

The Central Role of Victim Advocacy for Victim Safety While Victims' Immigration Cases Are Pending

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Victim's advocates and attorneys provide lifesaving safety planning assistance to immigrant crime survivors and play a crucial role in informing survivors about and helping survivors obtain protection orders¹ and pursue immigration relief.² Once a victim's immigration case has been filed, the waiting time between filing and adjudication (~ 7+ months) poses additional safety challenges for survivors that advocates and attorneys need to be prepared to address.

In October 2013, NIWAP's nationwide survey of organizations serving immigrant survivors of domestic violence, sexual assault, child abuse, and other U visa crimes was completed by over 350 service providers from across the U.S. reporting on over 4800 cases.³ The survey documented the experiences of immigrant survivors and their children after filing and during the pendency of their immigration case. The survey demonstrated that while awaiting work authorization, immigrant survivors of violence are particularly vulnerable.

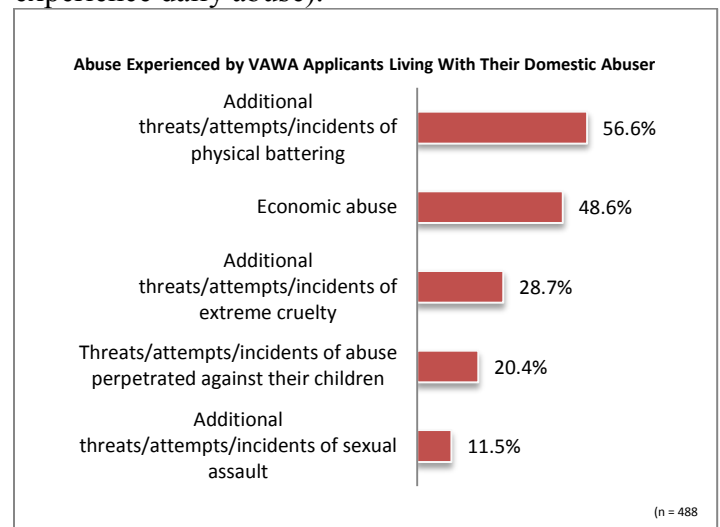
Survivors stay with their abusers until they receive work authorization

NIWAP's survey found that significant proportions of immigrant victims continue residing with their abusers until they receive work authorization in connection with their VAWA self-petition or U visa case. Victims living with their perpetrators experience abuse and coercive control that includes turning the victim in for deportation.

Survivors who continue to reside with their abuser experience many forms of abuse

VAWA

55.8% of VAWA self-petitioners who live with their domestic abuser report abuse on a monthly basis (17.39% experience weekly and 19.4% experience daily abuse).



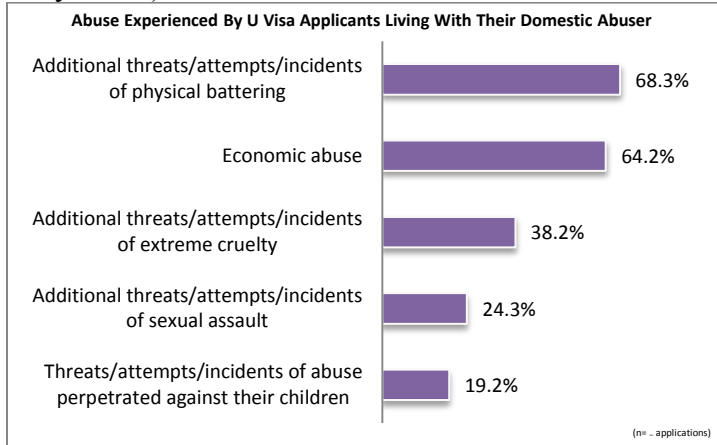
¹ Nawal H. Ammar, Leslye E. Orloff, Mary Ann Dutton, and Giselle A. Hass, *Battered Immigrant Women in the United States and Protection Orders: An Exploratory Research*, CRIMINAL JUSTICE REVIEW (2012), available at: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/research-reports-and-data/research-US-VAIW/AmmaretalCPO.pdf/>.

² Giselle Hass, Karen Monahan, Edna Yang and Leslye E. Orloff, *U-Visa Legal Advocacy: Overview of Effective Policies and Practices*, NIWAP, (Dec. 17, 2012), available at: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/research-reports-and-data/Practice-and-Policy-Brief.pdf/>.

³ Krisztina E. Szabo, David Stauffer, Benish Anver & Leslye E. Orloff, *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014), available at <http://niwap.org/reports/Early-Access-to-Work-Authorization.pdf>.

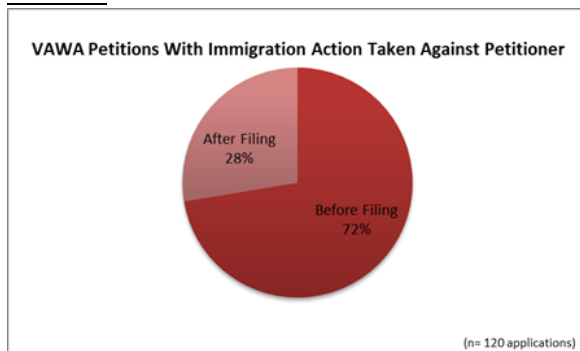
U visa

97.4% of U Visa applicants who live with their domestic abuser report abuse at least once a month (34.9% experience weekly and 20.1% experience daily abuse).



