



Funding Effective Program Services for Immigrant Victims of Domestic Violence¹

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² This manual is an updated version of the STOP Administrators monograph written by Amanda Baran, Donna Irwin and Leslye E. Orloff published in 2002.

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Introduction

This monograph is designed to help Violence Against Women Act (VAWA) STOP Grant Administrators expand services to projects that serve immigrant victims of family violence. Specifically, it will focus on factors Administrators should examine to determine how effective a program will be in serving a targeted, immigrant population. It will provide guidelines to distinguish between programs that claim to be open to immigrants and those that have established true and trusting relationships with immigrant communities.

Often, the projects best able to reach and effectively serve immigrant victims are collaborations between mainstream domestic violence and sexual assault victim service programs and programs that have experience and trusting relationships with women in immigrant communities. Additionally, this monograph will assist STOP Administrators by providing insight to enhance these collaborations and by providing tools that can be used to ensure that funds support effective services provided through relationships between mainstream programs and those serving immigrant victims.

All domestic violence victims have the right to access safety and protection provided by culturally competent programs. The Violence Against Women Act mandates that, for states to be eligible for STOP funding, they must develop an implementation plan that recognizes and addresses the needs of underserved populations and culturally specific communities. Immigrant victims of domestic violence, dating violence, sexual assault, and stalking included in the Violence Against Women Act definitions of both *underserved populations* and groups in need of *population specific services* as a result of their “alienage status”, limited English proficiency (LEP) and/or their race or ethnicity. In addition, immigrants who are ethnic or racial minorities or are from Spanish-speaking countries fall within VAWA’s *culturally specific communities* definition.

As U.S. demographics become more diverse the foreign born populations in states and communities will grow, and the proportions of mixed families containing citizens and one or more immigrants will continue to increase. Over time programs will gain expertise in providing service to immigrant survivors of domestic violence, sexual assault, dating violence, stalking and sex trafficking, and limited English proficient survivors (LEP). Until then, the Department of Justice has implemented a minimum floor, 10% set-aside (rather than a ceiling) from the 30% victim services funds that STOP administrators are required to award to programs providing services to victims from culturally specific communities.

Identifying the underserved, culturally specific, and population specific immigrant populations in your state and finding links to these communities will lead to the development of appropriate comprehensive services for these underserved victims which is critical to the overall success of your state STOP plan.

Five Goals

STOP Grant Administrators working to improve the effectiveness of programs serving immigrant victims should pursue five important goals:

1. Learn about significant immigrant communities in your state. Identify immigrant populations in the state utilizing a combination of census data and information from both the education (K-12), medical, and religious communities.
2. Learn who immigrant women trust. Bring together regional focus groups to discuss the types of services addressing domestic violence, dating violence, sexual assault, or stalking that are currently available to immigrant victims. Include domestic violence, dating violence, sexual assault, and/or stalking programs with access to immigrant populations and non-traditional, community-based programs that have gained the trust of immigrant victims.
3. Target immigrant victims in the grant solicitation. Include a component specifically addressing services for immigrant victims of domestic violence, sexual assault, dating violence and stalking in your STOP Grant Solicitation/Request for Grant Assistance/Proposal and allowing additional points to those programs responding to these populations' needs, particularly those that recognize how immigrant victims' safety is promoted when multiple intersecting needs are addressed (e.g. immigration, family, public benefits, language access laws and victim's rights to access government funded crime victim services). Encouraging the development of these services to the un-served or underserved populations in your state.
4. Review proposals for competency in serving immigrant victims. Assure that grant proposals addressing this component reflect an understanding of immigrant victims' legal rights (including but not limited to immigration assistance), needs and experiences, and include collaborations that include programs with expertise serving immigrant victims.
5. Fund Effective Collaborations. Award grants to programs demonstrating effective collaborations between mainstream domestic violence services and community-based programs with links to immigrant victims. NOTE: Include knowledgeable representatives from immigrant communities as members of your STOP evaluation review committee about immigrant victims' needs, services and legal options and representatives from the immigrant communities present in your state as members of your STOP evaluation review committee in all funding decisions.

Model Programs

Some states have developed model programs that serve immigrant victims. These programs may be housed in immigrant community-based organizations, legal services programs, or in domestic violence or sexual assault coalitions. Examples include:

- a. **Ayuda, Inc.:** A legal services agency to whom the Washington, D.C. metropolitan regions' immigrant community has turned to for assistance with immigration matters. In 1985, Ayuda created Clinica Legal Latina, a program devoted specifically to addressing the complex and interconnected legal and social service needs of immigrant women who were victims of family violence.

Immigrant women turned to Ayuda for help because of Ayuda's trusted role in the D.C. immigrant community. Ayuda offers legal representation to immigrant victims in protection order, family, immigration, and public benefits cases. In recent years Ayuda has expanded its focus to include assistance to trafficking victims and to offer social services to its immigrant victim clients.

- b. **VIDA Legal Services, in Miami.** VIDA Legal Assistance, Inc.: A non-profit organization formed in February, 2011 to advance the rights of immigrant survivors of domestic violence, sexual assault, trafficking in persons and other violent crimes in Florida. The agency is co-directed by unique, innovative shared leadership and staff from diverse immigrant backgrounds and experiences. VIDA provides immigration assistance to immigrant survivors on a wide range of immigration matters, provides safety planning, and case management services and partners with community organizations to holistically address clients' interconnected needs (e.g. financial education, protection orders, custody, housing, crisis intervention and counseling). VIDA uses a client-centered approach that prepares and guides immigrant clients toward a life without violence. In addition to direct services VIDA conducts community outreach and education directed toward multiple audiences: schools, churches, radio programs, community meetings, local businesses, health care providers, and others. VIDA also trains law enforcement, justice system personnel and a wide array of community organizations to increase identification and improve overall delivery of services to immigrant victims.
- c. **Raksha:** Is an Atlanta based organization that was established in 1995 by a group of volunteers who together recognized the urgent need for culturally competent support for survivors of violence from South Asian communities. Raksha promotes stronger, healthier South Asian communities through direct confidential services, education and advocacy. They provide direct services to domestic violence, sexual violence and stalking survivors, who include but are not limited to, immigrants and their descendants from Bangladesh, Bhutan, India, Nepal, Pakistan and Sri Lanka serving the South Asian community throughout Georgia. They provide services to survivors who speak over 20 different languages and come from 10 different religious backgrounds. Direct services to survivors are complemented by programs for children and youth who have witnessed or experienced domestic violence or dating violence provided by licensed staff therapists who offer therapeutic group activities. . Raksha provides economic empowerment, assisting clients in finding safe housing, jobs, starting their own businesses and gaining economic independence. Raksha's technical assistance program provides extensive training for law enforcement, social services agencies, courts, government officials and other professionals to enhance their capacity to work effectively with immigrant survivors including specifically the South Asian community.

In those states lacking specialized services or programs for immigrant populations, outreach may be accomplished through non-traditional sources. Administrators can learn who immigrant women trust by reaching out to some non-traditional sources including home health care nursing and outreach programs (Promotoras), WIC Programs, medical clinics, or community legal services. These programs can help Administrators identify immigrant community leaders who are knowledgeable about and have experience working with immigrant women, who in turn,

can advise Administrators about the needs, gaps in services, and collaborations most likely to assist them within their states.

Why is service provision to immigrant victims so important?

Immigrant Demographics:³

- Since 1960, the immigrant population in the United States more than quadrupled. In 2011 there were 40.4 million foreign-born people residing in the United States, whereas the immigrant population in 1960 was 9.7 million.
- The past two decades saw a large increase in the foreign-born population. Between 2000 and 2011 there was a 30 percent increase in the foreign-born population, as the immigrant population grew from 31.1 million to 40.04 million. Between 1990 and 2000, immigrants and their offspring grew from 18 percent to 26 percent of the population.⁴
- In 2011, the foreign-born population, as measured by the Census, exceeded 40.4 million (13% of the total U.S. population).
- Over 70% of all immigrants are documented and about 27% are undocumented. The growth of the undocumented immigrant population has slowed in recent years. In 2000 there were an estimated 8.4 million undocumented persons residing in the U.S. This population peaked in 2007 at 12 million, but decreased to 11.1 million by 2011.
- Undocumented immigrants are often part of the same family as documented immigrants. 16.6 million people are in “mixed-status” families—those with at least one undocumented immigrant. Nine million of these families have at least one U.S.-born child.
- Children in immigrant families account for nearly one-fourth (24 percent) of all children as of 2010, and the vast majority (88 percent) are U.S. citizens. As of 2010, children of immigrants are 1.5 times more likely than children in native-born families to live in a family with an income below the official federal poverty threshold, at 27.8 percent versus 18.6 percent. Moreover, poor children living in immigrant families are less likely to access benefits for low-income working families, such as the Supplemental Nutrition Assistance Program (SNAP). The low rates of benefit usage

³ Unless otherwise noted, the following sources provide the information in this section: Ann Garcia, *The Facts on Immigration Today: Today's Immigrant Population*, CENTER FOR AMERICAN PROGRESS, (Aug. 14, 2013), available at: http://www.americanprogress.org/wp-content/uploads/2013/04/081213_ImmigrationFastFacts-1.pdf; Pew Research Hispanic Center, “A Nation of Immigrants: A Portrait of the 40 Million, Including 11 Million Unauthorized” (2013), available at <http://www.pewhispanic.org/2013/01/29/a-nation-of-immigrants/>; U.S. Census Bureau, “America’s Foreign Born in the Last 50 Years,” available at http://www.census.gov/how/infographics/foreign_born.html.

