

Fighting Trafficking in Persons and Violence Against Women

July 18, 2011

International Visitor Leadership Program
Washington, D.C.

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www.iwp.legalmomentum.org

Web Library

Violence Against Women Act (VAWA) Goals

- Federal government role in acting to stop Violence Against Women
 - Domestic Violence (intimate partner violence)
 - Sexual Violence (assault, threats, harassment, rape)
 - Child abuse
 - Human trafficking (added in 2000)
- Improving law enforcement and prosecution response
- Enhance systems that promote victim safety

Enhance Systems that Promote Victim Safety

- Funding for governmental and non-governmental agencies
 - Shelters, rape crisis centers, victim services, counseling
 - VAWA, identity, location confidentiality
- Created national domestic violence & sexual assault hotlines
- Civil protection orders enforceable across state lines
- No mutual protection orders
- National protection order registry
- U-visa and T-visa
- National system of technical assistance providers

Improving Justice System Response

- Pro/mandatory arrest
- Predominant perpetrator in relationship
- Reduce dual arrest
- Evidence based prosecution
- Firearms
- Funding for domestic violence units in government agencies (police, prosecutors, courts, Department of Homeland Security)
- Federal crime of crossing state lines to commit domestic violence

Key Role of the DHS VAWA Unit

- For Immigrant Victims Addressing Deportation Risks Critical First Step
- VAWA funding led to development of model justice system programs that effectively serve victims
- In developing the VAWA Unit – DHS followed this enlightened model
- Successful VAWA unit meets dual goals
 - Granting VAWA immigration protection to abuse victims who qualify
 - Denying fraudulent applications
- Model for responsiveness to the needs of victims – good working relationships with victim advocates

What Could Battered Immigrants Expect for Help in 1993?

- **Abusive spouses with legal immigration status had total control over the their spouses and children**
 - Keep victims from calling police or seeking help
 - Lock victims in abusive relationships
 - Avoid prosecution
- **Immigrant victims had little access to help**
 - No language accessibility to programs and courts in many communities
 - Some shelters turning away immigrant victims
 - Without legal status
 - Who did not speak English

Pre VAWA Help for Immigrant Victims

- Number nationwide of programs serving immigrant victims
 - Less than 50. (most in urban areas)
 - Most operating on a shoestring with little funding
 - Isolated from one another
- Most programs serving immigrant victims offering domestic violence services
- Immigration assistance available in some areas, but few options
- Virtually no access to family courts
 - protection orders
 - custody

Key Role of the National Network

- Founded by:
 - Legal Momentum/NOW Legal Defense
 - Family Violence Prevention Fund
 - National Immigration Project of the National Lawyer's Guild
- Grown from 15 groups in 1992,
to 25 groups in 1994, to over 3000 groups/individuals
today

National Network to End Violence Against Immigrant Women

- 1991 National conference
- Grassroots groups
 - domestic violence
 - Sexual assault,
 - Immigration,
 - Women's rights
- Prior to 1991 no coordinated voice in Washington for battered immigrants
- Change in leadership of domestic violence lobbying in D.C.
 - opportunity

Collaborative Legislative Advocacy

- Battered Spouse Waiver – 1990
- Violence Against Women Act – 1994
- Carve outs and benefits access for battered immigrants in the 1996 Welfare and Immigration Reforms
- Access to Legal Services for Battered Immigrants – 1998
- Violence Against Women Act 2000
- Victims of Trafficking Protection Act 2000
- Funding for INS processing of domestic violence crime victim and trafficking cases 2001
- Violence Against Women Act of 2005
- International Marriage Broker Regulation Act of 2005
- Trafficking Victims Protection Reauthorization Act of 2008

Keys to Success

- History providing direct services
- Developing trust – honesty
 - Ability to compromise
- Good working relationships between
 - government and advocates
 - Understanding each other's role and challenges
 - Creative problem solving
- Legislative drafting skills
- Developing coalitions
 - National Network on to End Violence Against Immigrant Women
Immigrant Women
 - Freedom Network
 - Researchers, advocates, attorneys
 - Community based and Faith based
- Documentation of Need

