



Homeland Security

June 2, 2026

Dear Colleagues:

I write to bring an important issue to your attention and to ensure that all state court judges in the country understand how to properly adjudicate claims as part of the Special Immigrant Juvenile (SIJ) process. This program is rife with fraud, and state court judges have historically misunderstood their important role in policing this fraud. As detailed below, these failures have caused great harm to American citizens. To prevent further harm, I seek your assistance going forward.

As you may know, the SIJ classification allows certain aliens under 21, many of whom came here illegally, to become lawful permanent residents and eventually U.S. citizens. Under the SIJ regime, state court judges act as gatekeepers of this status. Specifically, an alien seeking SIJ status must obtain an order from a state court that (1) the alien is dependent on the court or in the custody of a state agency or court appointed individual, (2) the alien is unable to be reunified with his or her parents based on abuse, abandonment, or neglect, and (3) it is not in the best interests of the alien to return to his or her home country.

While the SIJ program advances important congressional objectives, it is significantly at risk of fraud. Many state court judges are not aware of this risk and grant the predicate orders in a non-adversarial and pro forma fashion. Frequently, there is no underlying child protective services or similar investigation into the child's circumstances. Instead, aliens who wish to remain in the United States forever can obtain these orders without meaningfully demonstrating that they meet the requirements because many judges are unaware of the need to vet the claims. In some jurisdictions, judges issue SIJ predicate orders without even holding a hearing.

The failure of state court judges to police the requirements of the SIJ process leads to tangible harm. It allows criminals, gang members, and even suspected terrorists to obtain lawful status, while eroding public trust and diverting court resources away from genuinely vulnerable children.

A recent report by the Fraud Detection and National Security Directorate (FDNS) of U.S. Citizenship and Immigration Services (USCIS) covering SIJ data from fiscal years 2013 through 2025 revealed troubling patterns, including age and identity fraud and filings from known or suspected terrorists, criminal aliens, and adult aliens from countries with national security concerns. The USCIS Report found that since FY 2013, nearly 19,000 SIJ petitioners were found to have criminal arrest records, including 120 for murder. Additionally, at least 200 approved SIJ

petitioners were convicted of certain sex offenses and required to register in the National Sex Offender Registry.

Gang members, many of whom are also federally designated terrorists, also exploit the program. Since FY 2013, more than 500 known or suspected members of MS-13, 100 known or suspected members of the 18th Street gang, three Tren de Aragua members, and dozens of Sureño and Norteño members have been approved for SIJ status and are residing in the United States pursuant to that underlying SIJ classification. These known or suspected gang members have committed gang murders, attempted murders, assaults, sex trafficking, extortion, and illegal firearms possession.

One approved SIJ petitioner was the leader of a New York chapter of the MS-13 gang and later pleaded guilty to racketeering charges in connection with his participation in eight murders in New York.

In 2023 and 2024, four approved SIJ petitioners belonging to the same clique of MS-13 members in Virginia were indicted for their participation in racketeering conspiracies involving multiple murders, including the murder of a 19-year-old woman who was shot 16 times for insulting the gang on social media.

After his SIJ petition was approved in June 2023, a Trinitarios gang member participated in a drive-by shooting killing two people and wounding five others. This individual also participated in previous shootings of rival gang members in Lynn, Massachusetts in February and May 2023, prior to his SIJ petition being approved.

These horrific crimes, and many others, could have been prevented if the SIJ program functioned as intended—the criminals who committed these crimes should not have been in our country. Your orders are not a formality; they are the linchpin of the SIJ process. When predicate orders are issued without a sufficient factual basis, the SIJ program becomes vulnerable to abuse and threatens public safety. Orders that simply recite statutory language, without factual detail or reference to state law, are more easily misused and diminish the value of your findings. We respectfully urge you to exercise rigorous scrutiny in all SIJ-related proceedings. Rigorous judicial review helps ensure that SIJ protections reach the children the law was designed to protect, while preventing misuse by those who pose risks to public safety. If you have doubts, ask for more evidence. If you see patterns of abuse, report them through the appropriate channels in your jurisdiction.

In SIJ related matters, we respectfully ask that you conduct a substantive, individualized inquiry into whether reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law and that your orders clearly explain why it is not in the child's best interest to return to his or her home country. Subject to state law and your judicial discretion, we encourage the following practices in SIJ-related cases:

- Seek corroborating evidence where available, such as:
 - school or attendance records,
 - medical or mental health records,
 - police reports, or
 - testimony from relatives, caregivers, or other third parties.
- Question the petitioner and any witnesses under oath, when possible, and probe for:
 - specific details,
 - internal consistency, and
 - consistency with documents and prior statements.
- Watch for common red flags, including:
 - late-arising claims of abuse or neglect that surface only after immigration enforcement or removal proceedings begin,
 - significant inconsistencies in dates, events, or relationships, and
 - repeated, similarly structured filings involving the same representatives or nearly identical fact patterns.
- Consider the interests of both parents. Do not assume allegations against a parent are true solely because that parent resides abroad, is not present, or has not appeared in court.
- Decline to issue SIJ predicate orders where the only apparent purpose is to facilitate an immigration benefit and the order does not meaningfully affect custody, protection, or services under state law.

We recognize the complexity of SIJ cases. They sit at the intersection of state family law and federal immigration law and can be demanding for courts and staff. The Department of Homeland Security offers training and resources to help judges and court personnel:

- navigate SIJ-related proceedings that come before your court,
- recognize red flags and indicators of fraud or abuse of the process, and
- make informed, well-supported findings under state law.

The USCIS SIJ website provides detailed guidance on program requirements and procedures: <https://www.uscis.gov/working-in-US/eb4/SIJ>.

USCIS can also provide sample orders, checklists, and additional training on SIJ-related issues. If you would like more information or wish to schedule a training session, you may contact USCIS Public Engagement at public.engagement@uscis.dhs.gov.

Thank you for your attention to this matter and for your continued commitment to the protection of children and the safety of the communities you serve. Together, we can protect the SIJ program for the vulnerable youth it was meant to serve and keep our communities safe.

Respectfully,

A handwritten signature in black ink, appearing to read "James H. Percival II". The signature is written in a cursive style with some capital letters.

James H. Percival II
General Counsel
Department of Homeland Security