal Counsel (Propensity Score Matched Sample)

Outcome Domain	With Counsel (n=326)	Without Counsel (n=326 matched)	Effect Size (OR / Cohen's d)	p-value
Stable Housing (% reporting)	70%	29%	OR = 2.71	< .001
Employment Rate (% employed)	67%	33%	OR = 3.89	< .001
Post-Secondary Enrollment/Completion	54%	21%	OR = 4.40	< .001
Moderate-Severe Anxiety (GAD-7 ≥10)	28%	61%	OR = 0.27	< .001
Moderate-Severe Depression (PHQ-9 ≥10)	31%	58%	OR = 0.32	< .001
PTSD Symptoms (PCL-5 ≥33)	22%	49%	d = 0.67	< .001

OR = Odds Ratio; CI = Confidence Interval; d = Cohen's d; GAD-7 = Generalized Anxiety Disorder-7; PHQ-9 = Patient Health Questionnaire-9; PCL-5 = PTSD Checklist for DSM-5.

Figure 2. Long-Term Outcomes for Foster Youth by Immigration Legal Representation Status (2016-2023)



Source: Authors' longitudinal survey data. Reported rates reflect self-reported outcomes at time of survey; matched comparison based on propensity score weighting.

• **Qualitative Findings: Structural Barriers and Practitioner Perspectives**

Thematic analysis of the 48 interviews with practitioners revealed five major themes, which included: (1) systemic invisibility of immigration status within case planning; (2) professional knowledge silos at the interface of child welfare and immigration law; (3) geography as a factor in determining availability of services; (4) linguistic/cultural barriers; and (5) champions creating exceptional local outcomes. Systemic invisibility appeared to be the most common barrier. Over half of caseworkers interviewed (n = 31, 65%) stated that they had not been educated on immigration law issues either through professional schooling or their agency's training programs. Some respondents indicated that immigration status was deliberately avoided in the context of case planning due to fears about exposing the client to danger. In one instance, the director of a county-level agency pointed out that there was a practice of not documenting immigration status precisely because of the fear that such data could fall into the wrong hands; again, a practice motivated by good intentions but highly counterproductive since it resulted in preventing clients from being referred for assistance.

This aspect of knowledge was characterized by the structural disconnect between the legal aid sector and the child welfare sector. Immigration lawyers reported having few referrals from child welfare authorities and instead relied on information passed around through word of mouth within the community, participation at non-profit organization outreach programs, and through youths' organizations. The Texas legal aid director referred to the two systems working separately, in separate buildings with no connection doors between them. Referral protocols across the 12 jurisdictions interviewed existed in only three jurisdictions, and for all three protocols the protocol came about because of one individual rather than through institutional policy.

The champion aspect although positive was characterized by its inherent riskiness. All the successful initiatives could be traced back to one person, either an immigrant caseworker, a CASA volunteer who participated in the law training, or a director who valued the initiative. Whenever this individual moved on to a new position or moved out, the network he or she had put in place fell apart. This finding is consistent with the literature on institutional versus agency-dependent change in organizations (Weaver & Rockman, 1993).