Lobbying Approach

- Collaboration
- First meeting with staffers
- Domestic violence groups take the lead
- Immigrant rights groups provide technical support
- Documenting the need
 - Stories
 - Research
 - Technical assistance and training
- Countering anti-immigrant sentiment
- Grassroots role
- Remaining in the work after passage

Designed to Help All Victims

- Underserved populations
 - Communities of color
 - Disabled
 - Aliens
 - Limited English Proficient
 - Rural communities
- Immigration relief key component of legislation
- All parts of VAWA included all populations

Immigration Law Historically Gave:

- Spouses and Parents
- Control over the immigration status of
- Alien spouse and children
- Citizen or permanent resident controls
 - Whether to file
 - When to file
 - Whether alien family member can attain or keep legal immigration status

Dependence On Spouse For Legal Immigration Status

- Exacerbates:
 - Likelihood of domestic violence
 - Severity of the violence
 - Isolation of the victim from help
- Higher Risk When Abuser is a
 - Spouse; and a
 - Citizen
 - Lawful permanent resident
 - Lawful Immigrant Visa Holder

Threats About and Fear of Deportation: Primary Barrier

- Unaddressed blocks all access to
 - Victim services
 - Shelter
 - Health Care
 - Police
 - Justice system
- Role of lack of information about US legal and social services system
- Role of threats of deportation
- Affects both documented and undocumented immigrant victims

Victim's Deportation Concerns

- **Immigration related abuse/deportation**
- **Economic survival**
- **Family/children**
- **Fear of losing custody /access to children**
- **Power and control over victim's immigration status**
- **Victim believes that if he gets deported she has to go with him**
- **Danger to victim in the home country (retaliation)**
- **Fear of being ostracized by home country community**
- **Fear of abandoning the home**
- **Fear of police/experience in home country**
- **Religion**
- **Political instability in home country**
- **Gender barriers in home country**
- **Fear of unknown**

2011 Potential Immigration Remedies

- Applications filed DHS
 - VAWA self petition
 - Battered spouse waivers (spouses of USCs with conditional permanent residency)
 - U visa
 - T visa (victims of trafficking)
 - Asylum (Government policies)
- Forms of relief from removal- granted by Immigration Judge
 - VAWA cancellation of removal
 - VAWA suspension of deportation

Human Trafficking simplified

- Process-
 - Recruiting,
 - Transporting,
 - Obtaining,
 - Moving
- Means-
 - Force,
 - Fraud, or
 - Coercion
- End-
 - Labor or
 - Commercial Sex



VAWA Confidentiality

- DHS barred from making inadmissibility or deportability decisions based solely upon information provided by abusers, including family members of abusers
- Enforcement locational prohibitions
- DHS cannot disclose VAWA information to anyone (except in limited circumstances)

DHS Humanitarian Release

- Breastfeeding mothers
- Sole/primary caregivers of children
- Screening in detention done
 - In English/Spanish
 - Oral and writing
- Release as
 - Order of recognizance
 - Order of supervision
 - Alternatives to Detention

Reason VAWA Works for Immigrant Victims

- Access to legal immigration status removes deportation barrier – improves victim safety
- Brings legal work authorization a path to economic independence
- Increases access to programs, services and protections designed to help victims of violence against women
- More victims willing and able to criminally prosecute

Reason VAWA Works for Immigrant Victims

- Interconnectedness of immigrant victims needs
- Access to legal immigration status removes deportation barrier
- Brings legal work authorization a path to economic independence
- When immigrant victims no longer fear deportation and have access to a means for economic survival
- They have dramatically increased access to all other programs, services and protections designed to help victims of violence against women
- Helps victim maintain custody of her children
 - Abuser
 - Child protective services

