

The U-Visa Remedy for Immigrant Victims of Sexual Assault and the Need For Multidimensional Collaboration¹²

By Sonia Parras Konrad and Leslye E. Orloff

This chapter offers a brief analysis of the dimensions and intersections of collaborations needed to most successfully assist an immigrant survivor with the U visa remedy. Although the U visa remedy is available to immigrant victims of enumerated crimes of violence, the focus of this chapter is on building the types of collaborations that are effective in cases of immigrant victims of sexual assault, sexual violence, and abusive sexual conduct.

The first section presents an overview of needed collaborations to respond to immigrant survivors of sexual assault. The section introduces briefly the notion of involving immigrant communities as leaders in the formation of

¹ "This Manual is supported by Grant No. 2005-WT-AX-K005 and 2011-TA-AX-K002 awarded by the Office on Violence Against Women, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women."

² In this Manual, the term "victim" has been chosen over the term "survivor" because it is the term used in the criminal justice system and in most civil settings that provide aid and assistance to those who suffer from domestic violence and sexual assault. Because this Manual is a guide for attorneys and advocates who are negotiating in these systems with their clients, using the term "victim" allows for easier and consistent language during justice system interactions. Likewise, The Violence Against Women Act's (VAWA) protections and help for victims, including the immigration protections are open to all victims without regard to the victim's gender identity. Although men, women, and people who do not identify as either men or women can all be victims of domestic violence and sexual assault, in the overwhelming majority of cases the perpetrator identifies as a man and the victim identifies as a woman. Therefore we use "he" in this Manual to refer to the perpetrator and "she" is used to refer to the victim. Lastly, VAWA 2013 expanded the definition of underserved populations to include sexual orientation and gender identity and added non-discrimination protections that bar discrimination based on sex, sexual orientation and gender identity. The definition of gender identity used by VAWA is the same definition as applies for federal hate crimes – "actual or perceived gender-related characteristics." On June 26, 2013, the U.S. Supreme Court struck down a provision of the Defense of Marriage Act (DOMA) (*United States v. Windsor*, 12-307 WL 3196928). The impact of this decision is that, as a matter of federal law, all marriages performed in the United States will be valid without regard to whether the marriage is between a man and a woman, two men, or two women. Following the Supreme Court decision, federal government agencies, including the U.S. Department of Homeland Security (DHS), have begun the implementation of this ruling as it applies to each federal agency. DHS has begun granting immigration visa petitions filed by same-sex married couples in the same manner as ones filed by heterosexual married couples (<http://www.dhs.gov/topic/implementation-supreme-court-ruling-defense-marriage-act>). As a result of these laws VAWA self-petitioning is now available to same-sex married couples (this includes protections for all spouses without regard to their gender, gender identity - including transgender individuals – or sexual orientation) including particularly:

- victims of battering or extreme cruelty perpetrated by a U.S. citizen or lawful permanent resident spouse against a same sex partner in the marriage is eligible to file a VAWA self-petition; and
- an immigrant child who is a victim of child abuse perpetrated by their U.S. citizen or lawful permanent resident step-parent is also eligible when the child's immigrant parent is married to a U.S. citizen or lawful permanent resident spouse without regard to the spouse's gender.

partnerships that respond to the specific needs of survivors. The second section addresses the components of a successful model for collaboration with regard to representation of sexual assault survivors with the U visa.

WORKING WITH IMMIGRANT SURVIVORS OF SEXUAL ASSAULT

The Facts

Sexual assault is a crime that crosses all races, class, religious, and cultural lines. Over 70% of rape and sexual assault victims in 2003 knew their attackers,³ potentially complicating victims' decisions to report the crime. Assuring that victims have information on shelters, sexual assault programs, victim advocates, lawyers, and civil and criminal justice system relief can make a difference as women struggle to decide how to try to recover from sexual assaults. Good coordination and collaboration can provide immigrant victims pursuing U-visas the support they need to explore ways they can address cultural or other remaining concerns and rebuild their lives.

For immigrant women, decisions about whether to report rape or sexual assault are complicated by fear of deportation and lack of knowledge or language access to assistance offered by health care, community based legal services, and justice system programs.⁴ Additionally, immigrant women who are sexual assault victims considering reporting sexual assault have to consider the impact of disclosing the sexual assault can have in her future interactions with her cultural community and family members. Reporting abuse can result in a victim being cut off from and ostracized by her community. It can bring shame on her family, lead her spouse to divorce her, and impact her options for economic survival. Safety planning and collaborative support for immigrant survivors must address these issues and weigh how reporting and the opportunity to gain legal immigration status through the U-visa can address or outweigh some of these concerns by removing fear of deportation and providing opportunities for economic security through legal work authorization. Research among immigrant victims of domestic violence and sexual assault found that advocates play a crucial role in informing victims about and encouraging immigrant victims to pursue legal options.⁵

Obstacles and Intersectionality

For immigrant women, sexual assault issues can be very complex. When seeking legal and economic assistance, an immigrant survivor may face many systemic obstacles, including sexism, racism, religious biases, cultural prejudices, and anti-immigrant attitudes.⁶

If immigrant survivors turn to the different systems for help, they often encounter barriers that go beyond those experienced by women and sexual assault victims generally.⁷ These include, but are not limited to:

- Language barriers in the law enforcement, judicial, social services, and healthcare sectors, particularly when funding for interpreters have not been allocated.
- Cultural barriers when agencies have not hired sufficient numbers of bilingual, biculturally competent staff.⁸
- Lack of immigration status and the fear of being deported if victims expose themselves to the criminal system.
- Lack of access to culturally competent mental health services or counseling to work on trauma issues resulting from the sexual assault
- Lack of information about what help is available through the civil and criminal justice systems for immigrant sexual assault survivors

³ United States Department of Justice, Bureau of Justice Statistics, *National Crime Victimization Survey (2003)*, available at <http://www.ojp.usdoj.gov/bjs/cvict.htm> (last modified July 7, 2005).

⁴ Leslye E. Orloff, Mary Ann Dutton, Giselle Aguilar Hass and Nawal Ammar, *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 7 *13 UCLA WOMEN'S L.J.* 43 (2003)

⁵ Leslye E. Orloff, Mary Ann Dutton and Nawal Ammar, *Use and Outcome of Civilian Protection Orders by Battered Immigrant Women in the US*, PowerPoint Presentation, Montreal, 2009

⁶ Sudha Shetty & Janice Kaguyutan, *Immigrant Victims of Sexual assault: Cultural Challenges and Available Legal Protections* (2002), available at <http://www.vaw.umn.edu/FinalDocuments/vawnet/arimmigrant.asp> (last visited September 2, 2005).

