



Consulate of Mexico in Portland

Family Law Area

Helietta González-Hernández
Consul for the Protection and Legal Affairs

Salem, OR., March 9, 2016



Presentation Outline

- What is a Consulate?
 - Definition and legal framework
 - Responsibilities
 - Mexican consular network in the USA
 - Consulate of Mexico in Portland
- Protection and Legal Affairs Department
 - Consular protection
 - Consular protection areas
- Family Law Area
 - Child support cases
 - International child restitution
 - Child custody cases



SRE
CONSULATE OF MEXICO
IN PORTLAND



What is a Consulate?

Definition

A consulate is the representation of a country's government in a foreign town. The embassy is a permanent diplomatic mission, generally located at the country's capital city.

Legal Framework

- International
 - Vienna Convention on Consular Relations, 1963
- Binational
 - Consular convention between the United Mexican States and the United States of America, 1942
 - Memorandum of Understanding on Consular Protection of Mexican and United States nationals, 1996

3



SRE
CONSULATE OF MEXICO
IN PORTLAND



What is a Consulate?

Responsibilities

Mexican consulates have two main responsibilities:

- To safeguard the interests of Mexican nationals traveling or residing abroad.
- To develop economic, commercial, scientific and cultural relations between Mexico and the hosting city/state(s).



SRE
CONSULATE OF MEXICO
IN PORTLAND



What is a Consulate?

Mexican Consular Network in USA

79 embassies and 70 consular offices (52 of them in USA)



5



SRE
CONSULATE OF MEXICO
IN PORTLAND



Consulate of Mexico in Portland Jurisdiction

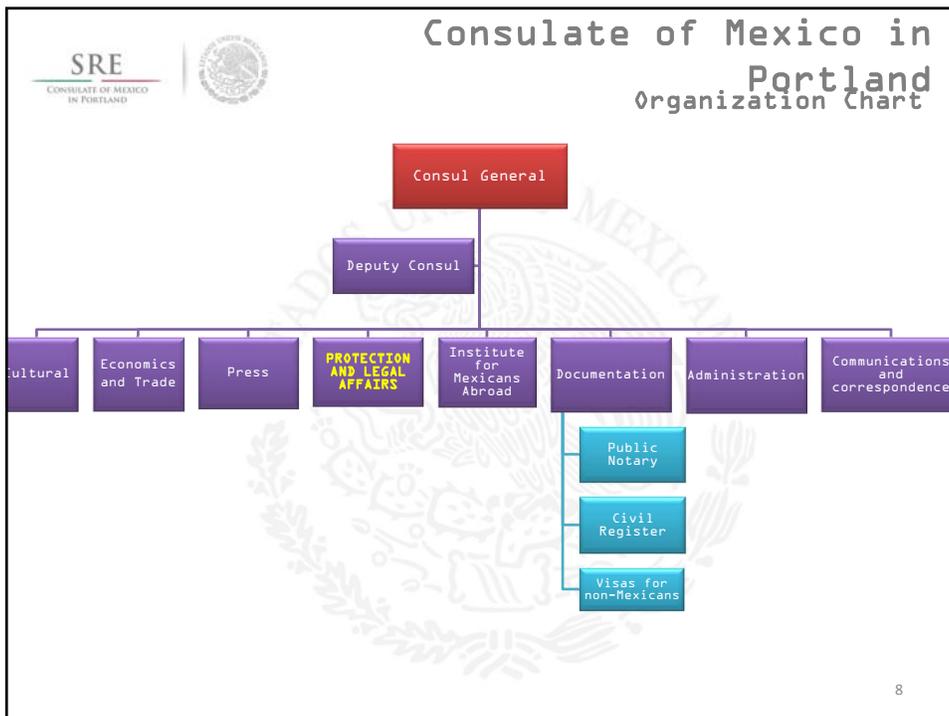
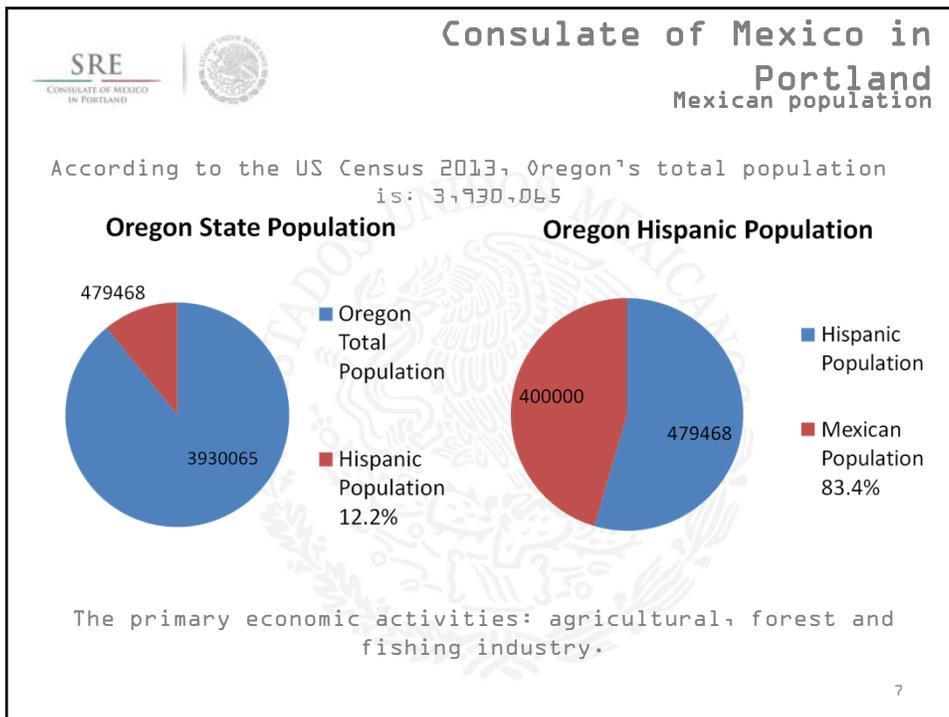
- Established in July 15th, 1996.

