

Opening Plenary: Improved Access to Public Benefits for All Immigrant Survivors

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Plenary I
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Introductions

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Learning Objectives

- To understand what forms of assistance undocumented immigrants can access
- To be better equipped to help immigrant survivors access LSC funded legal services, transitional housing, health care and other services necessary to protect life and safety
- To better appreciate the importance of accompanying survivors applying for benefits for their children

IMMIGRANT DEMOGRAPHICS

Data taken from the U.S. Census, the Migration Policy Institute Data Hub, and the Department of Homeland Security Office of Immigration Statistics

U.S. Immigrant Demographics

- “Immigrant” = born outside the U.S.
- 40.4 million immigrants in U.S (MPI 1/13)
 - 12.5% U.S. population (MPI 12/10)
- Among foreign born
 - 45% are naturalized citizens (MPI 1/13)
 - 32.4% are lawful permanent residents (MPI 10/12)
 - 64.9% (8.5 million) eligible to naturalize (MPI 10/12)
 - 11.6 million undocumented (DHS OIS 3/12)

U.S. Immigrant Demographics- Children

- Today over 27% of U.S. population are immigrants or children of immigrants
 - (US Census)
- 24.3% of children under age 17 live with at least one immigrant parent (MPI 1/14)
- 93% of children with 1+ immigrant parents are U.S. citizens (MPI 1/14)

Top Individual Countries of Origin

- Mexico – 28.9%
- China/Hong Kong/Taiwan – 5.5%
- India -- 4.6%
- Philippines – 4.5%
- Vietnam – 3.1%
- El Salvador -- 3.1%
- Korea -- 2.7%
- Cuba -- 2.7%
- Dominican Republic -- 2.2%
- Guatemala – 2.1%

-Data taken from the Migration Policy Institute Data Hub 2011

Proportion of Immigrant Population

- Colombia 1.7%
- Germany 1.5%
- Haiti 1.5%
- Peru 1.0%
- Japan 0.8%
- France 0.4%
- Argentina 0.4%
- Ireland 0.3%

-Data taken from the Migration Policy Institute Data Hub 2014

State By State Immigrant Demographics

- www.niwap.org/go/statedemographics

Public Programs, Assistance, or Services that are Open to All Immigrants Without Regard to Immigration Status

Self-Test: True or False

1. Receiving public benefits can harm an immigrant victim's ability to obtain legal immigration status
2. Undocumented immigrant parents can apply for public benefits for immigrant children
3. Immigrants applying for benefits for their children can refuse to provide immigration or social security information about themselves
4. Undocumented victims and children can access transitional housing programs
5. Federally funded health care is not available for undocumented immigrants
6. DHS requires universities to ask about immigration status of applicant or enrolling students

Both Documented and Undocumented Immigrant Victims Can Access:

- Protection orders
- Child custody and support
- Police, fire, ambulance, paramedic assistance
- Have a police report taken
- Criminal prosecution of their abusers
- Assistance for crime victims
- LEP victim interpreter access
- Legal services
- Shelter and transitional housing
- Emergency medical care
- Services necessary to protect life and safety
- Public benefits their children are eligible for



Laws Governing Law Enforcement Agency Provision of Language Assistance to Limited English Proficient Persons

- Civil Rights Act of 1964 Title VI: prohibits national origin discrimination by programs receiving federal funding or assistance.
 - This includes all law enforcement agencies
- Lau v. Nichols (1973): U.S. Supreme Court held
 - “failing to take reasonable steps to ensure MEANINGFUL access for LEP persons is national origin discrimination under Title VI”
- Presidential Executive Order 13166 (2000): Title VI language access requirements apply
 - to all federally *conducted and funded* programs and activities
- U.S. Department of Justice Clarifying Memorandum Regarding Limited English Proficiency and Executive Order 13166 (2001):
 - Where the denial or delay of access may have life or death or other serious implications, the importance of the full and effective delivery of LEP services is at its zenith.

What federally funded services do victims need to access?

- Law enforcement (DOJ)
- Courts (DOJ, HHS)
- Housing assistance (HUD)
- Shelters – battered women's, homeless, transitional (HHS, HUD, DOE)
- Legal Services (DOJ)
- Victim services, family justice, supervised visitation centers (DOJ)
- State, county, local health & welfare (HHS)
- Hospitals, health clinics (HHS)
- Welfare to work (HHS, DOL)
- Mental Health Centers (HHS)
- Education & Head Start (DOE, HHS)
- Nutrition (Agriculture)

Timeliness of Services

- Interpretation should be provided in a timely manner
- Language assistance should be provided
 - at a time and place that avoids the effective denial of the service, benefit, or right at issue or the imposition of an undue burden on or
 - delay in important rights, benefits, or services to the LEP person.
- In providing **law enforcement, health, and safety services**, and **when important legal rights are at issue**.