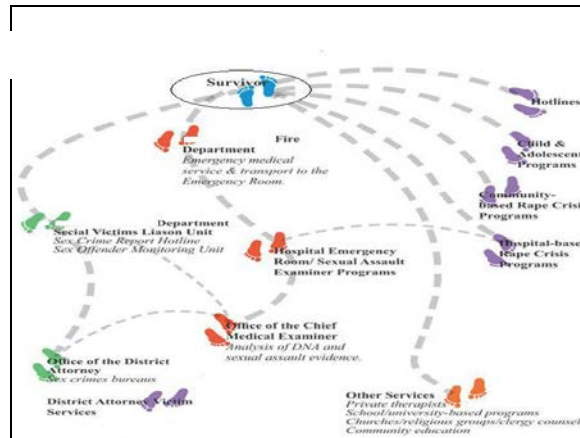
⁷ Sonia Parras Konrad, *Women Empowering Women: An Exciting Journey* (on file with author) (June 2003).

⁸ GAIL PENDLETON, FAMILY VIOLENCE PREVENTION FUND, *BUILDING THE RHYTHM OF CHANGE: DEVELOPING LEADERSHIP AND IMPROVING SERVICES WITHIN THE BATTERED RURAL IMMIGRANT WOMEN'S COMMUNITY*(2000).

- What health care immigrant rape survivors can receive

THE NEED FOR COLLABORATIONS TO RESPOND TO IMMIGRANT SURVIVORS OF SEXUAL ASSAULT

Too often the justice and social service systems leave victims, even those who have advocates, ending up bouncing from professional to professional, from office to office. The following is a brief map of the points of contact with the system a victim experiences in any given sexual assault:⁹



While many service providers identified in this model respond individually to victims of sexual assault, the coordinated response to the survivor among service providers can very be minimal. Furthermore, the connections that may exist do not include the survivor other than in her capacity of victim, recipient of services.

An immigrant survivor of sexual assault has a variety of needs that require a multidisciplinary intervention from service providers. She may experience one or more of the following: distrust from the system, English-speaking service providers who do not communicate with her to be able to provide assistance, not feel safe to share her experience with law enforcement for fear of being deported, trauma resulting from the crime and the need for linguistically competent counseling or psychological treatment. Collaboration among service providers is necessary to provide an immigrant survivor with a full range of the multidisciplinary services that the immigrant survivor is going to require to survive the abuse that one program alone may not otherwise be able to offer.¹⁰

A comprehensive response through collaboration will benefit the survivor by maximizing her opportunities for protection and services, without having to repeatedly describe the assault and the trauma of sharing her experience. Keeping the kind of records discussed above¹¹ and gaining legal permission from clients to share those records with other collaborating professionals working on her case can help ensure that immigrant victims obtain all the assistance they need in a consistent manner without requiring them to repeat painful accounts over and over to many providers.¹² However, a survivor's right to privacy and confidentiality is tantamount in any sharing of information between service providers. Working together, these groups of professionals can help support immigrant survivors.

In general, a coordinated community response in which key service providers work together is critical for all survivors of sexual assault. For immigrant victims, the collaborative team must take additional steps to ensure that their response is effective and inclusive of all necessary players. Immigrant women may need community advocates or the support of other immigrant survivors who understand her culture and assist her to navigate the system. The immigrant survivors will need the assistance of immigration attorneys, immigrant rights advocates, and immigrant community-based organizations knowledgeable about the specifics of immigrant survivors' legal rights and agencies with expertise in working with immigrant populations as well as community grassroots organizations.

⁹ Adapted from New York City Alliance Against Sexual Assault, *Map of Services for Survivors of Sexual Assault in New York City*, at http://www.nycagainstrape.org/resource_map.html (last visited August 29, 2005).

¹⁰ Rachel Rodriguez. Community-based evaluation in a Latina immigrant community in Wisconsin. July 2004.

¹¹ Orloff, Leslye and Rachael Little. 1999. "Somewhere to Turn: Making Domestic Violence Services Accessible to Battered Immigrant Women." A *'How To' Manual for Battered Women's Advocates and Service Providers*. Ayuda Inc.

¹² Lois H. Kanter, *Beyond Prosecution: Sexual Assault Victim's Rights in Theory and Practice, Symposium: Invisible Clients: Exploring Our Failure to Provide Civil Legal Services to Rape Victims*, 38 SUFFOLK U. L. REV. 253 (2005).

A collaborative, power-sharing model includes sexual assault advocates, health professionals, law enforcement, immigrant advocates, and attorneys – with expertise in both sexual assault and immigration issues – in partnership with the survivor and community organizations to meet her needs.¹³

Involving Immigrant Women and Immigrant Communities in Collaborations

Community ownership of the issue of violence against women is essential to ending violence. Immigrant survivors of sexual assault are in a unique position when ready to lead this endeavor. Survivors can define what safety means for immigrant women in their community. This is paramount to the provision of services. Immigrant women can also guide mainstream organizations by working together with them to enhance their mainstream program responses to immigrant survivors in a culturally appropriate way. Supporting new and emerging leaders by involving them in existing collaborations as equals will be a step forward towards building a system that will reach, support, and provide culturally competent help to immigrant survivors. Without immigrant survivor involvement few immigrant victims will actually use the services that a community offers to assist them.¹⁴

Collaboration with the immigrant community and involvement of immigrant survivors is not outreach. In this context, collaboration is a dynamic and ongoing process that encourages active participation of all members involved. There are some guiding principles to consider when involving immigrant survivors as equal partners:

- Partners need to be willing to share power
- Have a desire to learn from others
- Be open-minded. Immigrant survivors may propose policies and changes that may be different from traditional ways of providing services
- Be open to new alliances. For instance, immigrant women may be working in their community already with young men, the clergy, and immigration advocacy centers etc.

The experiences of successful programs serving immigrant communities around the country base their achievement in involving not only the immigrant community but immigrant survivors themselves. Recruiting new leaders is a challenge in itself as many are not identified by mainstream as “leaders” either because they are not professionals or because they do not work on the field of victim’s services.

Involving immigrant women will result in new and creative ways that services should be provided to immigrant women. For instance, immigrant women may propose meetings in houses of survivors, which may go against traditional safety rules for advocates. The meetings done in this way may be a more effective way of giving information to the community about rights and remedies for victims of crimes of sexual assault. Agencies inviting survivors to collaborate to improve services to the community should be open-minded to different ways of ending violence in the immigrant community. Including immigrant survivors as equals can achieve the following:

- Open the way for other survivors to access to the services that they are entitled to receive.¹⁵
- Provide immigrant women important insight into the intricacies of the various systems with which they may have to work.
- Survivors will be also in a unique position to communicate to service providers the ways in which they can improve service delivery and reduce barriers to full recovery for others facing a variety of challenges based on their identity.¹⁶
- Provide a vehicle for working as equals with institutions and service providers

¹³ For a discussion on survivor inclusion see THE CENTER FOR WOMEN IN GOVERNMENT & CIVIL SOCIETY, POLICY ROUNDTABLE REPORT IMMIGRANT WOMEN: ASSESSING NEEDS, BUILDING ALLIES (Dec. 5, 2001). See also Deanna D. B. Matzanke, *Working with the Enemy: Collaborating in the Implementation of Women’s Human Rights*, 4 YALE H.R. & DEV. L.J. 149 (2001), Christopher Leon Jones, Jr., *The Memphis Strategic Team Against Rape and Sexual Assault: One City’s Struggle to Find a New Way of Doing Business*, 32 U. MEM. L. REV. 349 (2002).