Both VAWA self-petitioners and U visa applicants are at risk of immigration enforcement

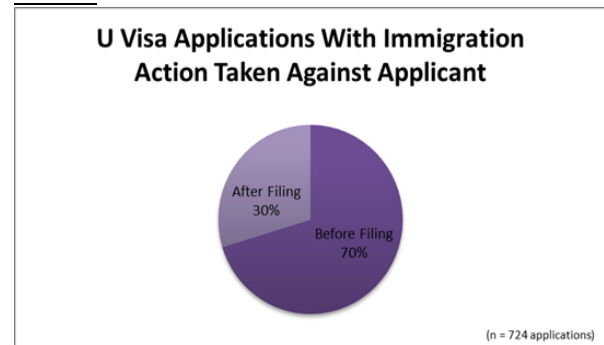
VAWA



For VAWA self-petitioners who have already filed, the three most significant causes of immigration enforcement actions are:

- Reported by the abuser/abuser's family (38.3%)
- Traffic infractions (28.6%)
- Arrest related to domestic violence in which they were the victim (15.4%)

U visa



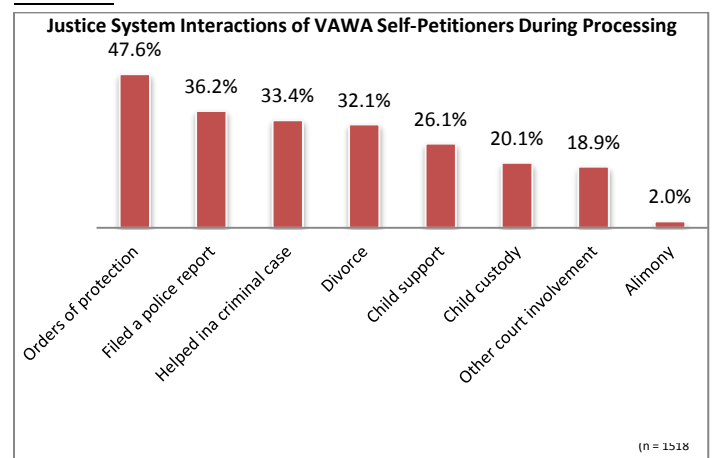
For U visa applicants, who have already filed, the two most significant causes of immigration enforcement actions are:

- Traffic stops (30.1%)
- Reporting by perpetrator/perpetrator's family member (26.7%)

Interaction with the Justice System

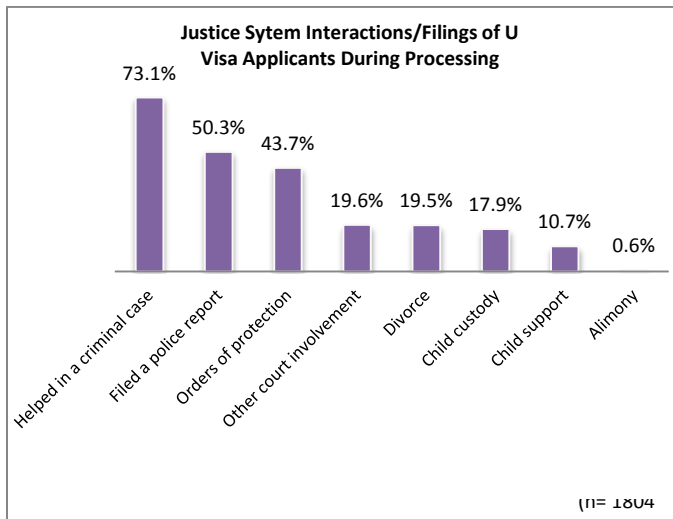
Despite the fact that significant numbers of VAWA self-petitioners and U visa applicants continue living with their abusers and working for abusive employers during the pendency of their applications, both VAWA self-petitioners and U visa applicants have high rates of criminal justice system and order of protection participation.

VAWA



- While VAWA self-petitioners are not required to interact with the criminal justice system as a pre-requisite to obtain immigration relief, they are filing police reports at a significant rate of 36.2%
- 47.6% seek protection orders while case is pending
- Only limited numbers are willing to seek custody and child support.

U visa



- Despite being trapped in abusive environments, 73.1% of U visa applicants are cooperating with law enforcement and prosecution, and 25.2% continue to file police reports once their U visa case is approved.
- 43.7% seek protection orders while case is pending

The National Institutes of Justice (NIJ) funded research on the effectiveness of protection orders for immigrant crime victims, and found that safety planning and victim advocacy played a key role in encouraging immigrant and undocumented victims to seek protection orders.⁴

Both this NIJ research and the NIWAP's survey findings, confirm that with trained advocacy, immigrant crime victims are willing to access the civil and criminal justice systems for help. Justice system assistance through protection orders and ongoing interactions with law enforcement play an important role in improving safety of survivors who remain in abusive homes and workplaces.

There are a number of steps advocates and attorney can take to improve safety for immigrant victims while they remain in abusive homes and employment. Incorporate the following steps into case planning to enhance immigrant survivors' safety (in this order):

1. Screen early for immigration relief;
2. File skeletal applications with USCIS as soon as possible to protect survivors from deportation;
3. Help survivors obtain orders of protection;
4. Assist survivors in completing their VAWA or U visa cases;
5. Educate police, prosecutors, courts, and other professionals about immigrant victims' legal rights under immigration, family, benefits and language access laws.

⁴ Mary Ann Dutton, Nawal Ammar, Leslye Orloff & Darcy Terrell, *Use and Outcomes of Protection Orders By Battered Immigrant Women*, NAT'L INST. OF JUSTICE (Nov. 10, 2006), available at: http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/september-9-12-2012-san-diego-ca/research/RSRCH_DV_Use_Outcomes%20Protection_Orders.pdf/view.