



Learning Objectives By the end of this workshop you will be better able to: • Identify the range of creative protection order remedies courts can order that are helpful particularly for immigrant victims and their children. • Know the role that no unlawful contact protection orders play for immigrant victims • Improve your ability to determine who is the primary aggressor any time a protection order is being sought against a victim or both parties.

Creative Protection Order Remedies

- Catch all provisions in civil protection order statutes, opportunity to offer relief designed to help:
 - Curb future abuse, harassment
 - Interfere with abuser/perpetrators ability to exert power and/or coercive control
 - Offer victim remedy-relief for past abuse
 - Help victim overcome victimization and build new post abuse life
- · Nexus with victimization
- Opportunity for courts to counter immigration related abuse and order culturally helpful remedies

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Victims Who Stay: No Unlawful Contact Protection Orders

- No state's protection order statute requires separation of the parties
- Provisions
 - No abuse
 - No unlawful contact
 - Batterer's treatment

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The Majority of Immigrant Victims Stay With Their Abusers ...

- Until their immigration case is approved or the victim receives work authorization
- Percent who leave before receiving work authorization or approval
 - VAWA self-petitioners 33.9%
 - U visa victims 30.1%

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Creative Protection Order Relay Race

- Work as a team to develop a list of creative protection order remedies that would be particularly helpful to immigrant victims
- Pick a representative for your team
- Teams will go one by one proposing remedies
- Teams lose when they
 - Run out of creative remedies
 - Duplicate a remedy proposed by another team
 - Propose a traditional remedy and cannot explain to the judge why it is particularly helpful for immigrant victims

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Using Catch-all Provisions to Stop Immigration Related Abuse

- Defendant must obtain prior court approval before contacting any government agency (immigration officials, CPS, IRS, Welfare, etc.) concerning the petitioner except
 - Police emergency
 - Subpoena
- Cooperate in and not withdraw any case he has filed for petitioner with immigration authorities (e.g. work visa holders, I-130s)

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Remedies That Help a Victim's Immigration Application

- Turn over documents/evidence in abuser's control needed for the victim's immigration case.
- What might some of those documents be?



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Helpful Evidence

Evidence of Legal Marriage

- · Marriage certificate
- Wedding/family pictures
- Health insurance

Good Faith Marriage

- Children birth certificates
- Love letters, cards, text, emails
- Copies of joint leases/utility bills
- School records
- Letters and other mail addressed to the victim and to the abuser at the same address

Evidence of Abuse or Extreme Cruelty

- Police, medical, court documents about the relationship
- Protection order
- Affidavits of neighbors, relatives, friends

Evidence of Abusers Legal Status

- Abuser's green card or passport
- · Copy of I-130 petition
- Social security number

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Provisions that Deter Parental Kidnapping

- Not remove the children from the court's jurisdiction
- Turn over passports of parties and/or children
- Sign statement that no visa or passport should be issued to children absent court order
- Supervised visitation
- Bond

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Important Economic Provisions

- Maintain medical, car, house insurance, mortgage, rent, utility and/or debt payments
- Child support and spousal support
- Enforce Affidavit of Support
- Injunctions against third party institutions not to respond to acts by the abuser that would harm her (banks, retirement funds, utility companies)

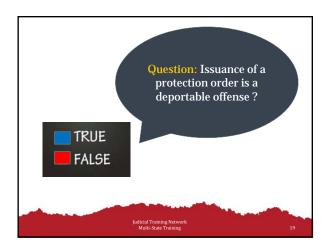
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Important Economic Provisions

- Maintain and/or pay for health care for victim and children
- Provide one time emergency monetary relief
 - Money to repair locks or broken windows
 - Obtain an unlisted telephone number
 - Relocation assistance
- Pay house insurance, mortgage, rent, utility and/or debt payments
- Taxes
 - Turn over income tax statements
 - Respondent ordered to pay victim ½ of refund
 - $\,-\,$ Victim named trustee for receipt of tax return funds
 - Respondent ordered to sign over check
 - Victim awarded exclusive right to claim children as tax exemptions

Race to the Courthouse -Protection Orders Issued Against Immigrant Victims Particularly Harmful



Which is a deportable offence

- A. Domestic violence criminal conviction
- B. Finding in a custody case that a protection order was violated
- C. Criminal conviction for violating a civil protection order
- D. Agreeing to diversion in a protection order enforcement case where upon violation diversion turns into a conviction
- E. All of the above

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Protection Orders and Immigration Considerations

- Issuance does not cause a deportable offense
- Violation of a protection order a deportable offense
 - Can lead to loss of lawful permanent residency and other immigration consequences for the perpetrator
 - A finding of violation of the protective provisions of the order in any context can trigger deportation including findings in civil contempt cases and admissions for diversion
- Victims should not be charged with violation of orders issued for their protection

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Large Group Discussion



- When both parties seek protection orders against each other or when the court suspects the person seeking the protection order is the perpetrator
 - -What steps can courts take?

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Large Group Discussion 🖁



- · Steps courts can take
 - Look for facts that related to a race to the courthouse
 - Make primary aggressor determinations
 - What can the courts see about the criminal record of either party?

Important of Primary Aggressor Determination

- Importance of determining who is the primary aggressor when the party against whom a protection order may be sought is the victim
 - This is particularly important for immigrant victims

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Best Practices

- Issue Padilla advisals in protection order cases
- In cases in which parties seek protection orders against each other
 - When one party is pro se and the other is represented consider appointing counsel for the unrepresented party

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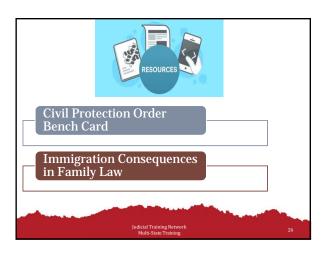
Immigration Status and Family Law Tool

- Padilla warnings in protection order cases are one example of the immigration consequences in family law cases
- Example: Michigan Tool on Immigration Consequences of Family Law Cases

CPO compared to TPO

- U Visa Certification
 - Could have a case in which the victim got a TPO and did not follow up with the CPO and could still receive certification
 - E.g. at TPO provided evidence of a police report or cooperation in a criminal case
- SIJS Findings
 - Best to issue as part of the CPO, rather than TPO case

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Materials Review - Flash Drive

- Bench card battered immigrants and protection orders
- Hofstra Journal Article -Seeking Protection Orders for Immigrant Victims
- NIJ Research Battered Immigrants Use of Protection Orders publication and full report
- Definitions of Battering or Extreme Cruelty

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• Manual chapters and more ...



| | Technical Assistance and Materials |
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| • | Power Point presentations and materials for this conference at |
| | - http://niwaplibrary.wcl.american.edu/jtn-nola-2019/ |
| • | Judicial Training Manual at |
| | - http://niwaplibrary.wcl.american.edu/sji-materials/ |
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