Proposal for Judicial Training (Last Update November 7, 2015)

Title: State Courts and the Protection of Immigrant Crime Victims and Children
Date: TBD
Location: TBD

Why is it important for state courts to have accurate information on immigration law and policies?

In the past decade, the U.S. has experienced an unprecedented increase in the number of linguistically and culturally diverse foreign-born individuals living in the country. In the United States, the immigrant population rose by 32.9% between 2000 and 2013, resulting in:

- 13.3% (41,348,066) of the U.S. population being foreign-born;[1]
- 24.9% of children in the state under the age of 18 have one or more immigrant parents;
- 87.9% of children in immigrant families are U.S. citizens.[2]

State courts are among the first in the justice system called upon to provide access to justice for these new immigrant populations. Family courts across the country are seeing growing numbers of immigrants seeking civil protection orders, custody, child support, divorce, U visa certification, and judgments in a range of proceedings involving children including: protection orders, custody, child support, dependency, termination of parental rights, unaccompanied minors, and juvenile cases. Working with newly-arriving immigrants who come from different cultures and backgrounds and live in families with a range of differing citizenship and immigration statuses, present challenges for the courts.

A review of family court decisions reveals a growing number of cases in which court rulings have been based on information about U.S. immigration laws and/or about the immigration law's applicability to a party or a witness in the case that was not legally correct. Access to legally accurate information about immigration laws, and DHS regulations, policies, and current DHS priorities and practices will promote the fair administration of justice in cases involving immigrant families. This includes information about immigration protections for immigrant victims of domestic violence, child and elder abuse, sexual assault, and human trafficking under the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA) that have been an essential part of U.S. immigration laws for almost two decades.

What is the training that NIWAP will offer?

The National Immigrant Women's Advocacy Project (NIWAP), American University Washington College of Law would like to offer training for state court judges in Illinois. NIWAP is working with the Center for Public Policy Studies (CPPS), Immigration and the State Courts Initiative, and Human

[1] Source: http://www.migrationinformation.org/datahub/state.cfm?ID=ID (February 2014). As of 2013, 59.6% of immigrants in Idaho are from Latin America, 17.6% come from Asia, 15.2% come from Europe, 4.8 come from Canada and 1.8% are from Africa.
[2] *Id*.

Trafficking and the State Courts under a grant from the State Justice Institute, U.S. Department of Justice.

The training will provide judges with tools, bench cards, and materials containing up-to-date, legally correct information on current DHS policies, immigration enforcement priorities, and immigration law options that provide protection from deportation, legal immigration status and work authorization for immigrant victims of domestic violence, child abuse, elder abuse, sexual assault, stalking, human trafficking and other crimes.

NIWAP's judicial training helps state court judges and court staff to:

- Understand the intersections between state court proceedings and immigration law and how accurate immigration law information affects just outcomes in state courts
- Better understanding of the unique dynamics of violence and sexual assault perpetrated against immigrant victims
- Recognize legal options for immigrant crime victims including
    - immigration relief (e.g. VAWA self-petition, VAWA confidentiality rules, U and T visas, special immigrant juvenile status, and protection from deportation);
    - public benefits (health care, housing, food stamps, victim assistance, and income support);
    - language access in the courts;
    - the effect of immigration laws on state family and criminal court cases;
    - facts that indicate a party qualifies for legal immigration status and/or protection from deportation and which immigrants are a low priority for removal
- Make findings in state court cases that help an immigrant crime victim's immigration case
- Understand the special role Congress created for judges in issuing U visa certifications

This training includes: plenary sessions for state-wide judicial trainings; workshops for state-wide judicial trainings; half day or full day training for judges and court staff that could include training for a mixed audience of judges, police, prosecutors, attorneys and victim advocates.

Faculty for the training may include Leslye E. Orloff, NIWAP's Director, expert staff from CPPS, and a state court judge with expertise in family law, immigration benefits, U visa certification and the judicial process.

NIWAP's collection of SJI-approved tools for state courts on immigration relief for immigrant crime victims and children[3] may be accessed here: www.niwap.org/go/sji.

This information, together with the individual technical assistance NIWAP offers judges, will provide judges the information they need for the fair administration of justice in cases involving immigrant litigants and immigrant crime victims.

[3] The materials include bench cards, charts, and other tools to assist courts and judges in cases involving immigrant parties, victims and witnesses. The development of this section of the web library was developed under grant number SJI-12-E-169 from the State Justice Institute. The points of view expressed are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.

Past Trainings

Between 2013 and 2015, our trainings reached 2,797 individuals, of whom 1,271 attended our in-person trainings, and 1,526 viewed our webinars. Our in-person trainings were attended almost exclusively by judges, and a significant portion of our webinar audience was comprised of judges as well. We have successfully conducted trainings in Alaska, Delaware, District of Colombia, Indiana, New Jersey, Oregon, Pennsylvania, Texas, Utah, Virginia, and Wisconsin. Further information on these trainings can be found at www.niwap.org/go/sji.

In addition, we organized four webinars in 2014 and 2015 in order to facilitate judicial trainings for a broader range of participants.

The first webinar, "Understanding the Intersection of Immigration Law in State Court Proceedings" examined the intersection of immigration law in state court proceedings.
Available at: http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/november-5-2014-immigration-in-state-court-proceedings/SJI%20PCADV%20PA%20Webinar%20FINAL.pdf/view.

The second webinar, "Expert Advice for Judges: How to Handle U Visa Certification Requests" provided judges with accurate information on signing U Visa Certifications.
Available at http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/december-1-2014-expert-advice-for-judges/

The third webinar, "VAWA Confidentiality: Understanding the Three Safeguards and Limited Discovery Exceptions when Advocating for Survivors in Family and Criminal State Courts" provided information for courts on how to respond to discovery requests when offenders seek to obtain information contained in federal immigration case protected by Violence Against Women Act federal confidentiality protections in state court cases.
Available at: http://niwaplibrary.wcl.american.edu/2015/02/vawa-confidentiality-webinar/

The fourth webinar "State Court Findings for Abused Youth Seeking Special Immigrant Juvenile Status" provides a guide for state courts about the role Congress created for state courts issuing "predicate orders" which are a prerequisite to an immigrant an abused, abandoned or neglected immigrant child's ability to file for Special Immigrant Juvenile Status.
Available at: http://niwaplibrary.wcl.american.edu/2015/07/state-court-findings-for-abused-youth-seeking-special-immigrant-juvenile-status/