¹⁴ Sonia Parras Konrad, Jennifer Rose, “Reevaluating the Model: Being an Agent of Change.” Family Focus Group, Austin, Texas (June, 2004) (Legal Momentum, Washington, D.C.).

¹⁵ Legal Momentum & ORGANIZACION EN CALIFORNIA DE LIDERES CAMPESINAS, INC., ADVOCACY TO IMPROVE SERVICES FOR BATTERED MIGRANT AND IMMIGRANT WOMEN LIVING IN RURAL COMMUNITIES: A MANUAL 70-77 (2003).

¹⁶ Sonia Parras Konrad, Jennifer Rose, “Reevaluating the Model: Being an Agent of Change.” Family Focus Group, Austin, Texas (June, 2004) (Legal Momentum, Washington, D.C.).

The U-Visa Remedy for Immigrant Victims of Sexual Assault and the Need For Multidimensional Collaboration

- Involving immigrant communities not only in guiding the work but also in the provision of services, will ensure that the information on rights and services to survivors gets to the community in general and ultimately to survivors.
- Help immigrant women become involved in events and projects to change policies that harm them.
- Build healthier and stronger families and communities by encouraging active self-confident women leaders.

If your agency is recruiting survivors to be part of a collaborative response team, you may have to make adjustments in times meetings are scheduled, having day care available, assisting with transportation, etc. Several agencies across the nation have successful meetings and working groups that meet on weekends or late in the evening. Adapting to the needs of the community will assist your agency in achieving true and successful collaboration. If your agency is thinking about going beyond collaboration, consider not only recruiting immigrant survivors as volunteers but hiring them as staff members.

Current responses and successful models or collaboration- The Existing Models

3.1 The SART Model of Collaboration

Since the 1980s, many communities have adopted Sexual Assault Response Teams (SART). In the general model, law enforcement, specially trained medical professionals and sexual assault advocates create a formal partnership in which they ensure a coordinated response to sexual assault cases.¹⁷ They often agree that when a hospital calls its forensic examiner for a reported or suspected sexual assault, the hospital will also immediately call the designated advocate.¹⁸ Similarly, police responding to a report of sexual assault contact an advocate who will ensure that the victim receives the necessary medical care and legal assistance.¹⁹

The professional relationships cultivated through these networks can be extremely beneficial to victims of sexual assault. Ideally, each member agency is represented at monthly meetings by a high-level professional who is capable of initiating operational changes in response to issues raised by the SART.²⁰ The SART can enable the various actors to better understand the perspectives of agencies with whom they may not often collaborate, such as advocates and law enforcement.²¹ The SART also provides member agencies with a direct means for holding the other members accountable.²²

Coordinated Community Response

Like SART, the Coordinated Community Response teams (CCR teams) to sexual assault integrates core services for sexual assault victims, medical and mental health providers, law enforcement, rape crisis centers, and civil legal services.²³ Multidisciplinary community collaboration also helps reduce fears or misperceptions immigrant survivors may have towards various governmental and non-governmental institutions. For example, civil attorneys and rape crisis centers can educate law enforcement on the rights of undocumented survivors. With law enforcement, civil attorneys can then assure an immigrant client of her safety, despite immigration status. Building on the sexual assault programs already in place, CCR teams address potential tensions between advocates and attorneys. In general, this model of community collaboration aims to respect the privacy and autonomy of the victim.²⁴ Specifically considering the needs of immigrant victims of sexual assault, CCR teams can be tailored to the various religious, cultural, social, and economic sensitivities of individual communities.²⁵ CCR teams should include places of worship immigrant victims turn to, providing victims a greater sense of security and familiarity. CCR teams enhance an immigrant survivor's ability to secure safety, housing, livelihood, and broad independence. For example, civil attorney coordination with local public education and mental health facilities could prevent a victim from dropping out of school.²⁶ It is common for a CCR team to include SANE nurses (see below) as well as elements of SART.

¹⁷ Pennsylvania Coalition Against Rape, Sexual Assault Response Team Guidelines 14 (2002) available at: http://www.uncfsp.org/projects/userfiles/File/DCE-STOP_NOW/guidelines_final.pdf

¹⁸ Kristen Littel, Sexual Assault Nurse Examiner (SANE) Programs: Improving the Community Response to Sexual Assault Victims 3-7 (U.S. Department of Justice, Office of Justice Programs, Office of Victims of Crime: OVC Bulletin, April 2001) available at: http://new.vawnet.org/Assoc_Files_VAWnet/OVC_SANE0401-186366.pdf

¹⁹ See generally Kimberly A. Lonsway, and Joanne Archambault, "The Earthquake in Sexual Assault Response: Police Leadership Can Increase Victim Reporting to Hold More Perpetrators Accountable" (The Police Chief Magazine, December 2010) available at: http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display&article_id=2201&issue_id=92010

²⁰ Doug Wilson, Andrew Klein "An Evaluation of the Rhode Island Sexual Assault Response Team" Botec Analysis Corporation, Waltham Massachusetts, 2005. Available on the web at www.ncjrs.gov/pdffiles1/nij/grants/210584.pdf

²¹ *Id.*

²² *Id.*

²³ "Integrating Civil Legal Service into a Coordinated Community Response" VRLC First National Advanced Sexual Assault Law Institute: Integrating "Civil Legal Needs" into a Coordinated Community Response to Sexual Assault: *An Advanced Sexual Assault Law Institute for OVW-LAV Practitioners* (January 2007, Santa Monica)

²⁴ *Id.*

²⁵ "We're on the Same Team, Aren't We?: Tackling the Challenges of Integrating a Civil Attorney into a CCR" VRLC First National Advanced Sexual Assault Law Institute: Integrating "Civil Legal Needs" into a Coordinated Community Response to Sexual Assault: *An Advanced Sexual Assault Law Institute for OVW-LAV Practitioners* (January 2007, Santa Monica)

²⁶ "We're on the Same Team, Aren't We?: Tackling the Challenges of Integrating a Civil Attorney into a CCR" VRLC First National Advanced Sexual Assault Law Institute: Integrating "Civil Legal Needs" into a Coordinated Community Response to Sexual Assault: *An Advanced Sexual Assault Law Institute for OVW-LAV Practitioners* (January 2007, Santa Monica)

Sexual Assault Nurse Examiners

For nearly 20 years, the Sexual Assault Nurse Examiner's (SANE) program has continued to grow as one of the most popular and effective medical-legal cooperative responses to sexual assault.²⁷ Implemented nationally, SANE focuses on providing victim-sensitive medical care to sexual assault victims.²⁸ A SANE is a registered nurse (R.N.) with certified expertise in the clinical and forensic examination of sexual assault victims.²⁹ SANE nurses seek to avoid the retraumatization of sexual assault victims upon their arrival at emergency medical services and during evidence collection.³⁰ A SANE nurse has a deep understanding of victimization and can quickly recognize the physical, psychological, and mental health needs of a victim, reducing the amount of time the victim has to spend in busy and impersonal emergency departments. A SANE nurse is also qualified to detect and help document lack of consent and collect the most complete evidence possible.³¹ SANE has the potential to provide compassion and cultural sensitivity to immigrant victims of sexual assault. A well-trained SANE nurse will understand different elements of shame and denial associated with the victim's experience. Additionally, SANE nurses that are community members can relate to a victim in the victim's language, may be familiar with the victim's culture, and can help identify the victim's cultural concerns that need to be addressed. SANE nurses should be involved in multidisciplinary response models to sexual assault.

