# Intersection Between Victim Based Immigration Remedies: Advantages, Special Considerations and Protections to Meet the Survivors Needs

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#### Introductions

- Maria Jose Fletcher
  - Co-director and co-founder of VIDA Legal Assistance, Inc. in Naranja, FL
- Edna Yang
  - General Counsel, American Gateways in Austin, TX
- Judge Susan Breall
  - Superior Court for the City and County of San Francisco,
     Juvenile Delinquency Department



#### Learning Objectives

By the end of this training, you will be better able to:

- 1. Identify forms of immigration relief available to immigrant survivors of domestic violence and violent crimes
- 2. Understand differences and advantages between the different victim based immigration remedies





#### Terms and Definitions

- LPR Lawful Permanent Resident
- <u>USC</u>- United States Citizen
- <u>EWI</u> Entry Without Inspection
- <u>DHS</u> Department of Homeland Security
- <u>USCIS</u> United States Citizen and Immigration Services (Formerly INS)
- <u>ICE</u> Immigration and Customs Enforcement
- <u>CBP</u> Customs and Border Patrol





#### Importance of Immigration Status

- Ability to work legally
- Protection from deportation and removal
- Ability to obtain a driver's license and social security number
- Better access to housing and public services
- Break from isolation/ Gain Independence
- Ability to travel to and from the U.S. (with some exceptions)
- Path to lawful permanent residency and ultimately citizenship





#### Systemic Barriers

- Fear of Deportation
- Language Barriers
- Fear of Losing Custody/access to children
- Fear of Abandoning Home
- Economic Survival
- Misinformation about the U.S. Legal System
- Fear of Being Ostracized by Cultural Community





#### Sonia's Story

Sonia came to the U.S. two years ago from Honduras without a visa or any other documentation. She was 17 when she came to the US. Her mother had passed away and she never knew her father. Sonia paid a person to help her get to the US. When she arrived, the smuggler demanded more money. She had none, so he refused to let her leave. He made her cook and clean for the others who came through and could pay and leave. She was eventually able to escape one night when the smuggler fell asleep and forgot to lock the door to her room.

Sonia enrolled in high school when she came to the US. Soon after she arrived in the U.S., she met and fell in love with Eddie who promised he would take care of her and start a family with her.

Sonia decided to drop out of high school to be with Eddie. Then Eddie started drinking and staying out late at the same time Sonia became pregnant with their first child. Money was very tight and Eddie refused to let her look for work or attend English language classes at the church down the street. He wouldn't let her friends call or visit her at the house.





#### Sonia's Story Cont'd.

Eventually Eddie started hitting her. After one particular brutal beating, Sonia frantically and in tears ran into the street and flagged down help from a passerby who called the police. The police came and arrested Eddie.

After he was arrested Sonia applied for a protective order. She also decided to enroll in GED classes. Sonia says that she was arrested by Immigration when she first came to the US and given some documents for court, and has a hearing coming up in a few months with the Immigration Judge. Eddie told her he would help her, but now she is not sure what to do.





#### Potential Immigration Legal Remedies for Survivors

- Applications filed with USCIS
  - VAWA self petition
  - Battered spouse waivers
  - U visa
  - T visa
  - Asylum and withholding of removal
- Forms of relief from removal-granted by Immigration Judge
  - VAWA cancellation of removal
  - VAWA suspension of deportation



#### VAWA SELF-PETITIONING

I-485, Application to Register Permanent Residence or Adjust Status	
dle Name	For USCIS Use Only Returned Recept
Apt. #	Resubmitted:



### Principles behind the VAWA Self-Petition

- VAWA Self-Petition is a type of family based petition
- Remember the structure of immigration law the individual with status (spouses, parents, employers, etc.) controls the immigration process
  - Whether to file
  - When to file
  - Whether the immigrant worker or family member can attain or keep legal immigration status
  - CONTROL





## General VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
  - spouse,
  - parent,
  - adult son/daughter (over 21)
- With Whom self-petitioner resided
  - No time period required
- Good Moral Character
- Good Faith Marriage



#### VAWA Self-Petitioning Available

- If case filed within 2 years of marriage termination
- Bigamy?
- Child abuse up to age of 25 to file
- Step children up until divorce
- Credible evidence standard of proof (police report, protection order, medical records NOT required)