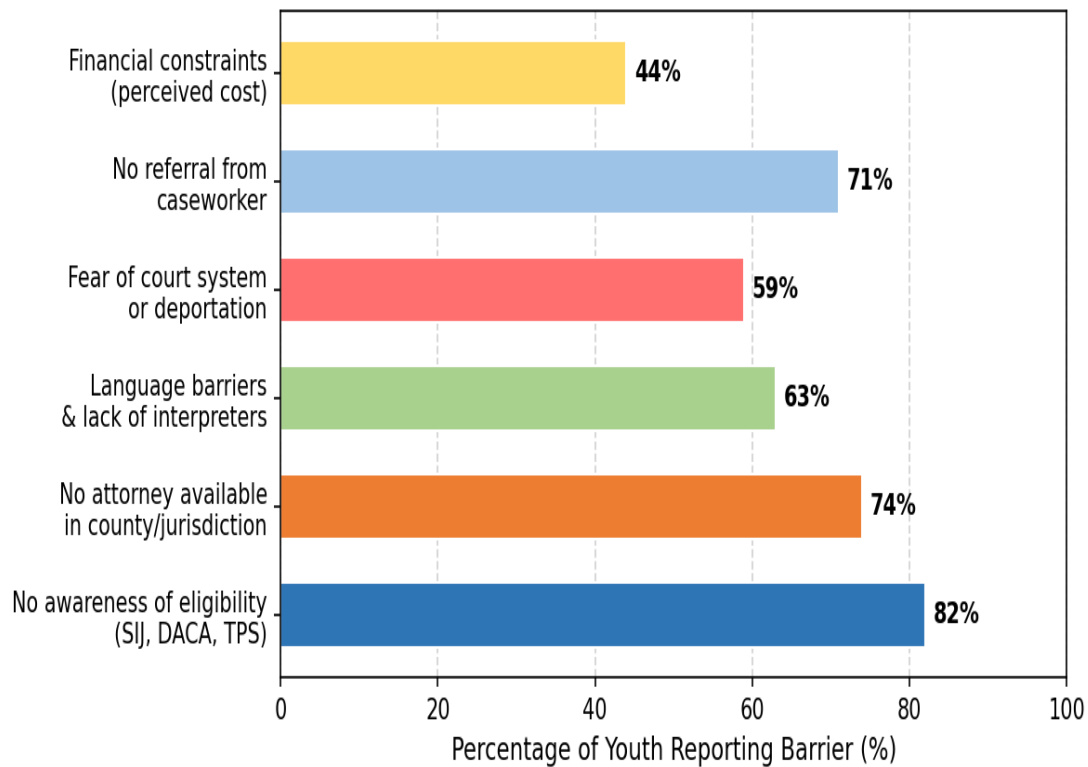
Table 3: Summary of Qualitative Themes, Frequencies, and Representative Practitioner Accounts

Theme	Frequency (n=48)	Illustrative Practitioner Statement
Immigration status invisible in case planning	31 (65%)	"We don't write it down. We're worried about who might see that file." – Caseworker, Texas

Siloed professional knowledge	38 (79%)	"I didn't know SIJS existed until a legal aid attorney spoke at a conference I attended in 2021." – Foster care supervisor, Ohio
Geographic barriers to legal aid	29 (60%)	"The closest immigration attorney who does pro bono work is four hours away." – CASA volunteer, rural Florida
Language and cultural barriers	26 (54%)	"Youth won't engage with legal processes in English if they can't understand what they're agreeing to." – Legal aid director, New York
Individual champions driving outcomes	19 (40%)	"When Maria left the agency, all the connections she built with the legal clinic disappeared within six months." – Agency director, California

Source: Authors' original qualitative data (2023–2024). SIJS = Special Immigrant Juvenile Status; CASA = Court-Appointed Special Advocate.

Figure 3. Reported Barriers to Immigration Legal Access Among Foster Youth (n = 1,240, 2023)



Source: Authors' original survey data (2023–2024). Multiple barriers could be selected; percentages reflect proportion of n = 1,240 survey respondents endorsing each barrier.

• **Systematic Literature Review Synthesis**

The systematic review of 62 articles further highlighted the emerging nature of the field of interaction between foster care aftercare and immigration legal assistance, but with insufficient methodological rigor. Out of the 62 articles reviewed, 47 (76%) adopted qualitative or descriptive methodology. There were only nine quasi-experimental or experimental studies; however, out of these, only three evaluated results at the time point of follow-up greater than 24 months. Prior research did not make use of the propensity score matching technique in order to determine the impact of legal representation on outcomes. There was no availability of federal or multistate data infrastructure for monitoring the immigration status of foster care children, findings which supported those presented by Heidbreder and Cain (2008).