SURVIVOR CENTERED COLLABORATIONS IN U VISA CASES; STRENGTHENING THE WORK OF LAW ENFORCEMENT, ADVOCATES AND SERVICE PROVIDERS

Generally, collaboration for purposes of responding to immigrant survivors of crimes of violence is an effort to coordinate services to maximize results in the most effective way possible. This approach is a vertical approach in which services providers across systems coordinate services so that multiple survivors' needs are met by each agency concentrating within its area of expertise on being most effective in responding to the needs of survivors of sexual assault. There is another dimension of collaboration. A horizontal approach to collaboration defines how immigrant communities engage in addressing and preventing sexual assault within communities. It is in the intersection of both approaches that the ideal collaboration lies.



A model of immigrant survivors centered collaboration must examine the specific needs of each immigrant victim of sexual assault. The victim may need the assistance of the following service providers:

- specialized nurse;

²⁷ Kristen Littel "Sexual Assault Nurse Examiner (SANE) Programs: Improving the Community Response to Sexual Assault Victims". Office of the Victims of Crime, April 2001. Available on the web at http://www.ovc.gov/publications/bulletins/sane_4_2001/welcome.html

²⁸ *Id.*

²⁹ http://www.ojp.gov/ovc/publications/bulletins/sane_4_2001/1.html

³⁰ "Victim Benefits" http://www.ojp.gov/ovc/publications/bulletins/sane_4_2001/2.html

³¹ "Victim Benefits" http://www.ojp.gov/ovc/publications/bulletins/sane_4_2001/2.html

The U-Visa Remedy for Immigrant Victims of Sexual Assault and the Need For Multidimensional Collaboration

- hospitalization;
- trauma treatment;
- counseling;
- advocacy;
- law enforcement protection and intervention;
- prosecution of the offender, and;
- civil legal remedies (housing, education, civil damages, protection order)

At the same time, in looking at the specific systemic challenges the immigrant survivor faces, the following additional services may be needed:

- interpretation;
- peer support;
- immigration advocate or attorney familiar with special immigration laws created to help immigrant victims of crime;
- family law attorney familiar with immigration law;
- religious leaders;
- advocates with expertise on welfare benefits and access to health for sexual assault survivors

Advocates respond to the specific needs of women so they can survive the crime in the long term. One of the needs of immigrant survivors that are non-citizens is to be able to attain immigration status. Since the U visa remedy makes this possible, advocates and other service providers working together in SART teams or similar models³², should consider this remedy and analyze what their role is in the U visa context. This may translate into adding U-visa related responsibilities to already existing protocols. It may also mean creating new protocols that ensures immigration protections for survivors.

If your agency is already part of a SART or similar group, consider the possibility of reviewing your protocols and policies in light of the U visa remedy. The following table reflects some of the partners that should be part of your team. Consider it as a tool to prepare a strong response to immigrant survivors needs. Gather the key names, contact information and connect with them if you are not doing so already. If you have weekly coordinating meetings with other service providers, consider inviting new allies to the table to enrich your expertise and improve your response to immigrant survivors. No matter what your role is, this preparation work will ensure that you can make the proper referrals and collaborate with agencies in responding to immigrant survivors of sexual assault

Assisting the Survivor in Articulating Her Needs

The majority of sexual assault victims never report the crime to the police for a variety of reasons.³³ To encourage a woman to tell her story, it is helpful to ask questions respectfully and in a way that empowers the survivor to make her own choices, which may or may not be the path a service provider would prefer the survivor take. An effective style of inquiry often includes asking open-ended questions that encourage a survivor to tell her story and express her needs, fears, and concerns from her own cultural perspective, without judgment. When working with survivors of sexual assault it is always a priority to ensure survivors know that the sexual assault is never their fault and that you are there to support her decisions as to what happens next. If she is encouraged, supported, and made to feel safe, an immigrant victim is more likely to tell the advocate, attorney, or worker what she needs³⁴ from within her own cultural context.³⁵ She should be encouraged to tell an advocate or attorney each of the things of which she is afraid and each type of help that she would need or find useful.

The advocate or attorney should work with her to create a list of her needs, wants, and concerns. This list should be developed without regard to, and should not be limited by, what the advocate or the attorney might think that the legal, social service, or health care systems typically offer. The list also should be developed without regard to the advocate or attorney's assumptions about what a particular immigrant client will need, or the course of action she should undertake. Further, it should be developed without being restricted by what the advocate or attorney thinks a victim might ultimately be able to obtain in court, from the advocate's own agency, from other programs, or through public benefits. If an immigrant survivor believes she can only list those services or benefits she might be able to receive from one agency or in court, she may not include critical information that could help her qualify for other forms of relief or assistance.

Advocates and service providers should work with clients jointly to develop creative strategies to effectively address each of the items immigrant survivors include on their lists. Some of these issues may be addressed through traditional medical, legal or social services remedies; others may require advocates or attorneys to use the justice or social services systems more creatively. Still others may prompt immigrant survivors and advocates to work together to identify which of the listed needs or concerns might be addressed using the immigrant community programs, survivor's own resources, or those of community or faith-based organizations.³⁶

³³ Only about 38.5% of rapes and sexual assaults were reported to law enforcement in 2003. The most common reasons given by victims for not reporting these crimes are the belief that it is a private or personal matter and that they fear reprisal from the assailant. (Bureau of Justice Statistics. 2004. Criminal Victimization, 2003. Washington, D.C.: U.S. Department of Justice.)

³⁴ Woodrow Wilson International Center for Scholars, Women's Rights in Theory and Practice: Employment, Violence and Poverty 49-50 (2002); Leslye Orloff, Address Before the American Medical Association, (Mar. 11-13, 1994), in National Conference On Family Violence: Health and Justice (1994).

³⁵ Brittany McCarthy Barnes, *Family Violence Knows No Cultural Boundaries*, 93 J. OF FAM. AND CONSUMER SCI. 1, 11-14 (2001).

³⁶ Leslye Orloff, Address Before the American Medical Association (Mar. 11-13, 1994), in NATIONAL CONFERENCE ON FAMILY VIOLENCE: HEALTH AND JUSTICE (1994).