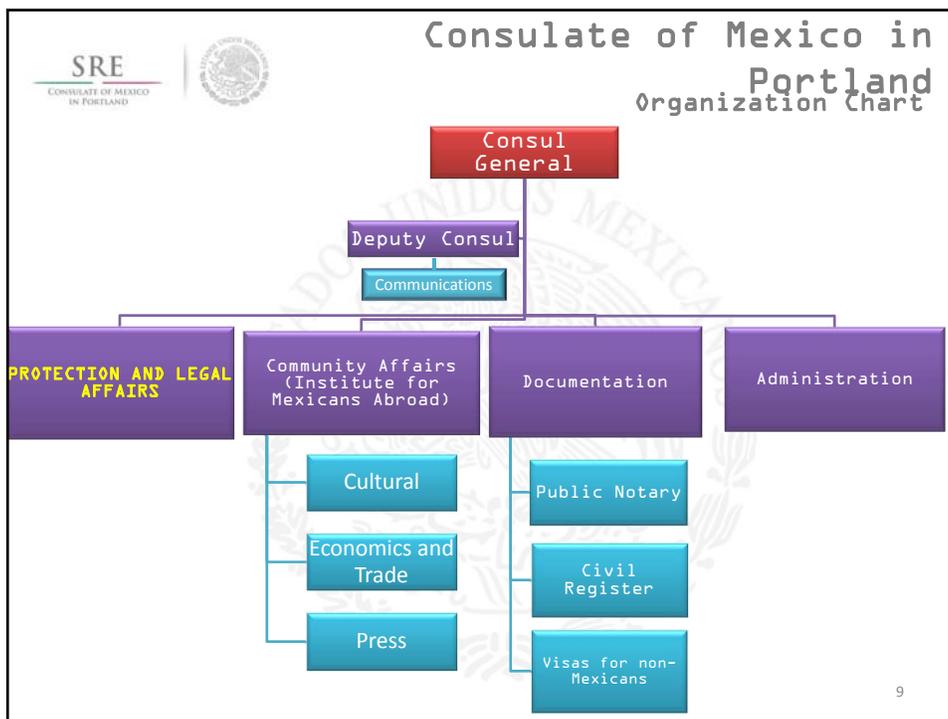




- Our jurisdiction covers:
 - All Oregon counties except: Wallowa, Union, Baker and Malheur.
 - Three Washington counties: Clark,

6





SRE
CONSULATE OF MEXICO
IN PORTLAND

Consular Protection
Definition

“Consular protection is defined as the set of *actions, efforts and good offices* (advocacy services) conducted by the Government of Mexico through the diplomatic and consular representations abroad *to safeguard*, in accordance with the principles and norms of international law and adherence to laws and regulations of each country, *the rights and integrity of Mexican nationals abroad* when there is a request of the interested party.”

- Monitor the respect of their rights (including due process of law).
- Avoid damages to persons and/or to their interests.
- Prevent discrimination acts, injustices or

10

SRE
SECRETARÍA DE
RELACIONES EXTERIORES



Protection Department

Mexican National and Dual Nationality

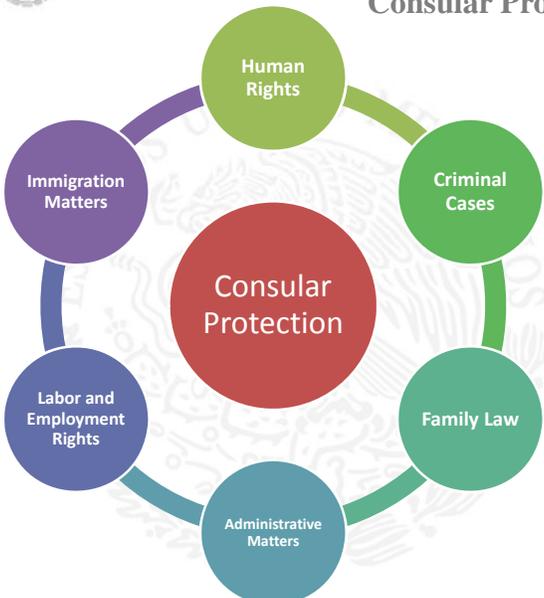
- Mexican Constitution, Art. 30 - Mexican Nationality can be acquired by:
 - Birth:
 - born in Mexican soil
 - foreign born with Mexican parents (mother or father born in Mexican territory/Mexican by naturalization)
 - born on board of Mexican military or merchant vessels/aircrafts
 - Naturalization

SRE
CONSULATE OF MEXICO
IN PORTLAND



Protection Department

Consular Protection Areas



```
graph TD; CP((Consular Protection)) --- HR((Human Rights)); CP --- CC((Criminal Cases)); CP --- FL((Family Law)); CP --- AM((Administrative Matters)); CP --- LER((Labor and Employment Rights)); CP --- IM((Immigration Matters));
```



SRE
SECRETARÍA DE
RELACIONES EXTERIORES



Family Law Area

Child Support



- The process begins with an administrative authority, but it is the local judiciary authority in the place where the debtor is located, the one responsible to define the admissibility of the case, and if so, the amount to be paid. (Oregon Department of Justice / Division of Child Support)
- In the United States, the Uniform Interstate Family Support Act (UIFSA) may be used to enforce the child support order. However, Puerto Rico and 9 US states do not recognize this agreement: Colorado, Florida, Iowa, Georgia, Maryland, Oklahoma, Oregon, Virginia and Wisconsin. In these cases, Mexican consulates operate through good offices.