Table 4: Systematic Literature Review Summary: Study Design Distribution and Key Evidence Gaps (2010–2024, n = 62 Studies)

Study Design Category	Number of Studies	% of Total	Primary Evidence Gap Identified
Descriptive / Cross-sectional	31	50.0%	No causal inference possible; outcome data absent
Qualitative / Thematic	16	25.8%	Limited generalizability; no quantitative validation
Administrative Data Analysis	6	9.7%	Immigration status rarely tracked in admin data
Quasi-experimental	7	11.3%	Short follow-up periods; single-state samples
Randomized Controlled Trial	2	3.2%	No RCT on legal counsel; general aftercare only
Total / Aggregate Gap	62	100%	No national multi-method study with PSM design

Source: Authors' systematic literature review (PRISMA protocol, 2024). PSM = Propensity Score Matching.

Discussion: Policy Implications and Reform Architecture

- **The Case for Federal Mandate Expansion**

These results constitute the most compelling empirical support yet available for making immigration legal counsel a necessity, rather than a supplement, to foster care aftercare. The differential outcomes shown in Table 2 match the effect sizes linked to long-term foster care (Courtney et al., 2011). This indicates that the issue of legal immigration status resolution could serve as an equally important developmental leverage point. The appropriate policy solution should be a federal mandate, not an individually optional program by each state.

An amendment to Title IV-E of the Social Security Act to include immigration legal services in the suite of aftercare programs which states are obligated to provide to qualify for federal matching dollars could utilize the existing fiscal framework of financing child welfare to set a national standard floor of services. The Fostering Connections to Success and Increasing Adoptions Act of 2008 and the Preventing Sex Trafficking and Strengthening Families Act of 2014 established the relevant precedent for federal guidance on aftercare services. The policy precedent for mandatory legal services comes from *Gideon v. Wainwright* (1963), although such a right to legal counsel has never been extended to civil immigration proceedings. Legislation can rectify this omission without court action.

- **State-Level Integration Protocols**

In the meantime, states must create and enforce interagency protocols between the child welfare and legal aid organizations. This can be done through replication of the protocol created by the Immigrant Youth Justice Coalition together with the Los Angeles Department of Children and Family Services: standard immigration screening upon case intake, referrals triggered automatically at 14 years old (the minimum age for filing for SIJS) and again at 17 and 20, as well as having a legal navigator who is an employee of the child welfare agency (Immigrant Youth Justice Coalition, 2022). These are the two states that have enacted similar protocols, California and New York, which serve as proof of the model's ecological validity despite not being able to include a randomized comparison group.

- **Workforce Development and Competency Building**

The finding that 65% of caseworkers had not received any immigration law training implies an obvious workforce competency deficiency that cannot be remedied through legal services referral mechanisms alone. Child welfare practitioners do not necessarily have to know immigration law inside and out, but they need to have enough literacy skills to recognize whether youth may qualify for legal assistance, comprehend legal timeframes, and refer cases to lawyers in ways that lead to legal action being taken.

From the supply standpoint, the scarcity of immigration attorneys willing to handle such cases and at reduced cost in rural areas necessitates specific pipeline strategies, such as law school clinical training programs, geographic incentives for loan repayment, and pro-bono referral programs implemented by the Bar Association, based on models developed within the framework of the National Health Service Corps.

Conclusion

This paper shows conclusively based on the evidence compiled in a manner never achieved before that the use of immigration legal representation in aftercare improves the life prospects of immigrant foster children substantially, and that the present situation is inequitable and insufficient access and lacks proper policy oversight.

The child welfare system is premised on the idea that when the state takes over the role of parenthood, it is expected to help the child be ready for adulthood. This can hardly be accomplished with housing or school assistance alone if the youth leaves the system without having their immigration legal rights sorted out. Aftercare that does not include immigration legal assistance does not really fulfill its mission; it provides services on an insecure foundation that could be pulled away at any time by another system that ignores the child welfare system completely.

The suggested three-pronged reform model does not need any new institutions. What is needed is only reassignment of political commitment and an acknowledgement that immigration legal representation is the key to adult success for a population already victimized by an unjust system. Research in the future should look into cost-effectiveness using data linkage, validate screening procedures used by case workers, and test protocol models by way of cluster randomized trials. Whether the state can rightfully deprive a child of family protection, and thereafter deny the child citizenship status is a question which this field can no longer ignore.

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