The U-Visa Remedy for Immigrant Victims of Sexual Assault and the Need For Multidimensional Collaboration

SURVIVOR CENTERED COLLABORATION --WORKING TABLE

AGENCY	CONTACT/S NAME	ROLE	NEED FOR COLLABORATION
SEXUAL ASSAULT ADVOCATE			
SEXUAL ASSAULT HOTLINE			
SEXUAL ASSAULT REPOSE TEAM (SART)			
IF NO SART, POLICE OFFICER OR LOCAL LAW ENFORCEMENT			
CITY COUNCIL REPRESENTATIVE			
PROSECUTOR			
IMMIGRATION ATTORNEY			
LEGAL SERVICES/DOMESTIC VIOLENCE/FAMILY LAW ATTORNEY			
CHILD PROTECTIVE SERVICES			
SEXUAL ASSAULT NURSE EXAMINER (SANE) E.R HEALTH SYSTEM			
PSYCHOLOGIST			
COMMUNITY HEALTH CLINIC STAFF			
COMMUNITY ADVOCATE/GRASSROOTS ADVOCATE			
UNITED STATES ATTORNEY'S OFFUCE			
DEPARTMENT OF HOMELAND SECURITY <ul style="list-style-type: none"> • IMMIGRATION CUSTOMS ENFORCEMENT (ICE) • CITIZEN AND IMMIGRATION SERVICES (CIS) 			
COLLEGE COUNSELORS			
INTERPRETERS			
CLERGYCAL STAFF			
IMMIGRANT GRASSROOTS AGENCY WORKING ON WOMEN'S ISSUES			
IMMIGRANT SURVIVORS AND EMERGING LEADERS			
BUSINESS OWNERS			

U VISA REMEDY AND LAW ENFORCEMENT; A NEW ERA OF COLLABORATION

Introduction

In 2000, the Violence Against Women Act³⁷ and the Trafficking Victims Protection Act³⁸ created the U visa and the T visa, two visas for immigrant survivors of certain crimes of violence. Both visas were created to provide legal immigration status to noncitizens that are assisting or are willing to assist the investigation or prosecution of the specific forms of criminal activity that victims were the subject of.

In order to qualify for a U or T visa, applicant must show that they or their immediate family members

- Has suffered substantial physical or mental abuse from criminal activity;
- Has information regarding the criminal activity; that the criminal activity violated US law or occurred in the United States (including Indian country and military installations) or the territories or possession of the United States.
- Are, have been, or are willing to be helpful to government officials in the investigation or prosecution of such criminal activity.

The intent of Congress in creating this new remedy was very deliberate. Congress sought to strengthen the work of law enforcement in investigating crimes of violence in immigrant communities. A second co-equal Congressional goal was to protect immigrant victims from retaliation and the threat of deportation while providing them with support, needed services, and the economic stability to heal. The goal is to ensure that the survivor gets the necessary services to survive the crime, be strong to be able to collaborate with law enforcement and obtain immigration protections she is entitled to. This is important because as you start your collaborations around U visa cases, it is going to become very helpful to explain what the real intent in creating this remedy was.

The U-visa regulations require a U-visa applicant to submit a law enforcement certification with his or her application for a U-visa.³⁹ Most attorneys and advocates begin the U-visa process by approaching a law enforcement agent for a certification. However doing so on a case-by-case basis may not be very productive. With each new case, the advocate or attorney will need to invest time and energy in educating each new law enforcement officer again and again.

In order to ensure that all immigrants, not just those with victim service support, know about the U-visa protections when law enforcement requests their cooperation, U-visa regulations recommend that law enforcement agencies⁴⁰ establish a protocol for providing certifications in U-visa cases⁴¹. Children included in a U visa victim's application are protected from "aging out" at age 21⁴². VAWA allows children included in their parents' U visa application to receive U visas regardless of whether they turn 21 during the petition's review.⁴³

Creating U visa protocols

The recommendation to create protocols for law enforcement agency processing in U visa cases is not mandatory. State or federal government agencies are encouraged by DHS in the U-visa regulations to sign U-visa certifications for immigrant victims. Multiple supervisory staff at an agency can be authorized to sign certifications. Development of a protocol is not required. However, developing a protocol can be beneficial. It can prevent law enforcement or agency staff from being overwhelmed by requests they have not received direction on how to respond to. Protocol can also be helpful in correcting misinformation agency staff may have about U-visa certifications. For example, a law enforcement officer may be wrongly under the impression that by signing a

³⁷ Violence Against Women Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464.

³⁸ Victims of Trafficking and Violence Protection Act of 2000 (TVPA), Pub. L. 106-386 (Oct. 28, 2000).

³⁹ Model Police Protocol for U-Visa Certification; New Classification for Victims of Criminal Activity; Eligibility for "U" Nonimmigrant Status; Interim Rule, 72 Fed. Reg. 53016 (Sept. 17, 2007). U visa regulations 40

⁴¹ *Id.*

⁴² See VAWA § 805(a) and INA § 214(p) 8 U.S.C. 1184(p)(7)(A)

⁴³ "Aging out" was a process that barred the eligibility of children who turned 21 while their petition was being considered. However VAWA § 805(a) and INA § 214(p) 8 U.S.C. 1184(p)(7)(A) have amended this position.

certification they are granting immigration status. By creating a protocol, law enforcement will be prepared to respond consistently based on the facts of the case when victims turn to them for certifications. This is purely a DHS function and a certification is one of many pieces of evidence victims must submit to prove their U-visa eligibility to DHS.

The following are recommendations and steps to consider when working with law enforcement to create a protocol or enhanced an existing one.

Build on existing collaborations

The most important thing is not to create yet one more team or working group but to build on what is already in place and working and expand the advocacy and work of the group.

-
- Your agency may have contacts with law enforcement, judges and prosecutor's office due to your ongoing collaboration, teamwork and referral on sexual assault and domestic violence cases. If you already have those connections, chose the person in your collaboration who is the best messenger that can:
 - Disseminate information on the U visa remedy
 - Invite key decision makers to a meeting or training on U visa remedies
- If you do not have a SART team or other ongoing collaboration team, consider holding a meeting to start one.
 - Recruit your most influential partner or person you work with such as a Police captain, sheriff, judge or prosecutor to invite others to this meeting
 - Be ready to disseminate the information and present a goal for the creation of your team that will benefit collaborate partners you intend to involve
 - Be prepared to answer questions on immigration issues and to dispel myths about the U-visa
 - Provide meeting attendees with copies of the relevant sections of the U-visa statute, congressional findings, and U-visa regulations that explain and encourage certifications⁴⁴

Gather information from key players before finalizing any proposals

Consider preparing a survey or questionnaire from service providers that will be affected by the protocol. You may also consider hosting some focus groups with critical players to obtain pertinent information and opinion on the best way to collaborate with law enforcement, prosecutors and other government agencies in a U visa protocol.

Some of these players are:

- Sexual assault and domestic violence advocates
- Immigrant Community Based Organizations
- Community Organizers
- Immigrant Rights Advocates
- Immigration attorneys
- Domestic violence/family law attorneys
- Employment attorneys
- Legal services
- Judges
- Police officers
- State Prosecutors
- The State's Attorney general's office
- Federal Prosecutors in your jurisdiction
- EEOC

⁴⁴ Violence Against Women Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464. New Classification for Victims of Criminal Activity; Eligibility for "U" Nonimmigrant Status; Interim Rule, 72 Fed. Reg. 53016 (Sept. 17, 2007). U visa regulations 40

- DOL
- Child Protective Services

Find common grounds in spite of your different roles and interests

Once the appropriate players come together, it is important to understand the dynamics among your collaboration participants. Everyone plays a role and if any one group tries to dominate or take over the group's the agenda, it may create a power imbalance. It is important that law enforcement understand that advocates and community-based groups play a critical role in connecting immigrant crime victims with victims services and legal representation. It is equally important that community-based groups and attorneys also understand that law enforcement's primary duty is to investigate and prosecute crimes and that law enforcement personnel may see victim services as necessary to support victim cooperation in criminal prosecutions and goals of community policing. In the context of U-visas, all participating agencies share key goals. In the end, the U-visa helps crime victims access protection under the law, which in turn allows more immigrant crime victims to help law enforcement investigate and prosecute criminal activity.