⁴ Jeffrey S. Passel, Randy Capps and Michael Fix. “Undocumented Immigrant: Facts and Figures.” Urban Institute Immigration Studies Program (January 1, 2004); Fix, Passel and Kenneth Sucher, “The Dispersal of Immigrants in the 1990s.” Urban Institute (2002); Immigrant Families and Workers Fix, Wendy Zimmermann, Passel. IMMIGRATION STUDIES: THE INTEGRATION OF IMMIGRANT FAMILIES IN THE UNITED STATES. Urban Institute (2001), available at <http://www.urban.org>.

by immigrant families usually stems from language barriers, confusion regarding immigration ramifications, or lack of knowledge regarding eligibility rules.⁵

- 72.3% of U.S. Citizens or Lawfully Permanent Residents who could file for legal status for their immigrant spouse **NEVER** file.⁶
- Females outnumber males in the foreign-born population today. In 2011, 51.1 percent of the U.S. immigrant population was female.
- Immigrants are increasingly more diverse. In 2010, only 12 percent (4.8 million) of the immigrant population came from Europe, while 29 percent (11.7 million) emigrated from Mexico. Moreover, about 2.2 million immigrants came from China; 1.8 million came from each India and the Philippines; 1.2 million immigrated from each Vietnam and El Salvador; and 1.1 million arrived from each Cuba and Korea.⁷
- There are almost 1 million lesbian, gay, bisexual, and transgender, or LGBT, adult immigrants in the United States today. The estimated 904,000 LGBT adult immigrants are more likely to be young and male compared to the overall immigrant population.
- Immigrants are putting down roots across the United States, in contrast to trends we saw 50 years ago. In the 1960s two-thirds of U.S. states had populations with less than 5 percent foreign-born individuals, but the opposite is true today. In 2010, two-thirds of states had immigrant populations above 5 percent.
- Immigrants are not just settling in traditionally immigrant receiving states. Immigrants are migrating to both urban and rural communities, large and small, in all states.⁸ In 2010, 67 percent of the foreign born lived in the West and the South—a dramatic shift since the 1960s, when 70 percent of the immigrant population lived in the Northeast and Midwest. In 2010, the ten states with the fastest growing immigrant populations were (with 280% or higher growth between 1990 and 2010): 1. North

⁵ Donald J. Hernandez and Wendy D. Cervantes, *Children in Immigrant Families: Ensuring Opportunity for Every Child in America*, FIRST FOCUS AND FOUNDATION FOR CHILD DEVELOPMENT (March 2011), available at: <http://fcd-us.org/sites/default/files/First%20Focus%20-%20Children%20in%20Immigrant%20Families.pdf>. As of 2010, the typical child of an immigrant lives in a family with a median income of \$46,000, which is more than one-fifth less than the median income of \$58,000 of the typical child in a native-born family.

⁶ Mary Ann Dutton, Leslye E. Orloff, & Giselle Aguilar Hass, *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. ON POVERTY & POL'Y 245 (Summer 2000), available at: http://niwaplibrary.wcl.american.edu/cultural-competency/research-publications/CULTCOMP_Georgetown-Imm-Victim-Helpseeking2000.pdf.

⁷ The U.S. Census Bureau announced that Asians were the nation's fastest-growing race or ethnic group in 2012. Their population rose by 530,000, or 2.9 percent, in the preceding year, to 18.9 million, according to Census Bureau annual population estimates. U.S. Census Bureau, "Asians Fastest-Growing Race or Ethnic Group in 2012," (June 13, 2013) available at: <https://www.census.gov/newsroom/releases/archives/population/cb13-112.html>.

⁸ Randy Capps, et. al., *The New Neighbors: A User's Guide to Data on Immigrants in U.S. Communities*, Urban Institute Immigration Studies Program (2003).

Carolina; 2. Georgia; 3. Arkansas; 4. Tennessee; 5. Nevada; 6. South Carolina; 7. Kentucky; 8. Nebraska; 9. Alabama; 10. Utah.⁹

Underserved Populations and Culturally Specific Communities Include Immigrants

The STOP allocations provide that of the amount granted to victim services, (30 percent) at least one-third (10 percent) shall be distributed to culturally-specific community-based organizations.¹⁰ VAWA 2013, mandates a 20 percent set-aside for sexual assault programming across at least two of the allocation categories (victim services, law enforcement, courts, and/or prosecution).¹¹

Additionally, the Office on Violence Against Women is required to take 2% of the funding appropriated for STOP to fund outreach and services for adult and youth victims of domestic violence, sexual assault, dating violence and stalking in underserved populations.¹² Only population specific organizations, victims services providers offering population specific services, and victim services providers working in partnership with organizations that have demonstrated experience and expertise in providing population specific service to the targeted underserved population are eligible to apply.¹³ This is a newly-funded and separate program that authorizes grants for outreach and victim services for survivors from underserved populations.¹⁴

The funding available through these population specific grants complements the 10% set-aside in the STOP grant program, targeting funding toward programs that primarily serve a broad array of underserved populations that are not considered culturally specific communities as defined by VAWA 2013. These include victims underserved due to their immigration (alienage) status, sexual orientation, gender identity, religion, age, disabilities, or language barriers who are not also ethnic or racial minorities or from Spanish speaking countries. In addition to ensuring that these groups receive STOP funding and have their particular needs addressed in the State STOP Plan, this program provides an important opportunity for STOP Administrators to identify and encourage programs serving these particular underserved populations to apply for STOP funding.

“Victim services” includes a wide array of services provided to victims of domestic violence, dating violence, sexual assault, or stalking, including culturally specific services and population specific services.¹⁵ Immigrant victims of domestic violence, dating violence, sexual

⁹ Migration Policy Institute, “Maps of the Foreign Born in the United States,” *available at*: <http://www.migrationpolicy.org/programs/data-hub/maps-foreign-born-united-states>. In 2010, states with the highest immigrant populations (1.7 million or more) included: California, New York, Texas, Florida, New Jersey, and Illinois.

¹⁰ 42 U.S.C. § 3796gg-1(c)(4). In addition to the 30% set-aside for victim services, 25 percent must go to law enforcement, 25 percent to prosecutors, and 5 percent to courts. *Id.* States may use any returned or remaining funds for any authorized STOP purpose. 42 U.S.C. § 3796gg-1(j).

¹¹ 42 U.S.C. § 3796gg-1(c)(5).

¹² 42 U.S.C. § 14045(a)

¹³ 42 U.S.C. § 14045(b)

¹⁴ “Outreach and Services to Underserved Populations,” 42 U.S.C. § 14045. STOP Administrators should encourage programs in their states to apply to the Outreach and Services to Underserved Populations program in addition to applying for STOP funding.

¹⁵ The term “**victim services**” means “services provided to victims of domestic violence, dating violence, sexual assault, or stalking, including telephonic or web-based hotlines, legal advocacy, economic advocacy, emergency and transitional shelter, accompaniment and advocacy through medical, civil or criminal justice, immigration, and social support systems, crisis intervention, short-term individual and

assault, and stalking may belong to either or both underserved populations who need population specific services and to culturally specific communities.

“Population-specific services” are victim-centered services that address the safety, health, economic, legal, housing, workplace, immigration, confidentiality, or other needs of victims of domestic violence, dating violence, sexual assault, or stalking, and that are designed primarily for and are targeted to a specific underserved population.¹⁶ “Underserved populations” includes populations who face barriers in accessing and using victim services, and populations who are underserved due to geographic isolation, religion, sexual orientation, gender identity, ethnicity, race, language barriers, disabilities, alienage status, or age.¹⁷ Accordingly, immigrant communities qualify as “underserved populations” whether or not any particular immigrant community is also an ethnic or racial minority or from a Spanish speaking country.

“Culturally specific services” means community-based services that include culturally relevant and linguistically specific services and resources to culturally specific communities.¹⁸ The term “culturally specific” means primarily directed toward racial and ethnic minority groups.¹⁹ While culturally specific services are primarily intended for individuals of color, the definition by using the term “primarily intended” does not exclude immigrants, the disabled, LGBTQ, language minorities, and other minorities from receiving services from culturally specific programs receiving STOP grant funding whether or not that funding is considered part of the State’s 10 percent set-aside. Immigrants who are not members of the enumerated racial or ethnic minorities and who are not from Spanish speaking countries, but who belong to underserved populations (e.g. because of their alienage status or because they are language minorities), may also benefit from culturally specific services.

Broad application of culturally specific services to encompass some population specific services for underserved populations, is permitted by VAWA 2013. One of the STOP grant application requirements asks for states to describe how they “will meet the needs of underserved populations, including the minimum allocation for population specific services required under subsection (c)(4)(C).”²⁰ The minimum allocation in subsection (c)(4)(C) contains the 10 percent set aside out of victim services for culturally specific programs.²¹ Another STOP grant application requirement asks for the states to provide documentation that describes “the demographic characteristics of the populations to be served, including age, disability, race,

group support services, information and referrals, culturally specific services, population specific services, and other related supportive services.” 42 U.S.C. § 13925(a)(44).

Under VAWA 2013, a “**victim service provider**” means a nonprofit, nongovernmental organization, tribal organization, or rape crisis center, including a State and tribal coalition, domestic violence shelter, faith-based organization, and other organization that assists or advocates for victims of domestic violence, dating violence, sexual assault, or stalking. 42 U.S.C. § 13925(a)(43).

¹⁶ 42 U.S.C. § 13925(a)(21).

¹⁷ 42 U.S.C. § 13925(a)(39). VAWA 2013 expanded the definition of “underserved populations” to include populations underserved because of sexual orientation, gender identify, and religion.

¹⁸ 42 U.S.C. § 13925(a)(7).

¹⁹ 42 U.S.C. § 13925(a)(6)[emphasis added]. As defined in section 1707(g) of the Public Health Service Act, the term “racial and ethnic minority group” means American Indians (including Alaska Natives, Eskimos, and Aleuts); Asian Americans; Native Hawaiians and other Pacific Islanders; Blacks; and Hispanics (including individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or any other Spanish-speaking country). 42 U.S.C § 300u-6(g).

²⁰ 42 U.S.C. §3796gg-1 (i)(2)(E) (emphasis added).

²¹ 42 U.S.C. §3796gg-1(c)(4)(C)

ethnicity, and language background.”²² These provisions show that Congress sought to ensure that immigrants who are underserved due to their alienage status and underserved language minority populations also could be served by, had access to, and could not be turned away from culturally specific services.

Reading the definition of culturally specific communities broadly to also include some services to underserved populations (such as language minorities, alienage status) is also harmonious with VAWA STOP’s disbursement provision, which calls for the Attorney General to take steps including issuing regulations to ensure that States will “recognize and meaningfully respond to the needs of underserved populations, and ensure that monies set aside to fund culturally specific services and activities for underserved populations are distributed equitably among those populations.”²³

The importance of STOP Administrator leadership in assuring that programs receiving STOP funding for all forms of services funded by STOP is underscored by VAWA 2013’s anti-discrimination provisions. VAWA 2013’s civil rights provision prohibits discrimination on the basis of race, color, religion, national origin, sex, gender identity, sexual orientation, or disability in OVW-funded programs or activities.²⁴ Discrimination on the basis of national origin can occur if a STOP grant recipient only provides services to certain racial or ethnic minorities, but excludes others, such as language minorities.

Limited English Proficient (LEP) victims’ meaningful access to federally-funded programs and services, including STOP grants, is safeguarded because Title VI of the Civil Rights Act of 1964 (Title VI)²⁵ and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act)²⁶ prohibit federal grant recipients from discriminating on the basis of national origin. Corresponding regulations also prohibit grantees from administering programs in a manner that has the effect of subjecting individuals to discrimination based on their national origin.²⁷ In addition, the Supreme Court has affirmed the inextricable link between language and national origin, holding that discrimination based on national origin includes discrimination against LEP individuals.²⁸ This correlation was reaffirmed by Executive Order 13,166, which established the foundation of the current regulatory framework in place to protect LEP individuals’ access to critical federally-funded programs and services by requiring that all federal agencies that provide financial assistance to non-federal entities “develop and implement a

²² 42 U.S.C. §3796gg-1 (i)(2)(C)(iv).