#### How is "Extreme Cruelty" Defined?





## Factors that can Constitute Extreme Cruelty

- Correlate strongly with physical & sexual abuse
  - Isolation
  - Intimidation
  - Economic Abuse
  - Employment Related Abuse
  - Immigration related abuse
- Threats to kill or cause bodily harm
- Threats to harm children or family members
- Threats to take away children
- Threats to take away money



## What Kinds of Evidence Could a Survivor Submit to Prove Battering or Extreme Cruelty?





#### Proof of Extreme Cruelty or Battery

- Self-petitioner's declaration
- Others' declarations
   (family, neighbors, friends,
   faith communities,
   workplace, school)
- Domestic abuse service providers (shelters, crisis lines, support groups)
- Protection orders
- Criminal court records

- E-mails, notes, letters, voicemails
- Photos: injuries, broken windows, furniture
- Medical records (injuries, scars, PTSD, migraines, insomnia)
- Vet records
- Counselors (marriage, religious, mental health)
- Police reports



#### Approved VAWA petitions

- Protection from deportation and detention
  - Deferred action status
- Legal work authorization
  - 6 months if abuser citizen spouse (26.1%)
  - If abusive spouse is lawful permanent resident
  - 1 year (46.8%) to 13-18 months (27.1%)
- Ability to apply for lawful permanent residency through VAWA





#### Benefits of VAWA protections

- <u>Deportation:</u> Protection from deportation shortly after filing.
- Immigration Benefits for Children:
  - VAWA self-petitioners' children receive immigration benefits – no separate petition needed
- <u>Employment Authorization</u>:
  - Citizen abuser (≈ 6 months);
  - Lawful permanent resident abuser (currently ≈ 6 months, past ≈ 15 months)





#### Benefits of VAWA protections

- Public Benefits: As qualified immigrants (≈ 3 months)
- <u>VAWA Confidentiality:</u> protections against the release of information and reliance on abuser provided information
- Lawful Permanent Residency:
  - Citizen perpetrator apply upon approval (1 year)
  - Lawful permanent resident perpetrator (≈ 5+ yearsdepends on when a visa is available)





#### Is Sonia eligible to Self-Petition?





## Important Questions to Ask When Determining What Type of Immigration Remedy She May be Eligible For?

• Is she legally married to her abuser and is the abuser a U.S. citizen or permanent resident?





## Tips in Assisting Potential VAWA Applicants

- Inform applicant of potential remedy and options
- Know the type of evidence that will need to be gathered
  - Spouses Legal Status
  - Good Faith Evidence
  - Abuse
- Stress the importance of CONFIDENTIALITY



#### **Battered Spouse Waiver**



## Conditional Residence & Battered Spouse Waivers

- Battered Spouse Waiver: waives the joint filing requirement and two year wait for full lawful permanent residency
- Requires proof of:
  - Good faith marriage to U.S. citizen and
  - Battered or subjected to extreme cruelty by the citizen spouse
- Court's role:
  - Findings of fact regarding abuse in divorce or custody proceedings
  - Issuance of protection order
  - Information available at court about victim's immigration options



#### Vawa Cancellation Of Removal





#### VAWA Cancellation Elements

- Only available in Immigration Court
- Relationship to abusive party (broader than self-petition)
  - More than 2 years have passed since divorce from the abuser
- Battered or Subject to Extreme Cruelty
- Good moral character
- Extreme Hardship to return to the home country
- Three years physical presence in the U.S.
- Not inadmissible





#### Issues with the VAWA Petition

- There is only a small group of individuals who qualify for the VAWA Self-Petition
  - What about battered immigrants who are undocumented and their abusers are undocumented?
  - What about battered immigrants who are not married to their abusers?
  - What about individuals who are victims of other crimes?
  - What about battered immigrants who, for whatever reason, cannot prove the other requirements (i.e. good faith marriage, joint residence)
- In recognition of this problem, Congress passed a new law in 2000 which created the U Nonimmigrant Visa for victims of violent crimes regardless of the victim's relationship to the perpetrator



## The U Visa For Crime Victims Survivors





#### Crime Victim ("U") Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law





## "Investigation or Prosecution" Includes:

- Detection
- Investigation
- Prosecution
- Conviction
- Sentencing





#### Congressional Intent

Congress designed this visa to assist law enforcement and criminal justice systems in the investigation/ prosecution of criminal activity, while providing an **incentive** for undocumented immigrant victims to report crimes as well as protection for such individuals

- 1) Strengthens ability of law enforcement to investigate and prosecute designated crimes; and
- 2) Offers humanitarian protection to crime victims and family members.





