

Seeking Protection Orders for Immigrant Victims

Civil orders of protection offer immigrant victims of domestic violence, sexual assault, trafficking, or other criminal activity an immediate legal remedy without involving the criminal justice system designed to enhance victim safety.¹ A National Institute of Justice funded survey of 153 battered immigrant women living in 10 states (CA, DC, FL, GA, IA, MN, MA, NJ, OH, TX, WI), who spoke 19 different languages found that for the majority of immigrant victims protection orders were incredibly useful.² Although most (60.9%) of immigrant women do not know about protection orders at the time they seek help from advocates or attorneys for domestic violence, immigrant women who seek protection orders with the assistance of advocates or attorneys largely (87.9%) find them to be helpful or very helpful.³ The vast majority (98.1%) of immigrant women who receive protection orders report that they would recommend protection orders to other battered immigrant women.⁴ Advocates and attorneys play a crucial role in informing battered immigrant women that domestic violence is a crime and that there are legal remedies under family and immigration laws available to help battered immigrants, including those who are undocumented.⁵

Battered immigrant women who choose to seek protection orders often have experienced high levels of physical violence with over two thirds reporting within the past year experiencing more than three incidents of significant

¹ *D.C. Intrafamily Offenses Act, 1969: Hearings on H.R. 8781 Before Subcomm. No. 1 To Establish Family Court System*, 91st Cong. (1969). For more information about protection orders, see Orloff, Leslye E. & Klein, Catherine F., *Domestic Violence: A Manual for Pro Bono Lawyers*, (Ayuda) (2d ed. 1992). For an amicus brief on protection orders, see also *Brief for Ayuda et. al. as Amici Curiae Supporting Petitioner* at 9, *United States v. Dixon*, 509 U.S. 688 (1993) (No. 91-1231) (“The Criminal Justice System Alone Cannot Ensure Victims’ Safety”); National Council of Juvenile and Family Court Judges, *Family Violence: Improving Court Practice, Recommendations from the National Council of Juvenile and Family Court Judges’*, Family Violence Project (1990).

² Dutton, Mary Ann, Ammar, Nawal, Orloff, Leslye & Terrell, Darci, *Use and Outcomes of Protection Orders by Battered Immigrant Women: Revised Final Technical Report 29* (2006), available at: http://niwaplibrary.wcl.american.edu/reference/additional-materials/research-reports-and-data/research-US-VAIW/RSRCH_DV_Use_Outcomes%20Protection_Orders.pdf.

³ *Id.* at 41.

⁴ *Id.*

⁵ *Id.* at 50-51.

physical violence (46% with physical pain lasting more than a day; 39.5% slammed against a wall; 39.1% had resulting cuts and bruises and 35.9% being beaten up).⁶ Immigrant victims obtaining protection orders also reported high rates of sexual assault and coercion; with 56.9% reporting having sex because they were afraid of what would happen if they did not and 51.3% reporting forced sexual relations and 48.3% reporting more than three incidences of forced sexual violence over the past year.⁷ The majority were concerned for their own (86.2%) and their children's (77.6%) safety.⁸ Significantly, immigrant victims applying for protection orders also experienced high rates of immigration related abuse. When a victim's abusive U.S. citizen spouse filed immigration papers for her, 39% used threats or actual withdrawal of papers filed as a form of coercive control.⁹ Additionally, 51% of abusers of immigrant victims, sometimes, often or very often threatened or actually reported their undocumented victims to immigration officials.¹⁰

This section highlights important issues that arise in cases when immigrant victims are seeking protection orders. It also provides guidance on the types of creative remedies that family law experts have found to be most useful to have included in the protection orders of their immigrant victim clients. The role that protection orders play in helping victims obtain documentation in the abuser's control that can be submitted to DHS in support of the victim's immigration application. As discussed above, most immigrant victims' safety is best protected when they file their immigration case before they serve the perpetrator with notice of the protection order proceeding. In VAWA and U visa immigration cases, victims have several opportunities as the immigration case is being adjudicated to supplement the record with additional information. The civil protection order process provides a particularly effective and safe way for the victim to acquire from the perpetrator additional documentary evidence needed to support her immigration application.

SPECIAL ISSUES THAT ARISE IN CASES OF IMMIGRANT VICTIMS SEEKING PROTECTION ORDERS

This section will discuss three issues that arise often in protection order cases of battered women whether or not they are immigrants, but are particularly significant in cases of immigrant victims:

- Seeking and obtaining full contact protection orders that allow the victim and the perpetrator to continue to live together or reunite following a separation;

⁶ *Id.* at 42.

⁷ *Id.*

⁸ *Id.* at 43.

⁹ *Id.*

¹⁰ *Id.*

- Assuring that protection orders issued are jurisdictionally sound; and
- Preventing issuance of a protection order against the victim.

The Value of Full Contact Protection Orders

All state protection order laws allow courts to issue protection orders that do not require or contemplate separation of the victim and the abuser. Since the 1980s, attorneys for immigrant victims have been using full contact protection orders in cases of immigrant victims. U.S. immigration laws have been designed to allow victims to file for immigration relief while the victim continues to reside with the abuser. Obtaining immigration relief prior to separation improves victim safety because victims with approved cases are secure in knowing that they will be protected from deportation.