In cases involving victims, timeliness is of the utmost importance!

April 2014 Legal Services Regulations

April 2014 Legal Services Regulations Confirm Access for Immigrant Survivors

- Anti-abuse eligibility
 - related legal assistance
- Victim or victim's child --
 - Battered or subjected to extreme cruelty
 - Victim of sexual assault
 - Victim of trafficking in the United States
 - Qualifies for U visa
 - Severe forms of human trafficking seeking HHS certification (continued presence and T visas)

Legal Assistance Directly Related To:

- Prevention of or obtaining relief from
 - the battering,
 - extreme cruelty,
 - sexual assault,
 - human trafficking or
 - U visa criminal activity
- An application for a U or T visa

Representation that will assist in:

- Escaping abusive situation
- Ameliorate effects of abuse
- Protect against future abuse
- May include
 - Immigration
 - Family (CPO, custody, divorce, support)
 - Employment
 - Public benefits
 - Housing
 - Abuse and neglect
 - Juvenile
 - Other matters with a connection to the abuse

April 2014 Legal Services Regulations Confirm Access for Immigrant Survivors

- Immigrant status eligibility
 - any legal assistance
- Lawful and conditional permanent residents
- Filed for lawful permanent residency and
 - Spouse of citizen
 - Parent of son or daughter 21+ years old
 - IRCA agricultural worker
- Refugee or asylee
- Conditional entry before 4/1/80
- Withholding of deportation or removal
- Indigent foreign national in Hague Convention case
- H-2A agricultural workers
- H-2B forestry workers

Programs and Services Necessary to Protect Life and Safety

Attorney General's List of Required Services

- In-kind services
- Provided at the community level
- Not based on the individuals income or resources
- Necessary to protect life & safety
- Programs covered by this AG order are open to all persons
- State and local governments CANNOT impose immigrant access restrictions

Preemption

- DOJ Necessary to Protect Life and Safety Regulation
- PRWORA “vests in the Attorney General the authority to specify certain types of community programs, services, or assistance for which all aliens remain eligible”
- “Neither states nor other service providers may use the Act as a basis for prohibiting access of undocumented to any programs, services, or assistance covered by this Order.”

Benefits Available to All Immigrants:

- Crisis counseling and intervention
- Child and adult protection services
- Violence and abuse prevention
- Crime victim assistance
- Short-term shelter or housing assistance for the homeless, victims of domestic violence, or for runaway, abused, or abandoned children
- Medical and public health services
 - including treatment and prevention of diseases and injuries and mental health, disability, or substance abuse assistance necessary to protect life or safety

Benefits and Services continued

- Help during adverse weather conditions
- Soup kitchens, community food banks and nutrition programs for seniors and others requiring special assistance
- Activities designed to protect the life and safety of workers, children, youth and community residents
- Any other programs, services, or assistance necessary for the protection of life or safety

Transitional Housing

Transitional Housing

- HUD Cuomo letter January 19, 2001
 - Transitional housing has been available to the following groups since 2001:
 - Immigrant domestic violence victims (intimate partner, child and elder abuse)
 - Homeless immigrants
 - Abused, abandoned, and neglected children

Transitional Housing Eligibility Criteria

Recommendations: Best Practices (NNEDV)

- A survivor of domestic and/or sexual violence, dating violence or stalking;
- Actively fleeing;
- Eighteen years old or (legally) emancipated minor;
- In need of housing due to crime victimization;
- Without sufficient emergency or permanent housing available;
- Willing and desiring to participate in Transitional Housing and meet with staff on a mutually-determined schedule;
- Willing to create an individualized safety plan, with the assistance of Transitional Housing staff; and
- Able to safely live independently, without access to staff or support 24-hours per day, 7 days per week.

Transitional Housing Access Requirements Not Federally Required That Harm Immigrant Survivors (NIWAP 2014*)

- Victims turned away because
 - They were undocumented (DV 25.6%; SA 94.9%)
 - Victims did not meet formal income/self-sufficiency requirements (DV 33.2%; SA 85.8%)
 - Program required documentation (DV 34.5%; SA 87%) of --
 - Legal immigration status
 - Legal work authorization
 - Driver's license or US/State government issued ID
 - Documentation of current employment or ability to work

*Meaghan Fitzpatrick, Benish Anver, David Stauffer, Krisztina Szabo, & Leslye Orloff, *Access to Emergency Shelters and Transitional Housing for Battered Immigrants and Immigrant Victims of Crime*, National Immigrant Women's Advocacy Project (June, 2014) (publication pending).