The Success Over Past Two Decades Years For Immigrant Victims

- Over 35,000 immigrant victims of domestic violence and child abuse – women, children and men – lives changed by VAWA's immigration protections
- Over 20,000 crime victim visas approved
- Numbers of programs serving immigrant victims has increased exponentially

VAWA Successes For Immigrant Victims

- Guaranteed access for all immigrant victims to
 - Shelters
 - Transitional housing
 - Victim services programs
 - Emergency health care
 - Prenatal care
 - Police assistance
 - Protection orders
 - Family courts
 - Community-migrant health clinics
 - Legal Services
- Funding for services to immigrant victims
- Immigration benefits (VAWA, T and U)
- Benefits access -- Challenge
 - Some VAWA eligible immigrant victims, and their children

Holistic Approach –Full Circle

- Legislation
- Regulations
- Working with government to implement
- Training
- Materials
- Technical Assistance
- Building Survivor leadership
- Building collaborations with immigrant CBOs
- Monitoring
- Research
- Story collection
- Legislation

Persistent Problems

- Social service providers not trained in immigrant victims legal rights and the services they can access undocumented victims
- Need more immigrant women and women of color within the domestic violence, sexual assault and human trafficking movement and programs
- Increased immigration enforcement
- State immigration laws & federal preemption
- Termination of parental rights
- Mainstream programs hiring policies
- Need to foster true collaborations

Results: Challenges

Systemic barriers that prevent victims from coming forward, proceeding and/or following through

Language
Access

Psychological
Factors

Justice
System

Economic
Factors

Immigration
Enforcement

PSYCHOLOGICAL STATE

Psychological toll of abuse
Frustration with process intrusive and lengthy

Fears:
About retaliation, feeling they have to choose between,
abuse v. streets, abuse v. children, protection v.
community learning they are in same sex
relationships.