In collaborating to develop protocols that further the goals of the Violence Against Women Act, immigration laws, and goals of community policing in immigrant communities by:

- Screening all victims and witnesses for U-visa eligibility⁴⁵;
- Providing language access both in law enforcement proceedings and in service provision;
- Referring non-citizen crime victims to victim advocates and attorneys who can help them access their right to immigration relief;
- Developing best practices for service providers and justice system referrals;
- Working with medical professionals who may identify crime victims;
- Training collaboration participants on the U visa certification process;
- Providing Cultural Competency Training for law enforcement and victim service providers.

Be sure to include immigrant survivors in your collaboration. They will provide important direction to the group and will assure cultural competency. One way to make this happens is by creating an advisory committee of immigrant survivors of crimes of violence.⁴⁶ For more information on how to support emerging leadership in immigrant communities go to "building the Rhythm of Change."⁴⁷

By working together and creating a comprehensive protocol, you will:

- Maximize community awareness and safety, protection, and response for immigrant survivors of sexual assault.
- Ensure a victim-centered response to violence
- Improve access to community resources
- Hold sex offenders accountable
- Include/represent underserved populations affected by sexual assault that will facilitate immigrant victim access to resources

Create a way to share your resources

The protocol could not only establish ways of collaboration between the different agencies but also create avenues and opportunities for sharing of resources. For instance, in working with immigrant survivors, language access to services can pose a significant challenge for both governmental and non-governmental programs working with victims. Some victims may not speak English or may be better able to communicate emotionally charged events

⁴⁷ Gail Pendleton "Building the Rhythm of Change: Developing Leadership and Improving Services Within the Battered Rural Immigrant Women's Community" Family Violence Prevention Fund

like rape or sexual assault in their native language. The need for an interpreter may be crucial to the criminal investigation for the victim's access to services.

Although interpreters particularly in languages other than Spanish can seem difficult to obtain, agencies can work together to prepare to respond with and bilingual and bicultural staff to improve response for future cases of sexual assault victims. Agencies can reach out to others in their community with language skills and through collaboration to better serve limited English proficient survivors. An agency can begin by building relationships with service providers working with cultural and linguistic minority communities in the following ways:

- Make a list of organizations that work with linguistic, racial and cultural minority populations.
- Add multi-lingual/multi-cultural professionals who work with organizations and government agencies to the list.
- Add university language programs to the list
- Reach out to local businesses who may employ persons with language skills who could be recruited and trained as interpreters
- Recruit bilingual survivors who can become trained as interpreters
- Examine how all collaborative partners can build funding for interpreters into their budgets
- Invite bilingual individuals and organizational representatives to a meeting to help the agency develop a plan for expanding its services and language access to diverse communities.
- Develop a plan for cross-agency collaboration in serving survivors who are immigrants and/or from diverse cultures.
- Train professionals and staff of other agencies on sexual assault.
- Have agency staff participate in a training conducted by organizations working with diverse populations on specific issues that affect those populations.
- Identify a liaison that will facilitate communication between an organization and other agencies and professionals so that they can collectively coordinate client services in the future.
- Work out the procedures that agencies will use to contact each other to help serve sexual assault victims.
- Work together as a team on sexual assault cases so that women from diverse cultures will have an advocate who is an expert on sexual assault, and one who has a thorough understanding of her cultural needs.
- Invite staff members of organizations serving diverse cultural communities to join a local sexual assault coordinating council.

A key benefit immigrant survivors ideally receive from collaborative networks is coordinated handling of their legal and social service needs by various professionals. Service providers' collaboration can ensure that any steps that various professionals take to help an immigrant victim will not impede any other advocate or attorney's efforts. For example, it is important to know under what circumstances a survivor's immigration case could be harmed by actions taken in a family law case (e.g. divorce). By contacting an immigration attorney, sexual assault victim advocates can learn about the types of immigration relief for which an immigrant victim qualifies. Once a victim's immigration options have been identified, lawyers and advocates can access the victim's story and prepare her initial affidavit for her U-visa case. Advocates may also have pre-existing long-term relationships with law enforcement that can help the victim obtain U-visa certification.

By creating partnerships with an attorney, advocates can learn how to help an immigrant survivor obtain protection orders that can also help her immigration case. When advocates assist attorneys in collecting evidence for U-visa cases, attorneys can offer legal assistance to many more immigrant victims. Advocates often have a closer, more trusting, relationship with victims than lawyers and are often much more effective at learning the details of the story.

Since workers in sexual assault programs are typically among the first to meet with immigrant survivors, they are in a prime position to help immigrant survivors begin gathering documents and information necessary for U-visa applications. In some communities, it may be difficult to identify an immigration attorney with experience representing immigrant victims to represent the immigrant in a U-visa case. In such instances, the victim advocate can provide direct assistance with the immigrant's case. Victim advocates in all cases must first screen for

immigration “red flags” that can make an immigration case complex and require an immigration attorney. If there are no “red flags” the advocate can consult with an immigration attorney elsewhere in the state or a national technical assistance provider to assist an immigrant victim in preparing her U-visa application. Even in cases where an immigrant is represented by an immigration attorney, victim advocates can use their expertise on sexual assault to help the immigrant develop her case affidavit and assist the victim in working with the criminal investigation or prosecution and obtaining the certification required for the U-visa. It is unlikely that justice system officials will be familiar with the U-visa process. Advocates can educate law enforcement prosecutors and judges about the U-visa providing copies of the law, the regulations, and the certification form.

They can help enforcement officers complete the form. Advocates can help victims identify the range of government officials who can provide certification in her case. For example, the district attorney or judge may have seen the extent of the victim’s cooperation with an investigation or case and could provide the certification needed for the victim’s U-visa application. Advocates and attorneys should keep notes of the dates, names, and substance of the conversations with government officials concerning certification. When problems arise, seek a meeting with supervisory personnel. Turn to collaborative partners for help determining which partner may be the most successful in securing a meeting at which the supervisor can meet with a representative of your collaborative team and learn about the U-visa and initiate an open discussion that could lead to development of procedures and possibly protocols for certification in cases of U-visa victims.⁴⁸

Building Expertise by Training Each Other: Cross Training⁴⁹

One of the most effective forms of assistance a collaborative network can provide is cross-training. Through cross-training advocates and attorneys in every field can expand their knowledge about the issues affecting immigrant survivors. Some of the organizations that should participate in such trainings include:

- Rape Crisis Centers
- Shelters
- Sexual assault hotlines staff
- Police units with sexual assault specialization
- Police units specializing in child sexual assault
- Legal service organizations and experienced sexual assault attorneys
- Immigration lawyers with experience working on sexual assault cases
- Immigrant women’s groups
- Immigrant sexual assault survivors
- Immigrant community-based organizations, including immigrants’ and refugee rights advocates
- Immigration law bar association members
- Faith-based organizations serving immigrant communities
- Counseling programs
- Sexual assault court programs
- Sexual assault prosecution programs.