SRE
CONSULATE OF MEXICO
IN PORTLAND



Family Law Area

International Child Restitution

Mexican Consulates can:

- Provide overall guidance to the person whose child has been removed or retained in breach of custody rights.
- Refer him/her to the appropriate central authority.
- If the USDOS approves the restitution to Mexico of a Mexican child, the Mexican Consulate can assist to facilitate a safe return (e.g. passport issuance, repatriation, coordination with local authorities, etc.)





SRE
CONSULATE OF MEXICO
IN PORTLAND



Family Law Area

Child Custody

General Provisions:

- The faculty to decide on custody cases relies on the judicial authority of the child's country of habitual residence, regardless of the nationality of the parties involved (parents or children).
- The Consulate of Mexico can intervene to guarantee due process and to ensure adequate legal representation of the rights of :
 - ✓ Mexican minors*
 - ✓ Incapacitated adults
 - ✓ Parents/legal guardians.

* Any unmarried individual who is under the age of eighteen and was born in Mexico; is the biological child of a Mexican national; two or more countries confer their nationality to the individual and Mexico is one of those countries.

(MOU between USA and Mexico, section III (a))



SRE
CONSULATE OF MEXICO
IN PORTLAND



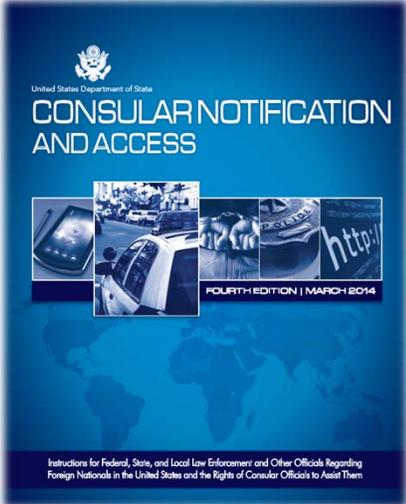
Protection and Legal Affairs Department

Consular Notification and Access

The starting point ...

“Consular assistance is particularly important in cases involving children, including those with two nationalities, who have no relatives in the United States”

“Notification should be made by any appropriate official involved in the guardianship process agency acting to protect the child.”



16





Protection and Legal Affairs
Consular Notification and Access Department

Vienna Convention on Consular Relations

Article 37: Information in Cases of Deaths, *Guardianship or Trusteeship*, Wrecks, and Air Accidents

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

[...]

(b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;

17





Protection and Legal Affairs
Consular Notification and Access Department

Pursuant to Bilateral Convention and Vienna Convention, as well as Oregon Revised Statutes 419A.255 (9) and 419B.851(3), DHS has the duty to notify the Consulate in writing, when:

- a) DHS assumes the custody of a Mexican national minor;
- b) the parent or custodian of a Mexican minor so requests the notification to the Consulate, and
- c) DHS is aware that either parent resides in Mexico.



The above is also envisaged in Article 3 of the MOU between the Consulates of Mexico in Portland and Boise and the Department of Human Services of Oregon regarding consular function in custody proceedings involving Mexican minors . (signed on June 17, 2014)

18



SRE
CONSULATE OF MEXICO
IN PORTLAND



Family Law Area

Child Custody

Main cases handled by the Mexican Consulate:



Mexican or Mexican-American children whose parents or legal guardians have lost their rights of custody due to circumstances of child abuse or neglect, or because their family has been separated after the deportation of one or both parents.