#### Criminal Activities Covered by the U Visa?

- Rape
- Torture
- Trafficking
- Incest
- Domestic violence
- Sexual assault
- Stalking
- Prostitution
- Female Genital Mutilation
- Blackmail
- Extortion
- Manslaughter
- Murder
- Felonious assault

- Witness tampering
- Involuntary servitude
- Slave trade
- Being held hostage
- Kidnapping
- Abduction
- Peonage
- False Imprisonment
- Fraud in Foreign Labor Contracting
- Obstruction of justice
- Perjury
- Attempt, conspiracy or solicitation to commit any of these crimes
- Any similar activity





## Why "Criminal Activity" and not limited to "Crimes"?

- U visa protection available even when:
  - Investigation does not result in prosecution
  - Victim helpful in investigation does not testify at trial
  - Abuser eludes arrest
  - Criminal case dismissed
  - Victim comes forward makes report and police or prosecutors decide not to prosecute
  - Prosecution but no conviction
  - Victim of listed criminal activity but another crime prosecuted
  - Prosecution cannot take place (diplomats, no extradition)



#### U Visa Criminal Activities

- Domestic violence 39.4-45.9%
- Human trafficking labor 25%, sex 24.2%
- Rape, sexual assault, incest 9.3%
- Felonious assault, murder, manslaughter 9.9%
- Kidnapping, being held hostage, unlawful criminal restraint, torture 8.47%
- Blackmail, extortion, perjury, obstruction of justice, attempts, conspiracy, solicitation 5.3%

Leslye E. Orloff & Paige E. Feldman, *National Survey on the Types of Criminal Activities Experienced by U-Visa Recipients*, Immigrant Women Program, Legal Momentum (Nov. 29., 2011), *available at* <a href="http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/research-reports-and-data/U-visa-recipients-criminal-activity-survey.pdf/view.">http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/research-reports-and-data/U-visa-recipients-criminal-activity-survey.pdf/view.</a>



# What Protection is there for Family of U Visa Applicants?

- Adult victims:
  - Spouse
  - Children
- Victims under 21 at time of criminal activity
  - Spouse
  - Children
  - Parents
  - Unmarried siblings under 18 (at the time of filing)



# "Physical or Mental Abuse"

Injury or harm to the survivor/victim's physical person

 Impairment of the emotional or psychological soundness of the survivor/victim



# What is Substantial Physical or Emotional Abuse?

- Decided based upon each individual's experience
- Case-by-case determination using these factors:
  - nature of the injury inflicted or suffered;
  - severity of the perpetrator's conduct;
  - the severity of the harm suffered;
  - the duration of the infliction of harm;
  - permanent or serious harm to survivor/victim's:
    - appearance,
    - health,
    - physical well-being, and
    - mental soundness



# Substantial Abuse (continued)

- No one factor is required
- Can include pre-existing conditions
- Can consider the severity of the perpetrator's conduct even if the actual impact is less than intended by the perpetrator



# Survivor Must Additionally Prove:

- Physical or mental abuse as a result of the criminal activity
- Disclose criminal history, if any:
  - Immigration law definition of "aggravated felony"
  - Discretionary waivers available
  - No waiver if history of espionage or terrorism
  - Victim will be fingerprinted
- Immigration history including violations, if any:
  - Misrepresentation on an immigration application
  - Removal proceedings
- Information about family members who may also receive U-visas





# Who can Certify?

- Police officer
  - Local and State police
  - Federal
  - University
- Prosecutor (State and Federal)
- Judge
- Immigration Officer
- Adult and Child Protective Services
- EEOC, DOL and state labor agencies
- Other authority with responsibility for investigation or prosecution of criminal activity





# Other Federal, State or Local Agencies

- Agencies with criminal investigative jurisdiction
- In areas of expertise
- Including but not limited to
  - Child Protection Services Worker
  - Adult Protective Services Worker
  - EEOC
  - Department of Labor
  - AFT, FBI