Immigrant survivors must be included in community-wide cross trainings as teachers about immigrant victims’

⁴⁸ Legal Momentum and Organización en California de Líderes Campesinas, Inc. “Advocacy to Improve Services for Battered Migrant and Immigrant Women Living in Rural Communities: A Manual” (2010 Edition) available at: <http://iwj.legalmomentum.org/reference/additional-materials/cultural-competency/working-with-farmworker-women/Lideres%20Advocacy%20Manual%20-%20English%202010%20Update.pdf/view>

⁴⁹ “Cross Training” is when two or more organizations with different areas of expertise train each other so that staff from each agency expand their skill sets and knowledge base in order to better serve immigrant survivors. For example, staff from a community based organization (CBO) program that serves immigrant women can train legal services attorneys on victim advocacy and cross cultural communication, when working with immigrant survivors, while those attorneys can train the CBO staff on legal options, such as U-visas and VAWA self-petitions, for immigrant survivors.

experiences with sexual assault and as experts on outreach to immigrant women.⁵⁰ A broad array of professionals – shelter advocates, medical professionals, attorneys, social workers, immigrants’ rights organizations’ staffs, clergy, and justice system professionals – all need knowledge about immigrant survivors’ legal rights.

In a community each of these professionals will have critical forms of expertise, but will need training on other issues so that together they can form an effective, coordinated effort to help immigrant survivors. Without cross-trainings, sexual assault advocates learn what documents a woman needs for her immigration case. Similarly, immigration attorneys learn how contact with advocates can improve their cases for survivors of sexual assault. Sexual assault attorneys and advocates might attend trainings on basic immigration law, while immigration attorneys might benefit from a training session on the issues that arise in sexual assault cases. Both attorneys and advocates can benefit from sharing information about the social services and counseling services available to survivors in their area. Since the details of immigration law and public benefits options for immigrant victims are constantly shifting, cross-trainings must be ongoing.

Trainings should also be held with, and, ideally, sponsored or co-sponsored by, local immigrant-service organizations so that those groups may become better prepared to address sexual assault within their immigrant communities. The attendees should be encouraged to serve as faculty in their area of expertise. Sexual assault advocates might explain prevention techniques, while attorneys might clarify local laws against sexual assault, the process for applying for a U-visa,⁵¹ and other forms of immigration relief and public benefits that may be accessed by immigrant victims. Service providers benefit from trainings run by immigrant communities because trainings expand their cultural knowledge, helping them work with immigrant clients in a more culturally appropriate manner.⁵² Training and collaboration can link service providers with community-based organizations, university-based organizations, and religious organizations that could possibly offer links to potential interpreters.⁵³

Attendees at cross-trainings should be provided with training materials on a variety of topics. Topics might include:

- Sexual assault
- Immigration options for immigrant survivors
- Social services available to immigrant survivors
- Public benefits options for immigrant survivors and their children
- Demographic information about immigrant communities
- Information about immigrant cultural communities and the needs of immigrant communities in the area
- Needs of immigrant women in your community
- Cultural competency
- Working effectively with qualified interpreters.

Many organizations will already have developed some of the training material listed above,⁵⁴ so it is important to investigate this before you start producing your own materials. In addition to materials, cross-training attendees can be provided with lists of local organizations with which they can collaborate on immigrant cases. They might also

⁵⁰ LESLYE ORLOFF ET AL., AYUDA SOMEWHERE TO TURN: MAKING SEXUAL ASSAULT SERVICES ACCESSIBLE TO IMMIGRANT SURVIVORS 96-111 (LEGAL MOMENTUM, 1999).

⁵¹ See *infra* on U Visa Relief for Immigrant Victims of Sexual Assault.

⁵² NANCY K.D. LEMON & PETER JAFFE, FAMILY VIOLENCE PREVENTION FUND, SEXUAL ASSAULT AND CHILDREN: RESOLVING CUSTODY AND VISITATION DISPUTES 165-66 (Janet Carter et al. eds., 1995).

⁵³ Leslye E. Orloff et al., *Immigrant Survivors’ Willingness to Call for Help and Police Response*, 13 UCLA WOMEN’S L.J. 43 (2003).

⁵⁴ If organizations do not already have these materials, they need not invest resources in developing them. These materials can be obtained from national organizations and used locally. To obtain training materials on many of the topics listed above, contact the National Immigrant Women’s Advocacy Project, 4910 Massachusetts Ave NW – Suite 16, Lower Level – Washington, DC 20016, (202) 274-4457, niwap@wcl.american.edu, <http://www.wcl.american.edu/niwap/>; or The Family Violence Prevention Fund, 383 Rhode Island St. Suite #304, San Francisco, CA 94103-5133, (415) 252-8900, <http://www.endabuse.org> for more general information.

The U-Visa Remedy for Immigrant Victims of Sexual Assault and the Need For Multidimensional Collaboration

receive a list of national organizations that provide state, local, and regional referrals to service providers and experts that work with immigrant victims. These organizations can provide technical assistance and links to others working with similar immigrant populations in other parts of the country.⁵⁵

⁵⁵ See *infra* Appendix for list of resources.

APPENDIX

COLLABORATION: SELF ASSESSMENT QUESTIONNAIRE FOR AGENCIES SERVING IMMIGRANT SURVIVORS

- What are the demographics of immigrant population(s) in your community and state?⁵⁶
 - What are the countries of origin of the immigrant women in your community?
 - What factors may have caused these immigrant women to move to the United States?
 - Are they fleeing civil war, persecution, or economic despair? Did they come to the United States to reunite with relatives in an established immigrant community?
 - Did they come as wives who met their spouses through international matchmaking organizations, as wives of servicemen, or through arranged marriage to someone living in the United States from their home country?
 - What are the significant immigrant populations in the area, and what language(s) do they speak?
- Do they reside permanently in your community?
 - Do they annually migrate to the community to do seasonal work?
- Where do immigrant populations generally reside in your city, county, or township?
 - Is the immigrant population isolated from the rest of your community?
 - Are immigrant women isolated from the rest of the immigrant community?
 - Are immigrant women isolated from others who speak their language or have the same cultural background?
- Which individuals are considered immigrant women community leaders?
 - Where do immigrant women congregate and organize? (e.g.. work, shop, worship, when seeking services,)?
- Is there a community center for immigrants?
- What information about cultural or religious beliefs in the immigrant population might affect the way agencies might try to reach immigrant women?
- What attitude toward sexual assault does the immigrant community hold?
- Where can an agency find statistics or materials, either national or local, on dynamics of sexual assault experienced by this population?
- What services do non-profit or faith-based organizations offer in the immigrant community?
 - Which, if any, organizations are in contact with isolated immigrant women?
 - Do these organizations have any resources that would help educate difficult-to-reach populations?
 - Such organizations might include Family Support Centers on military bases, women's centers at universities, or health clinics in rural communities.⁵⁷

⁵⁶ Demographic and other information about the immigrant communities in a given area can be found at <http://www.census.gov/>.