SRE
SECRETARÍA DE
RELACIONES EXTERIORES



Family Law Area

Child Custody Cases at a Glance

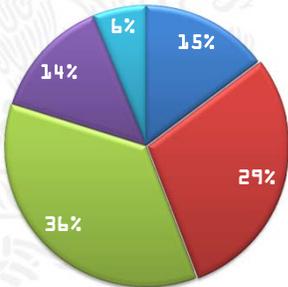
In 2015, the Consulate provided consular assistance in

70 new child custody cases involving 129 children
(4 were born in Mexico)

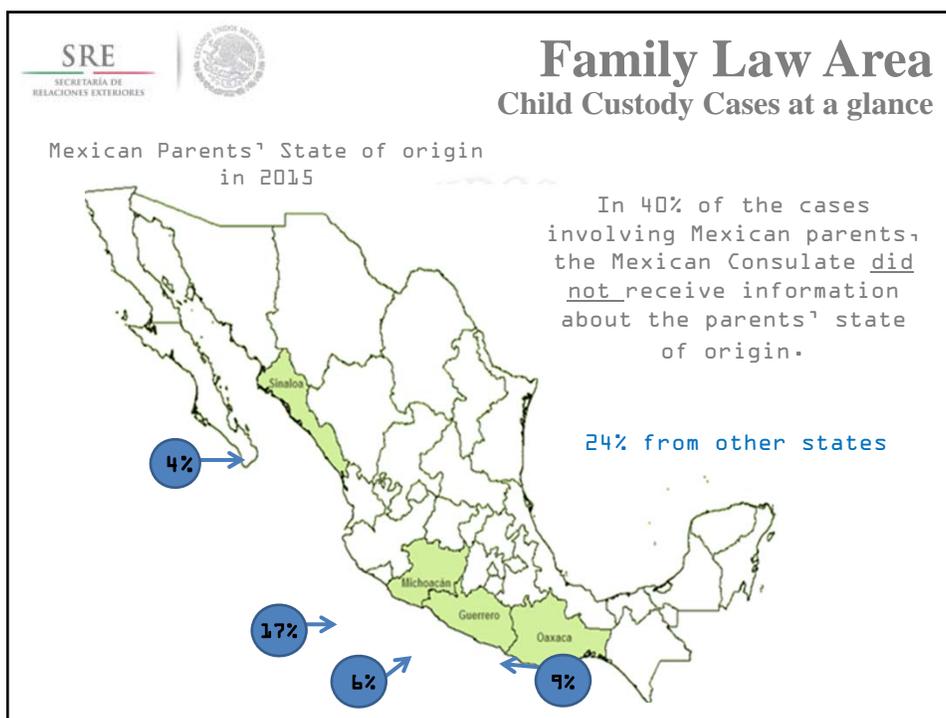
Cases by gender in 2015

Gender	Number	%
 Male	68	53
 Female	61	47
Total	129	100

Cases by age groups in 2015



- 0-3 years old
- 4-7 years old
- 8-11 years old
- 12-15 years old



SRE
CONSULATE OF MEXICO
IN PORTLAND



Family Law Area Child Custody

Guiding principles:

- To work towards the best interest of the child.
- To ensure that all Mexican nationals receive proper legal representation when determining their parental rights.
- To undertake diligent efforts to preserve family unity, if appropriate.
- To explore all possible avenues before terminating parental rights.
- If suitable, to ensure that extended family members are considered as potential custodians, regardless of their immigration status or lieu of residence.



Family Law Area Child Custody

Mexican Consulate and DHS partnership:

- To assist in obtaining Mexican documents required for the process (e.g. birth certificates) or identifications (e.g. passport).
- To assist in locating child's parents or other involved parties in Mexico about the custody case.
- Upon request by DHS, the Consulate may require DIF to undertake:
 - Home studies, physical and psychological evaluations
 - Home visits
 - Report physical and mental wellbeing the minors
- Help to understand some cultural differences, traditions or ways of living, family background.



Conclusion

Our overall objective is to enhance the working relationship between the Mexican Government and the local and federal agencies in our consular jurisdiction, in order to cooperatively work towards the best interest of Mexican children and families, in accordance with the principles and norms of international law and adherence to laws and regulations of each country.

SRE
CONSULATE OF MEXICO
IN PORTLAND



Thank you!

Consulate of Mexico in Portland
(503) 274-1442

**Protection Department Direct
Line**
(503) 478-0436

24/7 Emergency Line
(503) 490-6032

25