# What the U Visa Certification Form Asks From a Certifier

- What criminal activity occurred?
- Identify the victim
  - Include any findings regarding injuries
- Helpfulness of the victim
  - Current,
  - Past, OR
  - Willingness to be helpful
- Any family members implicated in the crime





# U Visa Evidence to Support Applicant's Helpfulness with Law Enforcement

- Affidavit from applicant
- Police reports
- Charging documents
- Court records/transcripts
- Crime Victim Worksheets/Crime Victim Compensation paperwork
- Statements from client and others





# Common Concerns of Law Enforcement

- Does not want to confer citizenship on victim
- Certifications are going to create an administrative backlog
- Belief that undocumented immigration status is a criminal federal offense
- It's the responsibility of Homeland Security, not of the local police
- Survivor is uncooperative or no longer helpful
- Survivor has a criminal history
- Crime occurred a long time ago or the case is closed
- Perpetrator cannot be found, identified, or is dead



### The U Visa Process

- Government official signs certification
- Survivor files U-visa application
- DHS adjudication grants/denies U-visa
- U visa or wait-list approval
- Can apply for green card after 3 years
- Can apply for citizenship 5 years after green card
- Benefits:
  - U visa recipients are lawfully present for federal health care purposes.
  - Some states give benefits upon filing of the U visa



### U Visa Facts and Benefits

- Only 10,000 U visas can be granted annually
- The U-visa grants a temporary 4 year stay
- Work authorization (≈ 6-7 months)
- <u>Limited state benefits in a few states</u>
- <u>Lawful permanent residency</u> after 3 years if
  - Cooperation or does not unreasonably refuse to cooperate
  - + humanitarian need, family unity or public interest
- <u>U.S. citizenship</u> after 5 years of lawful permanent residency+ proof of good moral character



# Which U Visa Recipients Can Obtain Lawful Permanent Residence?

- Did not <u>unreasonably refuse</u> to cooperate in the detection, investigation or prosecution of criminal activity;
   AND
  - Humanitarian need, OR
  - Family unity, OR
  - Public interest
- Homeland Security review of cooperation and the reasonableness of non-cooperation is required for lawful permanent residency





# Is Sonia eligible for the U Visa?





# Important Questions to ask when determining what type of immigration remedy an individual may be eligible to receive

• Did she cooperate with law enforcement in reporting a crime for which she is a victim?



# Must the survivor/victim report abuse to law enforcement?

### VAWA Self-Petition

 Reporting to law enforcement is NOT required ... although it does make a stronger case.

#### U Visa

MUST have law
 enforcement
 involvement without it
 a U visa is virtually
 impossible to receive.



### Time Limits

#### VAWA Self-Petition

- "Battery or Extreme Cruelty" must have occurred during the marriage
- Must be filed within 2
   years of divorce being final or death of US
   citizen abuser

#### U Visa

- No time limit to apply
- Does not matter when the crime occurred so long as the survivor/victim cooperated





### **Good Moral Character**

### VAWA Self-Petition

- Requirement
  - FBI and state background checks
  - Statements from advocates, friends, family, community members, clergy confirming selfpetitioner's good moral character
  - Prior unlawful entry to the US is not a bar

### U Visa

- Not a requirement,
   however all applicants
   should be able to show
   it is in the "public
   interest" for them to
   remain in the U.S.
- Generous waiver for applicants with a criminal history and/ immigration violations





# Survivors with Criminal or Immigration Violation History

- Unlike VAWA, there are more generous waivers available for U visa Applicants
- U visa applicant can apply for a waiver of all grounds of inadmissibility except for those who are Nazis or perpetrators of genocide, torture, or extrajudicial killing
- Must show that the waiver should be granted in the national or public interest



# **Approval**

### VAWA Self - Petition

- Deferred Action "quasi" status that USCIS gives to a VAWA Self-Petitioner until she files for Permanent Residency (valid for 12-15 months)
- May be renewed indefinitely
- CANNOT travel or vote!

### U Visa

- Legal non-immigrant status that is valid up to 4 years
- May apply for permanent residency after 3 years
- May be renewed after for 4 years if with new law enforcement certification
- Travel is not advisable
- CANNOT vote!