²³ “In disbursing monies under this subchapter, the Attorney General shall issue regulations to ensure that States will--recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund culturally specific services and activities for underserved populations are distributed equitably among those population.” 42 U.S.C. § 3796gg-1 (e)(2)(D).

²⁴ The anti-discrimination provision includes specific exception for sex segregation or sex-specific programming that is “necessary to the essential operation of a program.”

²⁵ 42 U.S.C. § 2000d *et seq.*

²⁶ 42 U.S.C. § 3 789d(c) (Safe Streets Act).

²⁷ See 28 C.F.R. §§ 42.1 04(b)(2), 42.203(e) (Title VI forbids grantees from “...utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin”).

²⁸ *Lau v. Nichols*, 414 U.S. 563 (1974) (The Court held that the school district’s policy of providing instruction in English only in programs run by the district for students violated the Title VI prohibition against discrimination based on national origin because the policy had a disproportionately negative effect on the school district’s LEP student population).

system by which LEP persons can meaningfully access” those agencies’ programs and services.²⁹ The Executive Order also mandated that federal agencies develop guidance materials that outline ways in which their grantees could guarantee that LEP individuals could access grantees’ programs and services in a meaningful way.³⁰ In following the mandate of the Executive Order, the Department of Justice (DOJ) has since issued a series of policy guidance that established a guideline for agencies and grantees to develop practices that ensured reasonable availability of programs and services to LEP individuals.³¹ All grantees, whether they receive full or partial funding for their programs or are in jurisdictions where English has been designated as the official language, are subject to the obligations outlined in the DOJ LEP Recipient Guidance, which covers a wide range of grantees, including police and sheriffs’ offices, courts, prisons, correctional and detention facilities, and numerous nonprofit agencies working in the fields of law enforcement, public safety, emergency assistance and victims’ services.³²

Since LEP and immigrant victims of domestic violence, dating violence, sexual assault, and stalking belong to underserved populations and often to culturally specific communities as well, they should be able to receive both culturally specific and population specific services funded by STOP grants. Further, implementation of VAWA’s anti-discrimination provisions by all programs receiving STOP funding should result in greater access to services from all STOP funded programs for underserved victims including immigrants and LEP victims.

STOP Purpose Areas Relevant to Programs Serving Immigrant Communities

The STOP grant program contains many purpose areas, some of which existed prior to and others were added by VAWA 2013 that are directly relevant to programs serving immigrant, limited English proficient (LEP), culturally specific communities, and underserved populations. These include the following specific STOP grant purpose area subparagraphs:³³

- (1) Training law enforcement officers, judges, other court personnel, and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of

²⁹ Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 16, 2000); *see also* U.S. DEPARTMENT OF JUSTICE, FEDERAL COORDINATION AND COMPLIANCE SECTION, COMMONLY ASKED QUESTIONS AND ANSWERS REGARDING EXECUTIVE ORDER 13166 (April 2011), *available at*: http://niwaplibrary.wcl.american.edu/language-access/government-materials/042511_Q-A_EO_13166.pdf (DOJ explanation of the goals of the Executive Order and guidance for federal agencies in providing access to services for LEP individuals in compliance with the Executive Order).

³⁰ Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 16, 2000). This commitment to the language access obligations established by Executive Order 13,166 was reiterated in a memorandum issued by the Office of the Attorney General on February 17, 2011, requiring, among other things, agencies to collaborate to “improve efficiency, standardize federal terminology, and streamline processes for obtaining community feedback on the accuracy and quality of professional translations intended for mass distribution.” Memorandum from the Attorney General, Federal Government’s Renewed Commitment to Language Access Obligations Under Executive Order 13166, 2 (Feb. 17, 2011), *available at*: http://www.justice.gov/crt/about/cor/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf.

³¹ The first DOJ Guidance was issued on the same day as the Executive Order (August 11, 2000). The next Guidance was issued on January 16, 2001, *DOJ Recipient LEP Guidance*, for DOJ grantees. The final version of its LEP Recipient Guidance was issued on June 18, 2002, *see* DEPARTMENT OF JUSTICE, ENFORCEMENT OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 NATIONAL ORIGIN DISCRIMINATION AGAINST PERSON WITH LIMITED ENGLISH PROFICIENCY, 61 Fed. Reg. 50123 (August 16, 2000) [hereinafter “DOJ LEP Recipient Guidance”].

³² *See* DOJ LEP Recipient Guidance at 41459.

³³ 42 U.S.C. § 3796gg(b).

domestic violence, dating violence, sexual assault, and stalking, including the appropriate use of T and U nonimmigrant status (i.e. training on the certification process for T and U visas);³⁴

(5) Developing, enlarging, or strengthening victim services and legal assistance programs,³⁵ including sexual assault, domestic violence, dating violence, and stalking programs, developing or improving delivery of victim services to underserved populations, providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of domestic violence, dating violence, sexual assault, and stalking;

(10) Providing assistance to victims of domestic violence, dating violence, stalking and sexual assault in immigration matters;

(14) Developing and promoting legislation and policies that enhance best practices for responding to domestic violence, dating violence, sexual assault, and stalking;³⁶

(16) Developing and strengthening policies, protocols, best practices and training for law enforcement agencies and prosecutors relating to the investigation and prosecution of sexual assault cases and the appropriate treatment of victims.³⁷

What services can all immigrant victims receive without regard to immigration status?

There is a wide range of services and justice system assistance available to help immigrant victims of domestic violence, that as a matter of law, are to be open to all immigrants without regard to immigration status.³⁸

Although the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA), dramatically decreased access to federal public benefits for immigrants generally, PRWORA expanded access to state and federal public benefits for battered immigrants applying for immigration relief based on having been battered or subjected to extreme cruelty.³⁹ These federal

³⁴ STOP Administrators can obtain training for law enforcement, prosecutors, and other STOP grantees designed to meet state specific needs from a team of law enforcement and immigrant victim experts using a Bureau of Justice Assistance funded and tested curriculum. For information on this training and curriculum go to: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/tools/police-prosecutors/training-and-technical-assistance-for-law-enforcement/NIWAP-LE-Training-Available.pdf/>.

³⁵ The ability to fund legal assistance for victims with STOP funds is particularly important for immigrant victims who need access to lawyers trained on the dynamics of domestic violence, dating violence, sexual assault, and/or stalking, who are aware of and have expertise on the special legal protections for immigrant victims under immigration and public benefits laws and how these protections can benefit outcomes in the victim's family court case (protection order, custody, child support or divorce).

³⁶ This is particularly helpful for the development of U visa certification policies and practices at STOP funded law enforcement and prosecution agencies.

³⁷ With regard to immigrant and LEP victims, these policies, protocols, best practices, and trainings would include U visa certification, improving language access to law enforcement, prosecutors and the courts for LEP sexual assault victims, T visa endorsements, requests for continued presence and T visa certifications for lawful permanent residency applications by law enforcement and prosecutor's offices.

³⁸ For more information on this topic, visit <http://niwaplibrary.wcl.american.edu/public-benefits>.

³⁹ Cecilia Olavarria, Amanda Baran, Leslye Orloff, and Grace Huang, *Access To Programs And Services That Can Help Battered Immigrant Women*, NIWAP (2013), available at: http://niwaplibrary.wcl.american.edu/public-benefits/unrestricted-benefits/BB_4.1-Access_to_Services_that_Help_Battered_Immigrants-2006-MANUAL-BB.pdf/.

and state public benefits are available for battered immigrant VAWA self-petitioners, VAWA cancellation of removal, VAWA suspension of deportation, battered spouse waiver, and other battered qualified immigrants.⁴⁰

Once the immigration case filed by an immigrant crime victim for VAWA, T, or U visa relief is approved, the immigrant victims received work authorization either based on receipt of the T or U visa, or through deferred action status granted to approved VAWA self-petitioners and wait-list approved U visa cases of crime victims awaiting visa availability. Victims granted deferred action are eligible to file for work authorization and based either upon their work authorization document, their U or T visa, or deferred action can obtain state issued driver's licenses and state issued identification cards in most states.⁴¹

In addition, programs necessary to protect life and safety were required to be provided to all persons without regard to immigration status by PRWORA.⁴² Congress and the U.S. Attorney General have affirmed that there are a range of publically funded services and assistance that are to be provided to all persons without regard to immigration status to help immigrant crime victims rebuild their lives after leaving their abusers or having suffered sexual assault or stalking.⁴³

The following programs (funded by federal, state, or local government funds or by private funding) offered at the community level have been designated by the U.S. Attorney General to be open to all persons, even undocumented immigrants, without regard to immigration status:⁴⁴

- Crisis counseling and intervention programs;
- Services and assistance relating to child protection;
- Adult protective services;

⁴⁰ Jordan Tacher and Leslye E. Orloff, *VAWA Public Benefits Eligibility Process: VAWA Self-petitioners, VAWA Cancellation of Removal, and VAWA Suspension of Deportation*, NIWAP (Apr. 17, 2013), available at: <http://niwaplibrary.wcl.american.edu/public-benefits/memos-and-tools-for-advocates/VAWA-Benefits-Eligibility-Process.pdf>.

⁴¹ A state by state list of drivers' license requirements, see Amanda Baker and Leslye E. Orloff, *Acceptable Forms of Identification for State Driver's License/Identification Card*, NIWAP, (March 13, 2013), available at: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/state-issued-drivers-licenses-and-identification/Drivers-License-Access.pdf>.

⁴² "Final Specification of Community Programs Necessary for Protection of Life or Safety Under Welfare Reform Legislation," 66 Fed. Reg. 3613, 3614 (2001), available at: http://niwaplibrary.wcl.american.edu/public-benefits/unrestricted-benefits/AG_order.protection_life_or_safety.pdf/.

⁴³ Jordan Tacher and Leslye E. Orloff, *Family Court Bench Card on Immigrant Crime Victim Access to Public Benefits and Services*, NIWAP (Apr. 17, 2013) available at: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/access/PB-Bench-Card.pdf>; Rocio Molina, Leslye E. Orloff, and Benish Anver, *Federal Preemption of State Laws That Attempt to Restrict Immigrant Access to Services Necessary to Protect Life and Safety*, NIWAP (Feb. 15, 2013) available at: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/benefits/Federal-Preemption-Life-and-Safety.pdf>.