Knowledge and Advocacy is Key

- Help from advocates and attorneys is key to securing access to transitional housing for immigrant crime victims
- Be proactive
- Build relationships with transitional housing programs
- Educate them about immigrant victims legal rights to access transitional housing

Other Federally Funded Assistance

Other Federal Programs Available to ALL Immigrants

- Elementary and Secondary education
- School lunch and breakfast
- WIC
- Immunizations, testing, and treatment of communicable diseases
- Community Services Block Grant funded programs
 - ESL
 - Vocational Training
 - Transitional shelters
 - Community gardens

Health Care



Health Care For Undocumented Immigrants

- Services necessary to protect life and safety
- Community and migrant health clinics
- State funded programs
- Post assault health care paid by VOCA funds
- Emergency Medicaid
- HHS Funded community and migrant health clinics
 - www.nachc.com
 - www.hrsa.gov

Emergency Medicaid

- Available only in cases where the person needs treatment for medical conditions with acute symptoms that could:
 - Place the patient's health in serious jeopardy;
 - Result in serious impairment of bodily functions;
or
 - Cause dysfunction of any bodily organ or part

What Various States Offer Under Federal Emergency Medicaid

- Labor and Delivery (emergency and most states normal)
- Severe and acute symptoms
- Urgent pharmacy needs
- Mental health
- Inpatient substance abuse
- 72-hour release of drugs without prior approval
- No SSN is required to receive emergency services under Hawaii law

Federally Qualified Health Centers Offer

- Primary care
- Diagnostic, laboratory and radiological services
- Prenatal care
- Post-assault health care
- Cancer and other disease screening
- Well child services
- Immunizations
- Blood test screening
- Eye, ear and dental screenings for children
- Family planning services
- Preventative dental services
- Pharmaceutical services
- Emergency medical and dental services

Crime Victim's Compensation

- Crime victim's compensation (CVC) has not been designated by welfare or by immigration law as one of the “federal public benefits programs” which restrict immigrant access.
- CVC should be accessible to immigrant victims of crime without regard to their immigration status pursuant to state law.
 - Except NV, AL, IN



State-by-State Charts Addressing Immigrant Victim Access to the Following:

- Federally funded public health clinics
 - www.hrsa.gov fill in the box “find a health center”
- Health care access by immigration status by state
 - Emergency Medicaid
 - Forensic Examinations
 - Post-Assault Health Care
 - Pre-Natal Care
- TANF Replacement Programs
- Child Care
- SNAP (Food Stamps)
- LIHEAP
- SSI
- Education

Available at

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/access>

When Children Qualify...

When children qualify and their parents do not:

- If a child qualifies for benefits as a citizen or “qualified immigrant” the benefits granting agency may *ONLY* ask questions about the child’s eligibility
- No questions may be asked about the *immigration status or social security number* of the child’s parent if the parent is not applying for additional benefits for themselves
- Importance of accompanying victims applying for benefits

Anti-Discrimination Protections

- Civil Rights Act of 1964: Race, color, or national origin (which includes LEP status) (applies to all programs receiving any federal funding)
- VAWA: Race, color, national origin, religion, sex, gender identity, sexual orientation, or disability
 - VAWA's underserved definition includes alienage status
- Family Violence Prevention and Services Program: Race, color, national origin, religion, sex, age, or disability
- Fair Housing Act: Race, color, national origin, religion, sex, familial status, or in some instances, disability (applies to most housing providers, including transitional housing and private housing providers)
- Federal Emergency Management Agency: Race, color, national origin, religion, sex, nationality, age, disability, LEP status, or economic status

Benefits for Undocumented Victims Resources

- Bench Card on Crime Victim Benefits Access
- Brochure on Life and Safety Services
- Emergency and Transitional Housing Fact Sheet
- Anti-discrimination fact sheet
- Legal Services fact sheet
- Health care access fact sheet

Activity: The Race to Access Programs and Services

Game: RULES

- Participants will compete in teams
- Teams will be called upon in order
- Once an idea has been offered, no other team can use it
- The judge's ruling is final
- The team that has the most remedies to propose, when other teams have run out of remedies, wins

Instructions for the Race

- Each team must develop a list of programs and services open to undocumented clients
- Include those with federal, state and other funding
- You will have 5 minutes to brainstorm and create a list
- Select a representative
- Team members can run up to the representative to provide additional answers

Instructions Continued

- Your team will be eliminated if:
 - You repeat a benefit/service or a variation on one that another team has already identified
 - You fail to answer in the allocated time
 - You list benefits that not are available to undocumented immigrant victims
- Judge will have final say about whether an answer qualifies

Debrief Exercise

- Large group discussion

Technical Assistance and Materials

- Power Point presentations and materials for this conference at www.niwap.org/go/NOLA
- **NIWAP Technical Assistance:**
 - Call (202) 274-4457
 - E-mail niwap@wcl.american.edu
- Web Library:
www.niwaplibrary.wcl.american.edu

Questions



Evaluations



Instructions for Break Out Workshops