Challenges in collaborations

Law Enforcement

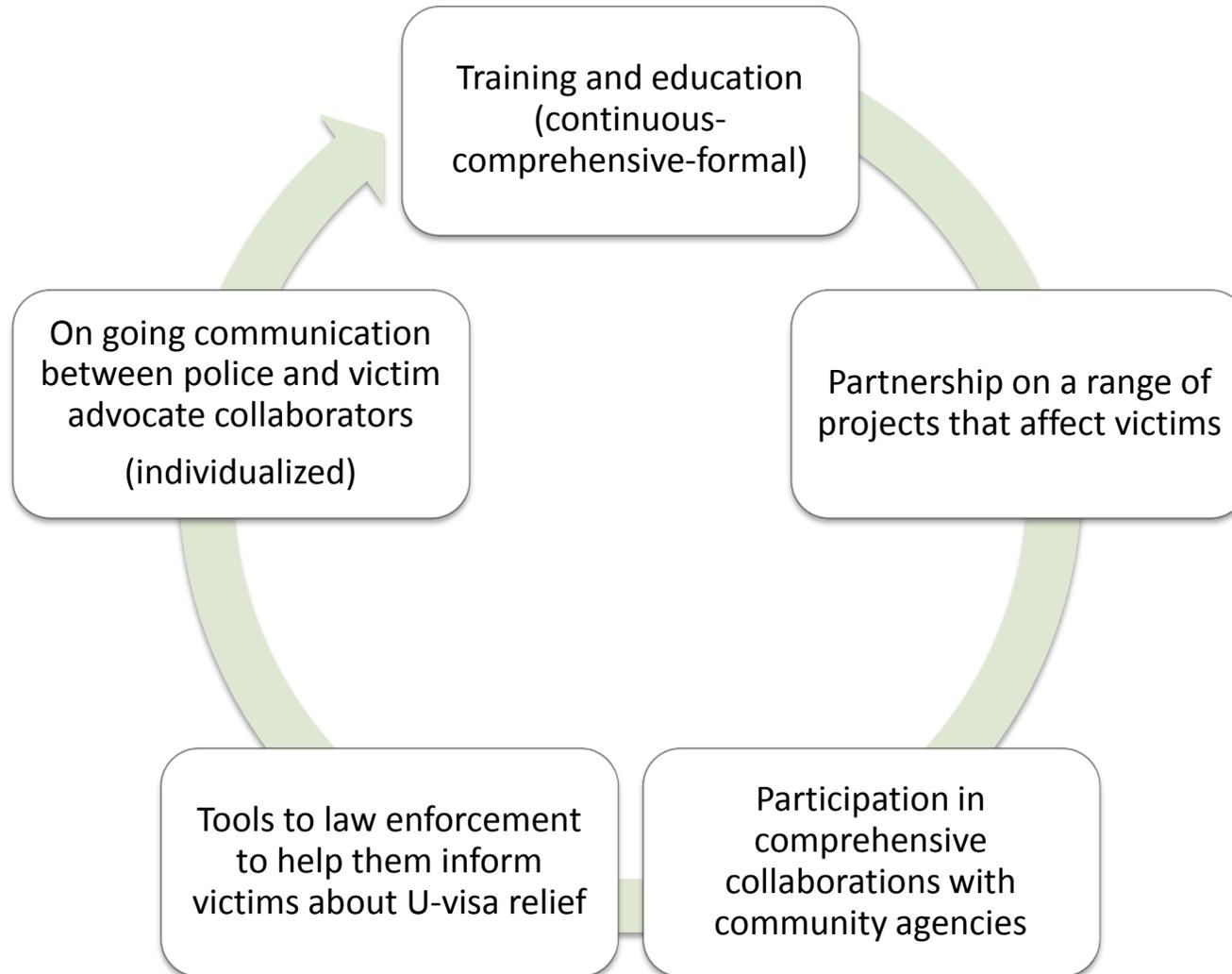
Success

- Aware and sensitive about DV
- Coordinated with other first responders
- Call legal aid when there is a case
- Educated about U visas
- Lack anti-immigrant attitude

Challenges

- Not aware of DV dynamics
- Not coordinating with others
- Not educated about U visas
- Anti-immigrant attitude

Creative Solutions to collaboration challenges with law enforcement



Ongoing Challenges Include:

- System barriers that prevent victims from coming forward, proceeding, and/or following through.
 - Personal attitudes
 - Lack of training
 - Limited understanding of non-citizen victims legal rights
 - Lack of language access and/or cultural sensitivity on the part of first responders
 - Anti-immigrant bias among some in and out of government

Need for Comprehensive Immigration Reform As Prevention of Violence Against Women

Legalization will help immigrant women

- Win custody of their children
- Stops separation of children from their
 - primary caretaker immigrant mothers
- Promotes healthier outcomes for children
- Research among a particularly vulnerable population of immigrant mothers (battered immigrant women) found
 - When immigrant victims get help including legal immigration status
 - The likelihood mother's abuser would also abuse the children dropped from 77% to 23%

Legalization helps immigrant women

- Counter court orders that mothers learn English before
 - Being awarded custody
 - The court will return children taken by child protective services
- Who are subjected to DHS enforcement at and outside courthouses
- Receive protection orders by stopping judges who
 - Refuse to issue protection orders to immigrant victims
 - Threaten to turn undocumented victims over to DHS when they came to court seeking protection orders

Comprehensive Immigration Reform Will Benefit Immigrant Women By

- Promoting family reunification
 - Reducing family visa back logs
- Ensure that legalization & immigration fee structures are designed to enable all members of the family to attain legal immigration status
- Promote women's economic security by protecting immigrant women workers rights
- Provide portable work authorization

Comprehensive Immigration Reform Will Benefit Immigrant Women By

- Enhancing access to a fair justice system for all immigrants
 - Language access
 - Unrestricted access to legal services
- Providing access to federal and state funded public safety net benefits for lawfully present immigrants
 - End the 5 year bar
- Expanding access to protection & services for immigrant victims
 - Screening all immigrants subject to enforcement actions for victimization and humanitarian release eligibility
 - Providing early access to work authorization and protection from deportation