⁴⁴ "Final Specification of Community Programs Necessary for Protection of Life or Safety Under Welfare Reform Legislation," 66 Fed. Reg. 3613, 3614 (2001), available at: http://niwaplibrary.wcl.american.edu/public-benefits/unrestricted-benefits/AG_order.protection_life_or_safety.pdf/.

- Violence and abuse prevention;
- Services to victims of domestic violence or other criminal activity;
- Treatment of mental illness or substance abuse;
- Short-term shelter or housing assistance for the homeless, for victims of domestic violence, or for runaway, abused, or abandoned children. This has been defined by HUD to include emergency shelter, short-term shelter, and transitional housing for up to two years;⁴⁵
- Programs to help individuals during periods of adverse weather conditions;
- Soup kitchens;
- Community food banks;
- Senior nutrition programs and other nutritional programs for persons requiring special assistance;
- Medical and public health services and mental health disability or substance abuse assistance necessary to protect life and safety;⁴⁶
- Activities, designed to protect the life and safety of workers, children and youths or community residents (e.g. police, fire, emergency medical care).

Under the requirements of the U.S. Attorney General’s List, immigrant victims can access a range of much-needed victim services including, but not limited to, police assistance, emergency medical care, shelter, domestic violence and other victim services, and health care and maternal and child health care from government-funded community and migrant health clinics.

Programs offering these services are not required to ask any questions about a victim’s immigration status.⁴⁷ Federal, state, and local agencies (governmental and non-governmental) that receive federal funds are subject to federal civil rights laws barring discrimination on race, color or national origin grounds.⁴⁸ According to the HHS-USDA guidance:

⁴⁵ See “Letter from the Secretary of the U.S. Department of Housing and Urban Development to HUD Funds Recipient” (Jan. 19, 2001), available at: <http://niwaplibrary.wcl.american.edu/public-benefits/housing/HUD-shelter-transitional-housing.pdf/>; see also, Office for Civil Rights, U.S. Department of Health and Human Services, *Access to HHS-Funded Services for Immigrant Survivors of Domestic Violence*, (last modified Aug. 22, 2012), available at: <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/domesticviolencefactsheet.html>.

⁴⁶For more information, see Claudia Schlosberg, *Not Qualified Immigrants' Access to Health Services After the Welfare Law*. National Health Law Program, Inc. Immigrants and Welfare Resource Manual. National Immigration Law Center (1998).

⁴⁷“Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,” 62 Fed. Reg. 61,344, 61,346 (1997).

⁴⁸42 U.S.C. §2000d, *et seq.* Under Title VI, organizations receiving federal funding have an obligation to ensure that: “No person in the United States shall, on the ground of race, color, or national origin, be

to the extent that states' application requirements and processes have the effect of deterring eligible applicants and recipients who live in immigrant families from enjoying equal participation in and access to these benefit programs based on their national origin, states inadvertently may be violating Title VI.⁴⁹

The non-discrimination provision of VAWA 2013 cross-references these existing civil rights protections and adds additional protections against discrimination based on sexual orientation, gender identity, religion, and disability.⁵⁰

What unique service barriers do immigrant women face?⁵¹

While all abused women have many reasons why they do not leave their abusers, immigrant women have additional threats and potential problems with ending the relationship. When a victim is undocumented, leaving the violent relationship can mean loss of financial resources, an unavailability of language accessible services, losing support from a cultural community, and seeking help while being confused about how the U.S. government, social services, and laws work. The barriers are numerous and complicated, but understanding them will help STOP Administrators, advocates, law enforcement officers, and lawyers offer better culturally competent assistance to immigrant victims of domestic violence, dating violence, sexual assault, and stalking. It is important to note that we characterize these barriers as *systemic*, in that they are not brought by the women themselves, but are within the systems they try to access. Systemic reforms that reflect the diversity of women's needs and experiences are needed.

Fear of Deportation

Fear of deportation⁵² is the principal barrier to seeking any type of aid, including shelters, hospitals, and police protection, after experiencing abuse.⁵³ In a study of Latina immigrants in

excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

⁴⁹Department of Health and Human Services and Department of Agriculture, “Policy Guidance Regarding Inquiries Into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, State Children’s Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), and Food Stamp Benefits” (last modified Sept. 21, 2000).

⁵⁰ 42 U.S.C. § 13925(b)(13)(A). “No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph 249(c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Violence Against Women Act of 1994 (title IV of Public Law 103–322; 108 Stat. 1902), the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (title IX of Public Law 109–162; 119 Stat. 3080), the Violence Against Women Reauthorization Act of 2013, and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.”

⁵¹ See Social Science Bibliography – Immigrant Crime Victims, NIWAP (Oct. 14, 2013), *available at*: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/SJI-Social-Science-Bibliography.pdf/>; see also Legal Bibliography – Immigrant Crime Victims, NIWAP (Oct. 14, 2013), *available at*: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/SJI-Legal-Bibliography.pdf>.

Washington, D.C., 21.7 % of the population of battered immigrants did not leave their abusers because they were afraid of being deported.⁵⁴ Typically, the victim's abuser is the sponsor for his victim's immigration case, and thus has control over her and her children's application for permanent residency.⁵⁵ This gives force to his threats to report her to immigration authorities or interfere in her immigration case, providing him with a method of keeping her in the relationship.⁵⁶ For women who have already obtained legal permanent residency with the help of their abuser, they may wrongly fear that he can also take it away.

In many cases, the abuser will use power and control over the victim's immigration status and threats of deportation to control her. He will lie to the victim, saying that he has filed the necessary papers when in fact he has not. Research conducted among battered immigrants found that among abusers who could file immigration papers for their spouse, **72.3% never filed.**⁵⁷ Additionally, many of those who did file waited to do so for an average of nearly four years.⁵⁸ The abuser's complete control over a woman's immigration status prevents many women from leaving abusive relationships.⁵⁹ Further, when an immigrant woman's abuser is a citizen, abuse rates jump to two times the national average.

In addition, fear of deportation will stop women from seeking other sorts of help, such as medical examinations, protection orders, or counseling. Documentation that the victim sought these types of aid is critical if a victim is eligible for certain immigration relief, as it can help prove the occurrence of the abuse. A lack of this proof can make it more difficult for a battered immigrant to obtain legal immigration status and public benefits.⁶⁰ Furthermore, for many victims, deportation would permanently separate them from their children, who could remain in the abusive partner's custody.

⁵² Being placed in removal proceedings in front of an Immigration Judge and losing the case can lead to deportation, which is defined as being returned to one's country of origin. It should be noted; however, that many immigrants are not aware that they have the right to a trial and thus fear that any "official" (which they may believe to include shelter directors and doctors, who in reality have no right to ask for her immigration status or report her as an illegal alien) will be able to simply send them out of the country.

⁵³ Anita Raj, Jay G. Silverman, Jennifer McCleary-Sills, and Rosalyn Liu, *Immigration Policies Increase South Asian Immigrant Women's Vulnerability to Intimate Partner Violence*, Vol 50 No 1, JOURNAL OF THE AMERICAN MEDICAL WOMEN'S ASSOCIATION (2005).

⁵⁴ Mary Ann Dutton, Leslye E. Orloff, & Giselle Aguilar Hass, *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. ON POVERTY & POL'Y 245 (Summer 2000), available at: http://niwaplibrary.wcl.american.edu/cultural-competency/research-publications/CULTCOMP_Georgetown-Imm-Victim-Helpseeking2000.pdf.

⁵⁵ Deena L. Jang, et al, *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women* (Family Violence Prevention Fund, eds, 2d ed. 1997).

⁵⁶ Leti Volpp, Family Violence Prevention Fund, Working with Battered Immigrant Women: A Handbook to Make Services Accessible 2 (June 1995).

⁵⁷ Dutton et al., at 259.

⁵⁸ *Id.*

⁵⁹ Chris Hogeland & Karen Rosen, Coalition for Immigrant and Refugee Rights and Services, *Dreams Lost, Dreams Found: Undocumented Women in the Land of Opportunity*, 15 (1991).

⁶⁰ Mary Ann Dutton et al., American Bar Association, *Domestic Violence & Immigration: Applying the Immigration Provisions of the Violence Against Women Act: A Training Manual for Attorneys & Advocates* 165 (Bette Garlow et al. eds., 2000).

Deportation is an intimidating prospect for any immigrant woman who may have left her home country to join a spouse or for reasons involving “poverty, civil war or natural disaster.”⁶¹ Returning her to her country of origin could further endanger her if her country has no effective legal approach for deterring and punishing domestic violence perpetrators.⁶² For an immigrant victim whose abuser is a U.S. citizen, legal permanent resident, or has a work-related visa, the abuser will have the ability to travel abroad. He can follow her back to her home country and continue to abuse her without being subject to prosecution.⁶³

Language Barriers⁶⁴

Language operates as an immeasurable barrier for immigrant victims of domestic violence. Many immigrant victims lack the money, time, and resources to attend English as Second Language (ESL) classes, particularly if they are working outside the home, as well as working as the family cook, homemaker, and primary child caretaker. The spouse of an immigrant victim typically serves as her translator of information or even as her language teacher. When the spouse is also abusing the immigrant victim, language barriers work to keep the victim in the abusive relationship and prevent her from seeking help elsewhere.

Linguistic limitations can cripple an immigrant woman’s ability to respond to violence. Despite the fact that Title VI of the Civil Rights Act of 1964⁶⁵ requires that government agencies and programs receiving federal funding (i.e. STOP and VAWA) take steps to providing language accessible services, many programs remain effectively closed to persons with limited English proficiency.

First, language barriers prevent abused immigrant women from obtaining the police protection they need because they have no knowledge of the laws that would protect them or they are unable to effectively explain, in English, why they called and how they were abused. When called, the police tend to speak only to the English-speaking abuser, giving him the power to twist the story and play down or deny the violence, or to blame the immigrant victim altogether. Secondly, language barriers prevent immigrant victims from accessing various types of needed services. While an immigrant may be able to survive within her immediate community without having to learn English, an abused immigrant will need to access services outside her immigrant community, such as shelters, legal services, police, and the court system, to break the cycle of

⁶¹Leslye E. Orloff & Janice V. Kaguyutan, *Offering a Helping Hand: Legal Protections for Battered Immigrant Women: A History of Legislative Responses*, 10 AM. U. J. GENDER SOC. POL’Y & L. 95 (2002), available at: <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1432&context=jgspl>.

⁶²Deborah Weissman, *Protecting the Battered Immigrant Woman*, FL. BAR J.82 (Oct. 1994); See Orloff & Kaguyatan, at 133.

⁶³Family Violence Prevention Fund, *Issue Paper on Domestic Violence Cases Involving Immigrant and Refugee Communities: The Response of the Courts* 6 (Dec. 1991).