⁵⁷ LESLYE ORLOFF, ET AL., NOW LEGAL DEFENSE AND EDUCATION FUND, LESLYE ORLOFF ET AL., AYUDA SOMEWHERE TO TURN: MAKING SEXUAL ASSAULT SERVICES ACCESSIBLE TO IMMIGRANT SURVIVORS 96-111 (LEGAL MOMENTUM, 1999). -This publication is available through the Legal Momentum website at <http://www.iwp.legalmomentum.org> (publication number G.I.2.).

BUILDING A SERVICE PROVIDER’S LANGUAGE AND CULTURAL ACCESSIBILITY

To serve immigrant survivors, all those providing services to immigrants need to provide interpreters. Without this, even a well-functioning agency will likely fall short of providing immigrant survivors with the full range of services that they may need. According to Title VI of the Civil Rights Act of 1964 and Executive Order 13166 recipients of federal funding have an obligation to ensure there is equal access to services and that they take reasonable steps to provide limited English proficient (LEP) individuals with meaningful access to their programs and activities.⁵⁸

Recruiting Multi-lingual/Multi-cultural Volunteers

Agencies might keep in mind the following when trying to recruit multi-lingual/multi-cultural volunteers

- Community-based organizations that serve immigrant communities can help recruit volunteers
- Because bilingual/multi-lingual people often read newspapers in both English and another language, placing ads in local non-English newspapers and newsletters will often yield results
- Internship programs often attract multi-lingual/multi-cultural students. Upon graduation, these students often continue to work with women or immigrants, and become a group of trained persons from whom agencies can recruit staff in the future.

Multi-lingual and Multi-cultural Staff

Attaining as much cultural diversity as possible allows an organization to better serve all members of a community and through diversity agencies become better service providers.

- Bilingual/bicultural staff supplement the work of contract employees and volunteers, and offer continuity
- Having a multi-lingual staff improves the quality of interpretation and communication generally, making communication more effective while at the same time lowering the costs of interpretation.
- Some immigrant women fear interacting with members of the majority culture whom they expect to be unfriendly or impatient. They expect to be treated as they have been by others in the community at large
- If interpretation is to be part of a staff member’s job, reduce the other job responsibilities in the contract of a bilingual/bicultural employee to allow time within the normal working day for interpretation. In that way, bilingual/bicultural employees are not penalized for not completing other job responsibilities;

⁵⁸ “Guidance to Federal Financial Assistance Regarding Title IV Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons,” Notice, 68 Fed. Reg. 70968 (Dec. 19, 2003); 28 C.F.R. §42.104 (b)(2) (2003), For an in-depth discussion of LEP and legal requirements, see the Limited English Proficiency chapter of this manual.

- Multi-lingual staff must have the same possibility of promotion as other staff. Successful agencies are willing to replace language skilled staff members who are promoted with new language skilled staff.

To create a more diverse staff:

- Change the way staff members are recruited so that the next time an opening becomes available, hiring a staff member with language and/or cultural skills is a priority
- Mail job announcements to organizations and professionals who serve diverse communities and to university minority student associations
- Develop a list of ethnic language minority newspapers and newsletters in which to advertise
- Mail job announcements to language departments and cultural/race/ethnicity specific departments of universities
- Increase the hiring time-frame in order to create an applicant pool that will contain significant numbers of diverse candidates
- Measure cultural competency and language proficiency as discrete job skills.

Developing the Basic Language Skills of Agency Staff

Agencies can cultivate the language skills of their existing staff members:

- Pay for language-training classes for current staff members
- Bring a language instructor to the agency's office to provide classes during work hours
- Provide paid leave time to staff to take language classes.

Section 1513(a) of the Violence Against Women Act of 2000: U-Visa Legislative Intent, Findings and Purpose⁵⁹

SEC. 1513. PROTECTION FOR CERTAIN CRIME VICTIMS INCLUDING VICTIMS OF CRIMES AGAINST WOMEN.

(a) FINDINGS AND PURPOSE-

(1) FINDINGS- Congress makes the following findings:

(A) Immigrant women and children are often targeted to be victims of crimes committed against them in the United States, including rape, torture, kidnapping, trafficking, incest, domestic violence, sexual assault, female genital mutilation, forced prostitution, involuntary servitude, being held hostage or being criminally restrained.⁶⁰

(B) All women and children who are victims of these crimes committed against them in the United States must be able to report these crimes to law enforcement and fully participate in the investigation of the crimes committed against them and the prosecution of the perpetrators of such crimes.

(2) PURPOSE-

(A) The purpose of this section is to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.

⁵⁹ Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, Div. A, § 1513(a), 114 Stat. 1464, 1533 (Oct.28, 2000).

⁶⁰ See VAWA §801 and INA § 101(a)(15)(U)(iii) 8 U.S.C. 1101(a)(15)(U)(iii). These provisions now allow "stalking" to the list of U-visa qualifying crimes, included after "sexual exploitation." See further VAWA §1222 and INA §101(a)(15)(U)(iii)of 8 U.S.C. 1101 (a)(15)(U)(iii) these provisions add fraud in foreign labor contracting," as defined by 18 U.S.C. 1351, to the list of qualifying crimes for which immigrant victims may be eligible to apply for a U visa under the Immigration National Act. Under 18 U.S.C. §1351

(a) **Work Inside the United States.**— Whoever knowingly and with intent to defraud recruits, solicits, or hires a person outside the United States or causes another person to recruit, solicit, or hire a person outside the United States, or attempts to do so, for purposes of employment in the United States by means of materially false or fraudulent pretenses, representations or promises regarding that employment shall be fined under this title or imprisoned for not more than 5 years, or both.

(b) **Work Outside the United States.**— Whoever knowingly and with intent to defraud recruits, solicits, or hires a person outside the United States or causes another person to recruit, solicit, or hire a person outside the United States, or attempts to do so, for purposes of employment performed on a United States Government contract performed outside the United States, or on a United States military installation or mission outside the United States or other property or premises outside the United States owned or controlled by the United States Government, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment, shall be fined under this title or imprisoned for not more than 5 years, or both.

(B) Creating a new nonimmigrant visa classification will facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused aliens who are not in lawful immigration status. It also gives law enforcement officials a means to regularize the status of cooperating individuals during investigations or prosecutions. Providing temporary legal status to aliens who have been severely victimized by criminal activity also comports with the humanitarian interests of the United States.

(C) Finally, this section gives the Attorney General discretion to convert the status of such nonimmigrants to that of permanent residents when doing so is justified on humanitarian grounds, for family unity, or is otherwise in the public interest.

National Immigrant Women's Advocacy Project (NIWAP, pronounced *new-app*)
American University, Washington College of Law
4910 Massachusetts Avenue NW · Suite 16, Lower Level · Washington, DC 20016
(o) 202.274.4457 · (f) 202.274.4226 · niwap@wcl.american.edu · wcl.american.edu/niwap