International Violence Against Women Act

The International Violence Against Women Act (I-VAWA) (S.2982, HR. 4594) Will If Passed:

- Increase U.S. government efforts to stop the global crisis of violence against women and girls
- Place women at the center of U.S. foreign policy
- Support measures to prevent violence, protect survivors and bring perpetrators to justice
- Promote best practices for preventing and responding to violence against women during
 - times of peace and
 - times of conflict
- Support new efforts to change social norms that support or condone violence

I-VAWA Would

- Create 5-year comprehensive strategy and funding to
 - Prevent & respond to violence against women
 - In 10-20 poor to middle income countries
 - With high rates of violence against women
- Expand ability of the U.S. to raise gender-based violence issues with foreign governments
 - as part of its diplomatic relations
- Requires the U.S. to develop a faster and more effective response to violence against women during
 - armed conflicts and humanitarian emergencies

I-VAWA Would--

- Provides funding that will lead U.S. foreign assistance programs to support overseas groups
 - women's, health, legal, economic, social, & humanitarian
 - That incorporate stopping violence against women into their work
- Encourage investment in women to
 - alleviate poverty & increase the effectiveness of foreign aid
- Mandate that Senior Dept of State and USAID officials assert leadership, are accountable and coordinate the US role in prevention/response to violence against women

What you can do.

- Take action on line:
 - takeaction.amnestyusa.org
 - Follow links to I-VAWA
- Write an I-VAWA editorial/letter to the editor/blog post
 - Sample available at
 - endabuse.org
- Organize a call in or letter writing campaign to either
 - Urge your Senator/Representative to sign on as a co-sponsor
 - Thank you Senator/Representative for co-sponsoring I-VAWA
 - List of co-sponsors at: govtrack.us/congress

International Violence Against Women Act

- How might this affect Latin American countries?

The Violence Against Women Act of 2011 Priorities and Possibilities

National Network VAWA IV Selected Priorities Include

- Make U-Visa certification primary evidence NOT mandate
- Early access to work authorization
- Expand access to federal public benefits for victims
 - U-visa victims
 - End 5 year bar
- Improved protections against deportation
 - Red Flag system for VAWA, T and U victims cases
 - Reinstatement of removal not apply to VAWA/T/U
- Expand inadmissibility waivers for VAWA self-petitioners
- Expand list of U-visa crimes
 - e.g. stalking, child abuse, child exploitation, child labor exploitation, child endangerment, elder abuse and exploitation, sexual harassment

National Network VAWA IV Selected Priorities

- Any state or local police who get involved in immigration enforcement subject to VAWA confidentiality
- Improved protections/options for immigrant children
- Recapture of U-visas lost due to DHS regulations delay
- Death of the abuser or the victim will not cut off VAWA, T or U-visa eligibility
- Divorce of parent not cut off child from VAWA self-petition
- Improved access to gender-based asylum
- Enforcement of language access re: governmental agencies

VAWA VI Priorities

- Funding priorities when police/prosecutor/court is
 - Certifying in U and T visa cases
 - Providing language access
- Open VOCA in all states to non-citizens
- Expanding grant programs that can fund legal assistance
- Improved access to transitional housing
- Encouraging more government funding for research on
 - Violence against women including domestic violence, sexual assault, trafficking, stalking, dating violence and elder abuse
 - Underserved victims, including immigrant victims
- HELP Separated Children Act
- Uniting American Families Act

VAWA Immigration Has Taught Us

- That what might seem impossible is possible
- That collaboration between attorneys, advocates, immigrant community groups, government officials, and justice system personnel is possible
- And can reap immeasurable benefits for victims of domestic violence, sexual assault and trafficking

For further assistance

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