⁶⁴Leslye Orloff, Amanda Baran, and Martha Cohen, *Chapter 2: Ensuring Language Access to Immigrant Victims of Sexual Assault*, in *Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault*, NIWAP (2013), available at: <http://niwaplibrary.wcl.american.edu/language-access/language-access-info-for-service-providers/2-LEP-MANUAL-ES.pdf>; Benish Anver, Leslye E. Orloff, and Jelena Kolic, *Translation Requirements for Vital Documents, Intake and Notice of LEP Assistance for DOJ and HHS Grantees Serving Immigrant Crime Victims*, NIWAP (2014), *to be approved and will be available at*: <http://niwaplibrary.wcl.american.edu/language-access>.

⁶⁵42 U.S.C. §2000d, *et seq.* Discrimination on the basis of national origin can occur if a recipient of federal funds does not provide appropriate language assistance to LEP individuals because an individual, whose language is usually tied to their national origin, will not have access to the same benefits, services, information, or rights that the agency receiving federal funds provides to everyone else.

violence. These agencies may not have employees who speak the immigrant victim's native language and may not be able to provide interpreters. Immigrants living in rural communities isolated from their cultural communities have an even harder time accessing services, either because of language barriers or because of the lack of services altogether. When services are not offered in a language immigrant victims can fully and clearly understand, the services are effectively closed to them.

Misinformation about the U.S. Legal System

Immigrant victims of domestic violence often lack knowledge about the types of legal relief available to them and/or fear that seeking help through the legal system will lead to their deportation. They do not take advantage of the legal system because they do not understand their rights and/or the rights of their children under U.S. law. This is particularly true if they come from a country where the legal system differs greatly from that of the U.S.⁶⁶ If a victim's country of origin functions on a system in which law enforcement, government officials, and the judiciary all function within a repressive government, she may be understandably skeptical that the United States legal system will be any different, and will offer her protection. The abuser may be the victim's only source of information about legal rights in the United States, and he may lie to her about her legal rights. He may tell her that she will be ignored, or even deported if she approaches the authorities. If the abuser has isolated the woman from other sources of information about the legal system, she will very likely believe his lies.

A 1998 Department of Justice survey found that 53% of all domestic violence victims call the police for help,⁶⁷ yet a survey of Latina immigrants found that only 27% called following abuse.⁶⁸ When immigrant women are able to speak with others about the abuse and learn about their legal rights they will be more likely to contact social services and will be more likely to turn to the legal system for help. More recent research has found that with safety planning and the support of advocates and attorneys who provide language accessible services and are knowledgeable about immigrant victims legal rights, immigrant victims, including undocumented victims, seek protection orders,⁶⁹ call police for help,⁷⁰ and participate in the civil and criminal justice system.⁷¹

⁶⁶ Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination. 1 United States Commission on Civil Rights 75 (Jan. 1993).

⁶⁷ Callie Marie Rennison & Sarah Welchans, Bureau of Justice Statistics, *Intimate Partner Violence* 7 (2000).

⁶⁸ Leslye E. Orloff, Mary Ann Dutton & Giselle Aguilar, *Battered Immigrant Women's Willingness to Call the Police for Help and Police Response* (unpublished), finding that 75.6% of the survey participants spoke little or no English, yet two-thirds of the time that officers were called to the scene of a domestic violence offense, they did not speak Spanish.

⁶⁹ 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 37: 337 (originally published online Aug. 1, 2012), available at:

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/family-law-for-immigrants/protective-orders/research-reports-and-data/AmmaretalCPO.pdf/>; Mary Ann Dutton, Nawal Ammar, Leslye Orloff, and Darci Terrell, *Use and Outcomes of Protection Orders by Battered Immigrant Women* – Revised Final Technical Report, NIWAP (National Institute of Justice funded research 2003-WG-BX-1004, Nov. 10, 2006, available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/218255.pdf>), also available at: http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/nov-2013-researcher-practitioner-collaboration/RSRCH_DV_Use_Outcomes%20Protection_Orders.pdf/.

⁷⁰ Natalia Lee, Daniel J. Quinones, Nawal Ammar, and Leslye E. Orloff, *National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access*, NIWAP (Apr. 16, 2013) available at: <http://niwaplibrary.wcl.american.edu/reference/additional->

How do we accomplish the five goals?

1. Learn about the significant immigrant communities present in your state.

States applying for STOP grant funds must develop and submit a comprehensive implementation plan, providing additional documentation, describing “the demographic characteristics of the populations to be served, including age, disability, race, ethnicity, and language background”⁷² as well as the demographic data on the distribution of underserved populations within their State and a description of how the State will meet the needs of underserved populations.⁷³ Therefore, it is imperative for STOP Administrators look beyond the numbers and learn about the immigrant communities within their states.

In addition to undertaking traditional research methods, seek out the expertise of service providers and leaders from immigrant communities in your area who have experience working with immigrant populations and immigrant victims. Speak with religious leaders and educators to learn about other community-based organizations working with immigrant communities. Accessing available resources through national advocacy groups⁷⁴ that work on issues affecting immigrant victims of gender-based violence can help you identify programs in your state that have experience and expertise. Commencing this research will help you identify immigrant populations in need of services, as well as non-mainstream agencies that should be partners in effective collaborations.⁷⁵

2. Learn who immigrant women trust

Identify community-based organizations, faith-based institutions, immigrant community leaders, and immigrant women who can provide leadership and reach immigrant victims in their communities. It is important to recognize that official leadership in some immigrant communities may not include women or may not necessarily represent women’s interests.

3. Perform a needs assessment

Starting with STOP-funded programs, conduct an internal program assessment to identify the services each particular agency offers to all battered women and evaluate how you can make these services accessible to battered immigrant women. Existing services

materials/immigration/u-visa/research-reports-and-data/Police-Response-Survey-Report-FINAL-bja.pdf; Leslye Orloff, Levi Wolberg, and Benish Anver, *U-Visa Victims and Lawful Permanent Residency*, NIWAP, (Sep. 6, 2012) available at: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/education-financial-aid/U-Visas-and-Lawful-Permanent-Residency.pdf>.

⁷¹ Krisztina E. Szabo, David Stauffer, Benish Anver, and Leslye E. Orloff, *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014), available at: <http://www.niwap.org/reports/Early-Access-to-Work-Authorization.pdf>.

⁷² 42 U.S.C. §3796gg–1 (i)(2)(C)(iv).

⁷³ 42 U.S.C. §3796gg–1 (i)(2)(E)

⁷⁴ Materials are available through the National Immigrant Women’s Advocacy Project (NIWAP), (202)274-4457, <http://www.niwap.org/>; The Family Violence Prevention Fund, (415) 252-8900, www.endabuse.org; and ASISTA: Immigrant Women’s Technical Assistance Project, www.asistaonline.org.

⁷⁵ To assist with this research state by state demographic charts based on U.S. Census and Migration Policy Institute data is available at NIWAP’s web library at <http://niwaplibrary.wcl.american.edu/>.

offered to immigrant women, should be continually evaluated for effectiveness and cultural relevancy.

4. Sponsor meetings/focus groups with representatives from the immigrant women community and with community-based organizations serving immigrants.

STOP grant Administrators should take a leadership role in bringing together programs serving immigrant communities, immigrant women's groups, and mainstream domestic service providers who help victims of domestic violence, dating violence, sexual assault, and stalking. Get involved in the immigrant community, either by attending meetings, by interacting with immigrant community members, by working with trusted community-based organizations or by attending events sponsored by faith-based organizations attended by immigrant women, you can begin to build the kind of trust and willingness that will lead individuals to seek assistance from your agency. If immigrant victims hear about a support service through a community leader or other immigrant women, they will be more likely to seek the service.⁷⁶

Who are the best partners?

VAWA 2013 instructs that state STOP Administrators are required to develop and submit STOP implementation plans. In developing these plans state STOP administrators are required to consult and coordinate with the following groups:⁷⁷

- State sexual assault coalition;
- State domestic violence coalition;
- Law enforcement entities within the state;
- Prosecution offices;
- State and local courts;
- Tribal governments in those states with state or federally recognized Indian tribes;
- Representatives from underserved populations, including culturally specific populations;
- Victim services providers;
- Population specific organizations; and
- Other entities that the state or Attorney General identifies as needed for the planning process.⁷⁸

Seeking out the expertise of service providers and leaders in immigrant communities in your area can help you gather critical information on existing program services. In many communities, good programs will already exist. Most of these programs will have years of

⁷⁶ Remember that some immigrant victims of violence prefer that the domestic violence, dating violence, sexual assault, and stalking program they go to for assistance is completely disconnected from their cultural community. These immigrant women may express their preference for this type of service to protect their confidentiality and to avoid being judged by the cultural standards of their community.

⁷⁷ 42 U.S.C. § 3796gg-1(i). In addition to the implementation plan submitted to the Office on Violence Against Women, state STOP Administrators are required to include “documentation from the prosecution, law enforcement, court, and victim services programs to be assisted, describing—(i) the need for the grant funds; (ii) the intended use of the grant funds; (iii) the expected result of the grant funds; and (iv) the demographic characteristics of the populations to be served, including age, disability, race, ethnicity, and language background.

⁷⁸ 42 U.S.C. § 3796gg-1(c)(2).

experience working with immigrant victims, but many may not have had previous access to federal or state funding.

Many times, STOP grant Administrators can work with these programs to educate them on the requirements of the Violence Against Women Act and provide technical assistance in refining their services to meet STOP grant requirements. Where such programs exist, grant Administrators may fund them directly or help foster collaborations with mainstream programs through which community-based programs serving immigrant women can receive funding for their work. STOP grant administrators should also consider tapping into resources available through county and local government offices, the public library, specialized media (TV and print), and through national advocacy groups working on issues pertaining to immigrant victims of domestic violence.⁷⁹ Performing this research will help you form relationships with agencies that could be potential collaborative partners. At the same time, Administrators can inform the community of their interest in developing services for immigrants.

Building collaborations between mainstream domestic violence service providers and other community-based programs serving immigrant women is the best approach. Immigrant women are more likely to trust the services if they see evidence of a positive relationship with respected and established community leaders and trusted community- or faith-based organizations with a history of working within their immigrant community.⁸⁰ This network of collaborative services can be more successful if there is a concerted effort to reach out to and understand the immigrant community you are attempting to serve. Ask questions that help you understand the immigrant experience. Mainstream domestic violence and community-based agencies should identify local and national resources that might be able to provide culturally competent information about the immigrant communities you hope to serve. Examples of potential types of partners who can serve as a trusted link to immigrant women include:

- Immigrant women survivors
- Immigrant women's groups
- Immigrant community-based organizations with long-term immigrant community work
- Legal services programs with expertise in the immigration, public benefits, domestic violence, and family law needs of immigrant victims
- Programs specializing in serving immigrant victims of domestic violence, dating violence, sexual assault, and/or stalking
- Outreach programs serving immigrant victims who stay with their abusers

⁷⁹ Materials are available through the National Immigrant Women's Advocacy Project (NIWAP), (202)274-4457, <http://www.niwap.org/>; The Family Violence Prevention Fund, (415) 252-8900, www.endabuse.org; and ASISTA: Immigrant Women's Technical Assistance Project, www.asistaonline.org.