# **Employment Authorization**

### VAWA Self –Petition

- May applied for EAD after approval
- Must be renewed every year (if cannot get LPR immediately)
- May be issued as early as 2 months after filing the VAWA upon a "Prima facie determination"

#### U Visa

- Valid for 4 years
- No additional applications needed
- Must have approved U
   VISA before EAD is issued



# Protection for Family Members of Applicants

- VAWA Self Petitioner
  - Unmarried children under the age of 21 years old

- U Visa
  - Adult victims
    - \*Spouse
    - Children (includes born after
  - Victims under 21 at the time of criminal activity
    - Spouse
    - Children
    - Parents
    - Unmarried siblingsunder 18





# Access to Permanent Legal Residency

### VAWA Self Petition

 Can apply for "green card" upon approval of Self-Petition if married to USC and admissible or, if married to a LPR, when a visa is available.

#### U Visa

 Must wait 3 years to apply for LPR status



### **Public Benefits**

### VAWA Self-Petition

- Prima-Facie
   determination → public
   benefits
- With an approved
   VAWA application >
   "qualified immigrants"

#### U Visa

- Not eligible for most
   Public Benefits
- Remains eligible for all services that undocumented victims can access
- USC children may be eligible for the public benefit





### Comparison: VAWA vs. U-visa

### **VAWA Self-Petition**

- Abuser: spouse, former spouse, parent, 21+ USC child
- Abuser USC or LPR
- Children included
- No cooperation with law enforcement required
- No proof of harm
- Criminal involvement can cut off access to relief
- Qualified immigrant = Public benefits
- One year wait for work authorization
- Protection from deportation for 1 year
- Green card after approval if abuser is a citizen, or 3+ years wait if abuser is LPR

### **U-visa**

- Abuser: anyone
- Any status
- Children included
- Cooperation in detection, investigation or prosecution required
- Substantial physical or emotional abuse
- Crimes can be waived
- PRUCOL less benefits access
- One year wait for work authorization
- If in immigration proceedings, case expedited
- Green card after 3 years if can show cooperation + either humanitarian need, public interest or family unity



# The T Visa For Human Trafficking Victims



# Requirements for a T visa

- Must be survivor of a severe form of trafficking in persons
- Survivor must be physically present in U.S., American Samoa, or Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of the trafficking
- Has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking; OR
- Has not attained the age of 18; AND
- Would suffer extreme hardship involving unusual and severe harm upon removal



# A Severe Form of Trafficking in Persons Means:

- Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- The recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.



# Force, Fraud, or Coercion

- Debt servitude
- Surveillance
- Physical barriers
- Threats to safety

- Physical isolation from protections
- Psychological isolation
- Threats to deport or contact law enforcement





# Human Trafficking Simplified

#### Process:

- Recruiting,
- Transporting,
- Obtaining, or
- Moving

### Means:

- Force,
- Fraud, or
- Coercion

### • End:

- Labor or
- Commercial Sex



# Trafficking v. Smuggling

- Crime against a person
- Contains an element of coercion
- Subsequent exploitation
- Trafficked people treated as victims

- Unauthorized border crossing
- No coercion
- Facilitated entry by another person
- Smuggled people treated as criminals



# Identifying Trafficking Survivors

- Case may not initially appear to be trafficking
  - Prostitution
  - Pornography
  - Domestic violence
  - Labor problems
  - Child welfare
  - Domestic workers
- How U visa trafficking differs from
  - T visa trafficking
  - Continued presence



# Survivors of Human Trafficking

### U Visa

- Trafficking is a listed criminal activity for a U visa
- Must have LE certification
- Less or no access to Public Benefits

### T Visa

- Must be "severe" form of trafficking
- In the US on account of trafficking
- Do not necessarily need
   a LE certification, but
   must report the
   trafficking
- More access to Public Benefits



### T-visa Facts and Benefits

- 5,000 U-visas can be granted annually
- The T-visa grants a temporary 4 year stay to live and work in the U.S.
- Work authorization (6 months 2/2014)
- Adult: Can petition for victim's spouse/children
- Under 21 child: Can petition spouse, children, parents + siblings under 18
- Family members can include their children
- <u>Lawful permanent residency</u> after 3 years
- <u>U.S. citizenship</u> after 5 years of lawful permanent residency+ proof of good moral character



### **Continued Presence**

- Temporary Immigration relief applied for a victim by law enforcement
- Can get Employment Authorization along with temporary relief from deportation
- Only applied for by Law Enforcement