⁸⁰ Deena L. Jang, et al, *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women* (Family Violence Prevention Fund, eds, 2d ed. 1997); Del-An BryAnn Chen, "We Just Got Together and We Enjoyed It:" An Analysis of the Georgia Coalition for Battered Refugee and Immigrant Women as a Social Movement (1998) (unpublished M.A. thesis, Georgia State University) (on file with author).

- Community education outreach efforts (E.S.L. Programs, etc.)
- Programs that organize and develop leadership and advocacy skills of immigrant survivors and immigrant women
- Faith-based organizations with long term expertise serving immigrants
 - Catholic Charities
 - Catholic Legal Immigration Network
 - Hebrew Immigrant Aid Society
 - Lutheran Social Services
- Local religious institutions serving immigrant communities
- Programs that provide other social services to immigrants
- Refugee resettlement organizations
- Community-based organizations offering
 - Health care promotion programs (Promotora Programs)
 - Help with housing, food, clothing
 - Victim assistance
 - Counseling
- Mainstream domestic violence, dating violence, sexual assault, and/or stalking programs and outreach advocacy programs
 - DV Shelters, safe home networks and other domestic violence victim advocacy programs
 - Family Violence Victim Advocacy Centers
 - Rape Crisis Clinics and other sexual assault victim advocacy programs

Why is this community link crucial?

When developing culturally competent collaborations, including immigrant women as leaders and respected partners in a network is an effective key to successful collaboration.⁸¹ Generally, battered women in the United States use shelters and community agencies as their main means of intervention and support.⁸² Immigrant victims of violence, however, may first turn to female friends in their community, trusted church groups, or immigrant rights groups who offer support and link them to domestic violence experts. Because immigrant victims of violence are more likely to initiate conversations about domestic violence, dating violence, sexual assault, or stalking to their female friends, mothers, and sisters or another battered immigrant woman in their community, the names of helpful and trustworthy organizations spread quickly from woman to woman through word-of-mouth. Furthermore, those who talk to others about the domestic

⁸¹ Sonia Perras Konrad, Women Empowering Women: An Exciting Journey (PowerPoint presentation, on file with author).

⁸² Leslie M Tutty, Bruce A. Bidgood, and Michael A. Rothery, *Support Groups for Battered Women: Research on Their Efficacy*, 8 J. FAM. VIOL. 325 (1993).

violence, dating violence, sexual assault, or stalking are the ones most likely to ultimately seek help. Breaking the silence is the first step.⁸³

Immigrant survivor involvement is the critical link without which few immigrant victims will actually use the services available in your state. It is important to build collaborations between agencies, to have multilingual and multicultural staff, to cross-train professionals, and to fund services that are more culturally sensitive. However, building a good collaboration and a culturally competent program alone will not necessarily result in immigrant victims coming to use those services. Even outreach may not necessarily change this equation. Involving immigrant women community members, and trusted immigrant community- or faith-based organizations with long-term track records of working in immigrant communities, as partners in your collaborations will break down barriers and will communicate the availability of services to immigrant victims themselves.⁸⁴

When reviewing funding proposals that involve trusted immigrant community-based organizations, it is important to understand and evaluate who in the immigrant community accesses the services of any given program. Of these organizations, many may mostly provide services to immigrant families. In these interactions, immigrant men may be the families' primary representatives working with the agency. It is important to identify partners working in immigrant communities that offer services in addition to, or primarily for, immigrant women and involve these partners in collaborations you fund. If most of the immigrant community-based organizations involved in your collaborations serve the immigrant community generally, as opposed to specializing in serving immigrant women, it is important to encourage these groups to work with immigrant women survivors. It may be more difficult to reach immigrant women when partners only include mainstream programs and immigrant community leaders that do not have proven track records working with immigrant women.

Domestic violence, legal services, and immigrant rights organizations should all be encouraged and supported to reach out to immigrant women in your community and involve female community members as staff and volunteers for organizations working on domestic violence issues. Organizations should also support the leadership of immigrant women in this work and encourage immigrant survivors to form their own community-based organizations.⁸⁵ Through collaborations, mainstream domestic violence agencies should offer to provide developmental technical assistance and financial support for immigrant victims of domestic violence helping them form their own support organizations aimed at serving the needs of, and creating a link to, immigrant women in the community.

⁸³ Giselle Aguilar Hass, Mary Ann Dutton & Leslye E. Orloff, *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, DOMESTIC VIOLENCE: GLOBAL RESPONSES, 2000, at 93; Mary Ann Dutton, Leslye E. Orloff, & Giselle Aguilar Hass, Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications, 7 GEO. J. ON POVERTY & POL'Y 245 (Summer 2000), available at: http://niwaplibrary.wcl.american.edu/cultural-competency/research-publications/CULTCOMP_Georgetown-Imm-Victim-Helpseeking2000.pdf.

⁸⁴ Sonia Parras Konrad, Women Empowering Women: An Exciting Journey (no date) (PowerPoint presentation, on file with author).

⁸⁵ Leni Marin, Family Violence Prevention Fund, Building the Rhythm of Change: Developing Leadership and Improving Services Within the Battered Rural Immigrant Women's Community (2000); NOW Legal Defense and Education Fund & Organizacion en California de Lideres Campesinas, Inc., Advocacy to Improve Services for Battered Migrant and Immigrant Women Living in Rural Communities: A Manual (2003).

What if we build it and they don't come?

Once you have identified immigrant communities in your state and immigrant community-based programs and mainstream domestic violence service providers have trained each other's program staff, the collaboration is ready for the next step. As part of your collaborative work, it is important to undertake an outreach effort to inform immigrant victims of domestic violence, dating violence, sexual assault, and stalking about their legal rights and about programs and services available to help them.⁸⁶ Immigrant victims of domestic violence, dating violence, sexual assault, and stalking will not start coming to seek services just because agency staff have been trained and are now ready to serve them. For this reason, it is important to augment development of culturally competent services with an outreach and education campaign that informs immigrant women about their legal rights and the services available for immigrant victims.

Since immigrant women are more likely to talk about violence with their female friends, mothers, or sisters, outreach efforts should be sufficiently targeted to reach both immigrant women who are abused and the persons to whom they turn for support. Reaching the target audience means collaborating with immigrant survivors and immigrant women's groups, and speaking to them about violence against women issues. Outreach efforts should include coordination between domestic violence, dating violence, sexual assault and stalking program services, legal system personnel, immigrant victims, immigrant survivors, and non-English language ethnic media (radio television, newspapers, and newsletters).

While prevention and educational programming cannot exceed 5 percent of STOP allocations, states may use any returned or remaining funds for any authorized STOP purpose, including outreach. In addition, VAWA 2013 authorized funding for the "Outreach and Services to Underserved Populations" program, permitting the planning and implementation of grants for outreach and victim services.⁸⁷ The Outreach and Services to Underserved Populations program receives 2 percent of appropriations from STOP and GTEAP to expressly benefit underserved populations.⁸⁸ STOP Administrators should encourage programs in their state to apply to the Outreach and Services to Underserved Populations program in addition to applying to STOP.

Effective program strategies for immigrant victims of violence against women

Since immigrant victims of domestic violence, dating violence, sexual assault, and stalking have multiple needs, the assistance needed to support each victim, help them survive the abuse, and move on with their lives will be a unique combination of services and remedies - one approach will not fit all. The most effective programs will:

- Utilize a holistic approach
- Incorporate cultural considerations
- Address multiple barriers, including economic and language barriers

⁸⁶ 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* (2003).

⁸⁷ 42 U.S.C. § 14045.

⁸⁸ 42 U.S.C. § 14045(a).

- Contain strategies to reach, retain, and sustain services to the target population
- Implement elements of successful strategies identified below, but be knowledgeable that a program's effectiveness will vary depending on each victim's particular needs, including those that are culturally based.

What is a holistic approach?

In the United States, immigrant victims of domestic violence, dating violence, sexual assault, and stalking need access to a full range of culturally competent services, including shelter, transitional housing, health care, counseling, supportive advocates, family lawyers, protection orders, criminal prosecution of their abusers and financial assistance.

In order to provide multilingual and multicultural services to abused immigrant women, service providers should be trained in providing culturally competent assistance to the targeted audience.⁸⁹ In addition, immigrant victims need access to attorneys and advocates who are both knowledgeable about the laws governing special access to legal immigration status and public benefits for immigrant victims, and who are prepared to counter abusers' efforts to use immigration status against a victim through law enforcement and/or the courts. Rarely can an immigrant victim of domestic violence, dating violence, sexual assault, and/or stalking receive all the assistance she needs from one program.

When seeking legal assistance, economic assistance, and social services an immigrant victim may face systemic obstacles including sexism, racism, cultural prejudices, and anti-immigrant attitudes.⁹⁰ By combining efforts, lawyers, victim advocates, justice system and social service system personnel, and other professionals can help immigrant victims overcome the systemic barriers that impede their ability to access resources to eradicate the violence, escape the abuser, and have a safe and economically secure life.

How do you assure that legal and social services providers have the ability to effectively impact and serve battered immigrant victims?

In some instances isolation from the immigrant community is necessary for the safety and protection of an immigrant victim. In some cultures, the immigrant community will reject the victim, eliminating all contact and/or support. Victims' fears can be exacerbated by this separation. In other instances a victim's ability to heal and overcome the abuse will be enhanced because she has support from her own cultural background. These are some of the important cultural considerations service providers must address when designing strategies to provide services to immigrant populations. STOP grant proposals should reflect knowledge and understanding of these cultural considerations in their methodology for providing domestic violence, dating violence, sexual assault, and stalking services to underserved and un-served populations; programs should include evidence of:

- Linkage between the service provider and the immigrant community, directly, or through staff and/or connections of board members to target populations.

⁸⁹ Woodrow Wilson International Center for Scholars, Women's Rights in Theory and Practice: Employment, Violence and Poverty (2002).

⁹⁰ Sudha Shetty, J.D. and Janice Kaguyutan, J.D., Immigrant Victims of Domestic Violence: Cultural Challenges and Available Legal Protections (2002) *available at*: <http://www.vaw.umn.edu/FinalDocuments/vawnet/arimmigrant.asp>.