# Is Sonia Eligible for the T Visa?



# Special Immigrant Juvenile Status (SIJS)



### Special Immigrant Juvenile Status

- Jurisdiction over the care, custody or dependency of a minor child
- PLUS finding that reunification with at least one parent is not viable due to
  - Abuse, abandonment, neglect
  - VAWA 2005 Abuse includes battery
- AND NOT in the child's best interest to be returned to their home country





# Range of Court Orders in Which Findings Can be Made

- Court order, finding, declaration
- Awarding custody or
- Any order involving placing a child with an:
  - Agency
  - Department
  - Individual
    - Non abusive parent
    - Grandparent
    - Kinship care
    - Other





## Types of Proceedings SIJS Findings

- Custody
- Divorce
- Legal Separation
- Motions for a declaratory judgment
- Dependency
- Delinquency
- Termination of parental rights
- Guardianship
- Paternity
- Child support
- Criminal cases

Materials: SIJS Examples Provided by Case Law:

http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/family-law/SIJS-Proceedings-Chart.pdf/view



## What Children with SIJ Status Receive

- Protection from deportation and removal
- Legal permanent residency
- Government issued ID
- Legal work authorization
- Eligibility for driver's license or state ID and social security number
- Eligible for citizenship after five years, if at least 18 years old
- SIJS recipient may NEVER file family petition for natural parents





## Is Sonia Eligible for SIJS?



### U Visa vs. SIJS

### **U** Visa

- Cannot file for immigration relief for abusive parent
- Abuse or battering or extreme cruelty determined by DHS
- No findings regarding viability of reunification
- Less family law implications
- Benefits: Limited includes health care

### SIJS

- Cannot file for immigration relief for abusive parent
- Abuse, abandonment, neglect findings by family court
  - Can include extreme cruelty
- Requires finding that reunification not viable
- Greater family law implications
- Benefits: Same as lawful permanent resident





### **Abused Minors**

#### **VAWA**

- Extreme cruelty from USC or LPR parent (biological, adopted or step)
- Do not have to report to LE or other authorities – only need to demonstrate extreme cruelty
- Can only file up to age 25

#### **U** Visa

- Do not need a family tie to perpetrator of abuse
- Must be a listed criminal activity
- Must get LE certification
- Must report criminal activity and cooperate
- No age limit





### **Abused Minors**

### **SIJS**

- Only available up to age 21
- Can't include family members
- Do not have to report to LE or involve LE

### T Visa

- If under 18 no need to comply with LE requests
- Better access to public benefits



# Deferred Action For Childhood Arrivals (DACA)



## Temporary Protections for Immigrants who Entered the US as Children

- Came to the United States under the age of sixteen prior to June 15, 2007
- Has resided in the United States continuously since June 15, 2007
- Had no lawful status and was present in the US on June 15, 2012
- Is currently in school, has graduated from high school or has attained a GED, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- Has not been convicted of a felony offense, a significant misdemeanor offense, or more than three misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- Is under thirty one as of June 15, 2012





## Is Sonia Eligible for DACA?



### DACA vs. SIJS

### **DACA**

- No abuse
- Temporary relief. Cannot pass on benefits to parents or other family members
- Work authorization and deferred action status for 2 years
- Driver's license
- No family law implications
- Benefits: <u>Limited no path</u> to permanent status

### **SIJS**

- Could eventually file for <u>non-abusive</u> parent depending on the type of status
- <u>Cannot file for immigration</u> <u>relief for abusive parent</u>
- Abuse, abandonment, neglect finding by family court
- Requires finding that reunification not viable
- Work authorization and driver's license
- Benefits: <u>Can apply for lawful</u> <u>permanent resident</u>



### Other Relief for DACA Children

- Distribute information about crime victim related relief
- Safely screen for eligibility
- Connect to resources and trained agencies who can help children and youth file
  - NIWAP Directory





### **Group Activity**

## What Is The Best Form Of Relief For Sonia?



### Technical Assistance and Materials

 Power Point presentations and materials for this conference at: <a href="www.niwap.org/go/NOLA">www.niwap.org/go/NOLA</a>

- NIWAP Technical Assistance:
  - Call (202)274-4457
  - E-mail <u>niwap@wcl.american.edu</u>
- Web Library: <u>www.niwaplibrary.wcl.american.edu</u>



## Questions





### **Evaluations**





## Thank you!