- Strategies that enhance opportunities for staff from the mainstream program and staff from the immigration community program to work together and illustrate an ongoing working relationship with each other on immigrant victims' cases.⁹¹
- An agency's Strategic Plan identifying goals and objectives to reach out to or enhance services for the immigrant women population.
- Program materials translated in the language of immigrant populations in the community.
- Proficiency and availability of multilingual staff coverage and/or a strategy for providing interpretation services.
- Availability of cultural foods and accommodation for dietary restrictions.
- Understanding and respect for cultural and religious customs.

Programs must demonstrate knowledge of legal rights to access immigration relief, public benefits, and language access.

Access to public benefits⁹²

Programs' methodology for services to immigrant victims of domestic violence, dating violence, sexual assault and/or stalking and their children should incorporate assistance to those who qualify for VAWA immigration relief and public benefits. Program staff should be knowledgeable about eligibility requirements and the types of benefits for which immigrant victims and their children qualify. Programs should not send immigrant victims to apply for benefits on their own, but should accompany them when applying for benefits for themselves and/or their citizen children.

The rules that determine whether an immigrant is eligible for public benefits are complex and many immigrants do not understand whether and/or for which benefits they may be entitled. An immigrant victim of domestic violence may not know that even if she herself is ineligible for benefits, if she has U.S. citizen children, she may apply for benefits for her children. A more serious problem is that when caseworkers in benefits offices often misunderstand or are confused about immigrants' eligibility for benefits.

⁹¹ New National Institute of Justice-funded research found that the best models for providing effective services and interventions for immigrant domestic violence victims are true collaborations between staff from two types of programs: one partner must have expertise helping women and children who have experienced family violence, while the other must have a trusting relationship with women in immigrant communities—whether a grassroots women's group, an immigrant community organization, a health care provider, faith-based organization or legal or social service provider with a lengthy track record working with women in the target immigrant community. Research data (2002) is pending publication, available from Dr. Rachel Rodriguez, University of Wisconsin Madison, School of Nursing.

⁹² Editors: Aditi Kumar, Benish Anver and Leslye E. Orloff, *Access to Publicly Funded Benefits and Services for Immigrant Victims of Domestic Violence, Sexual Assault and Human Trafficking: A Toolkit*, NIWAP (2014), approval pending, will be available at: <http://niwaplibrary.wcl.american.edu/public-benefits>).

In addition, many immigrant victims, even those who are eligible for public benefits, fear that if they apply for benefits, they will be reported to immigration authorities and deported. A social security number and information on citizenship or immigration status is required in order to obtain certain public benefits, but only for the person who will be receiving such benefits. When the benefits will be for a child only, the child's social security number may be required. However, states often require the disclosure of social security numbers and/or social security numbers for all family or household members of persons applying for benefits, even though this information is not legally required. Many eligible immigrants, and mothers of U.S. citizen children applying on their behalf, are deterred from applying for benefits because they are concerned that if they respond to such questions on the application forms about their family or household members, the state may provide information about family members to immigration authorities and they may face deportation.

Access to Immigration Relief

Currently, many different legal remedies exist to aid battered immigrants. The Violence Against Women Act of 1994 (VAWA),⁹³ which was amended and expanded through each subsequent reauthorization⁹⁴ contained several provisions to prevent abusers from using immigration as a tool to control their victims. The VAWA self-petition is an important form of relief available to help victims regularize their immigration status. The VAWA self-petition enables a battered immigrant to obtain her green card without the cooperation of her abusive spouse or parent. The filing of this self-petition can occur at any time and, due to the changes in 2000, can even occur after a divorce if the petition is filed within two years and if the divorce was related to the abuse.

In VAWA 2000 Congress created additional remedies for survivors of violence. by passing legislation authorizing two new nonimmigrant visas for battered victims. The first nonimmigrant visa is the U-visa, also known as the "crime victims' visa." An applicant must prove that she has been a victim of a certain type of serious crime,⁹⁵ has suffered substantial physical or mental abuse as a result of the crime, has information about the crime, and can provide a certification from a law enforcement official or judge that the victim has been, is or is likely to be helpful in investigating or prosecuting the crime. The other type of nonimmigrant visa is the T-visa. An applicant must prove that he or she has been a victim of a severe form of trafficking and has either complied with any reasonable request for assistance in the investigation or prosecution of trafficking or has not yet turned fifteen years old. If either the Uvisa or the Tvisa is approved, the applicant may be eligible to apply for a green card.

⁹³ Violence Against Women Act of 1994 (VAWA 1994) in the Violent Crime Control & Law Enforcement Act of 1994, Pub. L. No. 103-322, §§ 40001-40703, 108 Stat. 1902-1955 (1994). The VAWA immigration-related provisions reside in the Immigration and Nationality Act (INA) which is Title 8 of the United States Code.

⁹⁴ Violence Against Women Act of 2000 (VAWA 2000) in the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, §§ 1501-1513, 114 Stat. 1464 (2000); Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Pub. L. No. 109-162, Title VIII, Subtitle B, §817 (2006); Violence Against Women Reauthorization Act of 2013 (VAWA 2013), Pub. L. No. 113-4, 127, Stat 54 (2013).

⁹⁵ The enumerated crimes include rape, kidnapping, torture, abduction, trafficking, unlawful criminal restraint, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, and slave trade.

VAWA 2005 brought even more enhanced protections for immigrant victims by:

- Granting work authorization to abused spouses of certain professionals (specialty occupations, diplomats, international organization employees, Australian investors);
- Extending immigration benefits to victims of child and elder abuse;
- Arming foreign fiancés with any criminal information about their U.S. citizen fiancés and information about U.S. laws, resources, and services for domestic abuse survivors; and
- Providing access to Legal Services Corporation-funded programs for all indigent victims of domestic abuse, sexual assault, or trafficking regardless of immigration or marital status.⁹⁶

VAWA 2013 created additional protections for immigrant victims by:⁹⁷

- Including “stalking” in the list of criminal activities that can serve as the basis for a U visa;
- Ensuring protections for children who are included in their parent’s U visa petitions, but who “age out” of eligibility by turning 21 before their parents’ applications have been adjudicated;
- Providing VAWA coverage to the children of deceased self-petitioning parents;
- Strengthening the International Marriage Broker Regulation Act (IMBRA) to provide vital disclosures regarding any violent criminal histories of the U.S. citizen spouse so that the foreign fiancé(e)s have necessary information to protect themselves from entering abusive marriages; and

⁹⁶ A program letter was issued by the Legal Services Corporation implementing these protection sin J2006. The LSC Program Letter 6-2 interpreted this as legal assistance to help immigrants escape from, ameliorate the effects of, or obtain relief from the listed crimes. Helaine M. Barnett, Letter to All LSC Program Directors Re: Violence Against Women Act 2006 Amendments, Feb. 21, 2006. This program letter, because it conflicted with the LSC regulations was not sufficient to convince large numbers of LCS programs to serve immigrant victims. See Sofia Vivero, Leslye E. Orloff, Daniel J. Quinones, Benish Anver and Charles Palladino, *Report to the Legal Services Corporation: Immigrant Victims of Domestic Violence, Sexual Assault and Human Trafficking and Access to Legal Services*, NIWAP (June 19, 2013) available at: http://niwaplibrary.wcl.american.edu/cultural-competency/access-to-legal-services/LSC%20Report%20with%20attachment_final%20edit%20-1.pdf. The Legal Services Corporation is implementing this provision by creating a grounds for obtaining legal representation from LSC funded programs creating a new path through which immigrant victims of battering, extreme cruelty, sexual assault, human trafficking – under anti-abuse eligibility ground without regard to the victim’s legal status and whether the victim has applicant or will ever apply for immigration relief. See Proposed Rule Updates to the Legal Service Corporation Regulation on Legal Assistance to Aliens. 45 CFR Part 1626 – 78 Fed.Reg. 51696 (Aug. 21, 2013).

⁹⁷ For more information on the range of immigration remedies VAWA affords victims, please contact National Immigrant Women’s Advocacy Project (NIWAP) at (202)274-4457 or at niwap@wcl.american.edu or visit NIWAP’s web library at www.niwaplibrary.wcl.american.edu

- Exempting from the public charge bar to admissibility to the United States victims who are VAWA self-petitioners, T and U visa holders and other battered immigrants who are deemed “qualified immigrants” under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PROWRA).

In order to truly serve the community, it is vitally important that programs seeking to help victims of domestic violence demonstrate knowledge about the immigration remedies available to them. Knowledge of these remedies will leave programs in better positions to assist as many women as possible and assure women suffering from domestic violence that they have options.

Language Access⁹⁸

Language barriers and an inability to speak or understand English fluently, results in many immigrant victims being denied public benefits, access to police, and access to courts. For example, when applying for public benefits, the complexities of eligibility requirements and an immigrant woman’s limited English proficiency create difficulties and misunderstanding in communicating with intake caseworkers and other staff at state social services agencies. Many intake interviewers and other front-line employees who interact with immigrant victims are neither bilingual nor trained properly on how to assist victims with limited English proficiency.⁹⁹ As a result, an immigrant victim with limited English proficiency is often turned away, forced to find her own interpreter, forced to wait substantial time periods, or required to make repeated visits to the public benefits office because an interpreter is not available.¹⁰⁰ Similarly, when trying to access law enforcement or the court system, many victims can face severe challenges when trying to tell their stories. In many violent situations, the abuser will have English speaking skills and can control the conversation when talking with police or court officials, thus silencing the victim.

Title VI of the Civil Rights Act of 1964 prohibits recipients from discriminating on the basis of race, color, or national origin. Under Title VI, organizations receiving federal funding have an obligation to ensure that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

This means that Title VI implementing regulations have outlawed practices or policies that have a discriminatory impact and that recipients of federal financial assistance have a *responsibility to take reasonable steps to provide limited English proficient (LEP) individuals with meaningful access to their programs and activities*. Discrimination on the basis of national origin can occur if a recipient of federal funds does not provide appropriate language assistance to LEP individuals because an individual, whose language is usually tied to their national origin, will not have access to the same benefits, services, information, or rights that the agency receiving federal funds provides to everyone else.

Although Title VI has been in effect for over 40 years, more recently, the federal government has taken additional measures to improve compliance with respect to providing

⁹⁸ For additional materials on Language Access, see <http://niwaplibrary.wcl.american.edu/language-access>; see also the Asian Pacific Islander Institute on Domestic Violence (Language Access and Interpretation) at: <http://www.apiidv.org/organizing/interpretation.php>.

⁹⁹ Office for Civil Rights, Dep’t of Health and Human Serv., Language Access Plan (2013), available at: <http://www.hhs.gov/open/execorders/2013-hhs-language-access-plan.pdf>

¹⁰⁰ *Id.*

access to federal services for LEP persons. Executive Order 13166, titled “Improving Access to Services for Persons with Limited English Proficiency” went into effect in 2000.¹⁰¹ This order required federal agencies to take reasonable steps to provide meaningful access for LEP people to federally conducted programs and activities. It also required every federal agency that provides financial assistance to non-federal entities to publish guidance on how grant recipients can provide meaningful access to their services for LEP persons. Pursuant to this order several federal agencies have published LEP guidance. The guidance seeks to assist recipients of federal financial assistance from the various agencies in fulfilling their legal responsibilities to provide meaningful access for LEP persons.¹⁰²

STOP Grant Administrators should facilitate the education of their sub-grantees, state and local governmental agencies, and mainstream domestic violence services about the rights and protections provided immigrant victims under the Violence Against Women Act and Title VI, placing a strong emphasis on the state and local governments’ responsibilities for language access, safety, and protection.

Creative Use of Protection Orders and Access to Legal Services¹⁰³

Programs providing advocacy or legal assistance to immigrant victims of domestic violence will need to demonstrate knowledge of an immigrant victim’s legal rights. Programs should utilize creative strategies to achieve the best result for a victim and her children. Assisting immigrant victims in obtaining protection orders is an important first step in providing safety and protection. To be most effective, protection orders should contain all the relief an immigrant victim needs to address the abuse, power, and control in her particular relationship. Relief in the protection order should be as detailed as possible, and should ensure that the victim’s individual needs are addressed. Gaps in the relief listed in the order or a lack of specificity may create an avenue that the abuser can manipulate that can lead to further violence and may make the order harder and in some cases, impossible to enforce.

Most victims critically need certain protections when the abuser and victim have children. The protection order should always contain orders regarding custody. Under all state statutes the victim can receive a temporary custody award as one of the remedies include in her civil protection order. Some jurisdictions may require that a judge in a Superior court hear the protection order case in order to include a custody award in a protection order. Advocates and attorneys should also recommend that the order name the children explicitly as protected parties in their mother’s protection order. Additionally, when immigrant women take steps to protect themselves against further abuse, abusers may retaliate against the woman’s family members.

¹⁰¹ “Improving Access to Services for Persons with Limited English Proficiency,” Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 16, 2000).

¹⁰² For more information on agencies’ guidance, please visit www.lep.gov.

¹⁰³ For more information, see Andrea Carcamo Cavazos and Leslye E. Orloff, *Immigrants and Protection Orders Bench Card*, NIWAP (Oct. 10, 2013), available at: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/family-law/Judges-CPO-Bench-Card.pdf>; see also Leslye E. Orloff, Cecilia Olavarria, Laura Martinez, Jennifer Rose, and Joyce Noche, *Battered Immigrants and Civil Protection Orders*, NIWAP, (July 7, 2013), available at: http://niwaplibrary.wcl.american.edu/family-law-for-immigrants/protective-orders/5.1_BB_Family_ProtectionOrders_Battered_Immigrants_Civil_Protection-MANUAL-BB.pdf/; Leslye E. Orloff, Laura Martinez, Soraya Fata, Rosemary Hartman, and Angela Eastman, *Protection Orders for Immigrant Victims of Sexual Assault*, NIWAP (July 10, 2013), NIWAP, available at: http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/september-9-12-2012-san-diego-ca/family-law/14_CPOs-MANUAL-ES.pdf/.

Protection orders should also include prohibitions against contact or harassment of the immigrant victim's family members.

Catch-all Provisions for Creative CPOs

Catch-all provisions can be creatively used to obtain specific culturally competent relief for battered immigrant women. In virtually all jurisdictions, protection order statutes contain catch-all provisions. These provisions can provide victims specific relief to help cut off abusers' abilities to exert control over their victims and reduce abusers' opportunities for ongoing abuse. These provisions can be used to remove barriers that prevent victims from being able to leave their abusers. Through catch-all provisions, protection orders can address areas of potential conflict. Creative use of catch-all provisions can also address petitioner's cultural and/or immigration status related needs. Some examples of effective provisions are that the abuser:

- Pay the costs of petitioner's immigration case
- Turn over information, documents, or copies of documents to the petitioner
- Turn over documents proving abuser's citizenship or residency status
- Cooperate in and does not withdraw any case previously filed for petitioner with immigration services
- Restrict the abuser from contacting of any government agency about the petitioner without the court's permission
- Restrict removal of the children from the court's jurisdiction and the country
- Turn over children's passports
- Sign a statement that no visa or passport shall be issued by the U.S. government or a foreign government to children absent a court order

Effective programs will identify protection orders and use of creative remedies as part of their program implementation plan.

Effective Collaborations between Advocates and Legal Services Providers

Access to VAWA immigration benefits, creative protection order remedies, and public benefits is enhanced when advocates and attorneys collaborate. Priority should be given to collaborations between programs that utilize both attorneys and advocates in providing comprehensive domestic violence services, assuring that attorneys' expertise and time are used efficiently. For immigration cases, attorneys should provide evidence check lists and directions so that advocates are responsible for the greater part of the work interviewing immigrant victims, drafting the initial version of the victim's affidavit, tracking down and gathering evidence that the victim will need for her immigration case. Advocates work closely with the victim and put together a packet of material that they forward to the attorney. The attorney reviews the evidence and compiles it in a format that will result in a favorable adjudication of the case by the Department of Homeland Security, working with the advocate to obtain any missing information. By working with a number of advocates, attorneys can offer assistance to greater numbers of immigrant victims from jurisdictions across the state.

Key Proposal Elements that Administrators Should Look for in Applications

The grant application should receive higher marks when it:

- Demonstrates experience in providing services to immigrant victims of domestic violence, dating violence, sexual assault, and stalking in the immigrant community and/or established collaboration between immigrant community-based programs and mainstream domestic violence services;
- Involves persons trusted by immigrant victims in the proposed work;
- Includes immigrant survivors of domestic violence, dating violence, sexual assault, and stalking as volunteers or staff in the program;
- Describes how immigrant victims will learn about their legal immigration options and relief available to them through family court, from immigration authorities, the justice system, and public benefits agencies;
- Details language access, who will provide interpretation, and how these costs are funded;
- Offers multilingual materials;
- Uses sensitive language (undocumented immigrants not the words illegal or aliens);
- Involves organizations knowledgeable about immigrant victim's legal rights;
- Includes accompaniment and support of trained multilingual advocates through the court process and with applications for public benefits;
- Provides outreach, advocacy, education, and support for battered immigrants;
- Addresses assistance that will be provided to immigrant victims who do not separate from their abusers (e.g. protection orders, immigration relief, information, support);
- Implements strategies for cross-training between professionals (not just training immigrant community groups about domestic violence); and/or
- Offers training for law enforcement officials, judges, court personnel, and prosecutors on the certification process for T and U visas and/or helps them develop policies regarding the T and U visas.

Importance of Linking to Experts

Effective program services should indicate their level of contact with national, state and local technical assistance providers with expertise in providing services and assistance to immigrant victims. If proposals do not indicate knowledge and connection to these providers, vital funds may be wasted to research strategies or develop duplicative materials and information.

To identify programs in your state and across the country that have experience working with immigrant survivors and expertise on legal rights, culturally competent and linguistically accessible services for immigrant victims of domestic violence, sexual assault, dating violence, and stalking go to [DIRECTORY LINK](#). In addition, the National Immigrant Women's Advocacy Project, American University, Washington College of Law can provide technical assistance, training, and connections with relevant experts to STOP Administrators on a range of issues including:¹⁰⁴

- Immigration relief for immigrant survivors (e.g. VAWA self-petitioning, U visas, T visas, U visa certification, battered spouse waivers) for advocates, attorneys (particularly non-immigration attorneys), and government officials (e.g. police, prosecutors, courts and STOP Administrators);
- Accurate information on DHS enforcement policies and priorities on promoting protections for immigrant crime victims;
- Family law issues that arise in cases of immigrant victims (e.g. protection orders, custody);
- Access to federal and state funded public benefits and publically funded services for immigrant crime victims including state by state charts tracking access to health care, TANF, child care, and other benefits;
- Language access to services and requirements regarding translation of vital documents; and
- Multi-lingual materials on legal rights of immigrant crime victims.

¹⁰⁴ For training or technical assistance contact the National Immigrant Women's Advocacy Project (NIWAP), American University, Washington College of Law, niwap@wcl.american.edu, info@niwap.org, or (202) 274-4457.

Tips for Reviewing and Awarding Grants to Effective Programs

To assure that funded programs serving immigrant populations will be effective in reaching, retaining, and in implementing effective program services for immigrant victims, important information about each of the partner agencies must be collected, including, their track record working with immigrant victims of domestic violence, dating violence, sexual assault, and stalking; their expertise on violence against women issues; their expertise on immigrant victims' legal rights; and their history of collaboration. Further, each of the partner agencies must be actively involved in designing the program's goals, objectives and strategies. It is also important to review the lead agency's mission, strategic plan, members of the board and key administrative and program personnel, and their connection to the targeted immigrant population. This data may be required as:

- A component of the solicitation;
- Collected by the STOP Administrators' program staff during the review process; and
- Compiled by domestic violence, dating violence, sexual assault, and/or stalking immigrant community groups with whom you consult and who are included as outside reviewers.

When comparing program strategies of applicants, it is important to consider how:

- The goals, objectives, and strategies are linked to the identified needs and culture of the immigrant population;
- The target immigrant population will learn of the services;
- Women in immigrant communities will access these services;
- Language access and cultural competency of services will be addressed;
- Program services will be implemented (methodology); and
- The impact (outcome) these services will have on the identified need.

To assure effective results in the award process, members of the evaluation review committee should be carefully selected to assure a balance of expertise is maintained. The evaluation review committee should include *at a minimum*, representatives with expertise in domestic violence, dating violence, sexual assault, and/or stalking services, legal services, immigration law, and provision of culturally competent services to women in immigrant communities.

How do we identify authentic collaborations and partnerships and determine the efficacy of programs?

Many mainstream domestic violence, dating violence, sexual assault, and/or stalking programs will seek to work with immigrant populations. Examine these programs' mission statements, strategic plans, and the cultural makeup of the Board of Directors to determine linkages to immigrant communities. In collaborative proposals, request the work history these mainstream programs claim exists between themselves and their community-based partners to determine whether there is a true partner relationship. Scrutinize the pass-through budget to make sure mainstream partners are providing significant funding in subcontracts to community-based immigrant groups. Without true collaborations immigrant victims will not be adequately served. Priority should be given to those programs with long-term relationships and equitable sharing of both the work and the resources.

Conclusion

All domestic violence, dating violence, sexual assault, and stalking victims have the right to access safety and protection provided by culturally competent programs. With the information and resources provided in this Monograph, STOP Administrators will be able to identify and fund services that truly reach immigrant victims, by changing programs, and saving lives.