It is only after approval of the victim's immigration case that the victim receives legal work authorization. The ability to work lawfully is crucial to an immigrant victim's ability to support herself and her children independent of her abuser. Among immigrant victims filing VAWA self-petitions, 73.9% must wait more than 6 months after filing to receive work authorization and 36.7% have longer waits of between 13 months and 2 years.¹¹ Battered immigrants applying for U visas have longer wait times given that the government only issues 10,000 visas per fiscal year. As of this writing, USCIS had received 60,710 applications for FY2016 with the number of pending applications reaching a high of 150,604.¹² USCIS is currently processing U visa applications received on May 2014.¹³

Attorneys can play an important role supporting immigrant victims who may be reticent to file for a protection order because they believe they must leave their abusers before they will be granted one. Victims who have reunited with the perpetrator by the date of the protection order hearing, who have not separated, or who plan to return to live with the perpetrator can obtain a protection order that includes provisions against further abuse and an order that the perpetrator receive counseling.¹⁴ "No further abuse" provisions allow

¹¹ Orloff, Leslye E., National Survey on Timing of Access to Work Authorization by Immigrant Victim VAWA Self-Petitioners and U-Visa Applicants (September 28, 2011), available at: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/research-reports-and-data/research-US-VAIW/Timing-of-Access-to-Work-Authorization-6.4.12.pdf>.

¹² https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2016_qtr4.pdf.

¹³ *Id.*

¹⁴ If the respondent is not fluent in English, he should be ordered to attend a certified program in a language in which he is able to communicate. If there is no program in the respondent's language, he should be ordered to arrange for an accompanying interpreter for all sessions. See Letter from Perez, Thomas E., Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, to Chief Justice/State Court Administrator (August 16, 2010) (on file with author), available at: http://niwaplibrary.wcl.american.edu/reference/additional-materials/language-access/government-documents/final_courts_ltr_081610.pdf. See also Asian & Pacific Islander Institute on Domestic Violence, *Language Access & Interpretation*, <http://www.apiidv.org/organizing/interpretation.php> (last visited on April 15, 2014).

for full contact and permit parties to continue to live together. Protection order remedies can also include orders that give child custody and support to victims should the parties separate. Such orders can also grant child support payments while the parties continue to reside together, which can be helpful when the abuser has been limiting the victim's access to money. Remedies can also include providing the victim with access to or copies of documentation that will help her in her immigration case.¹⁵

Other significant advantages to obtaining a protection order, even when the parties plan to continue living together, are: 1) the abuser can be charged criminally if the "no further abuse" order is violated, and police will respond to the abuse more seriously, and 2) evidence that the protection order was issued can provide evidence that will support the victim's VAWA or U visa application.

The Necessity of Jurisdictionally Sound Protection Orders

In protection order proceedings across the country, for a range of reasons, perpetrators of domestic abuse may be willing to enter into consent protection orders having agreed to the remedies that the order will contain. However, some perpetrators, particularly those who are represented, will only enter into protection orders by consent if the protection order on its face includes a statement that the court has made no findings of abuse. Perpetrators will negotiate for no-findings protection orders for a variety of reasons:

- To avoid prohibitions in state and federal law on possession of firearms¹⁶
- To avoid findings that could be harmful to the perpetrator in a custody proceeding¹⁷
- To prevent the entry of a finding that could serve as a basis for spousal support or a more favorable property division to the victim in a divorce case¹⁸
- To undermine the usefulness of the protection order as evidence in the victim's immigration case

¹⁵ If the parties are continuing to live together and you are considering seeking documentation that will be helpful in the victim's immigration case it is important to evaluate the safety of the victim and any risks that could be involved in taking actions that could signal to the perpetrator that the victim has filed a VAWA or U-visa immigration case.

¹⁶ See May, Lisa D., *The Backfiring Of The Domestic Violence Firearms Bans*, 14 Colum. J. Gender & L. 1, 34-35 (2005) ("Rather than properly applying state laws that would trigger the federal statutes, some judges misapply the state laws for the very purpose of circumventing the application of the federal firearms bans.").

¹⁷ See Lemon, Nancy K. D., *Statutes Creating Rebuttable Presumptions Against Custody To Batterers: How Effective Are They?*, 28 Wm. Mitchell L. Rev. 601, 664-65 (2001).

¹⁸ Carra, Alicia (Lacy), Orloff, Leslye, Knott, Jason & Mitchell, Darren, *Jurisdictionally Sound Protection Orders*, in *Empowering Survivors* at 3 (2013), available at: http://niwaplibrary.wcl.american.edu/reference/additional-materials/language-access/government-documents/final_courts_ltr_081610.pdf.

For a protection order to be legally binding, the court must have subject matter jurisdiction to issue the order.¹⁹ Orders issued without subject matter jurisdiction are not enforceable under VAWA's full faith and credit provisions.²⁰ Subject matter jurisdiction in a protection order case is based on an occurrence of domestic violence such as assault, battery, or other acts covered by the state domestic violence statute, including stalking, threats, sexual assault, and attempts to cause bodily injury. Protection orders issued without such findings violate the full faith and credit provision of VAWA and are therefore unenforceable across state lines, thus putting victims' safety at risk.²¹ An uncontested order for protection without a finding of domestic violence can be vacated for lack of jurisdiction, as parties cannot consent to give a court jurisdiction that the court would not otherwise have.²²

While it is important to make a finding of violence, it is not always necessary to hold a full evidentiary hearing in cases where the respondent consents to the protection order. Subject matter jurisdiction may be based on an admission by the respondent of one or more acts that qualify as domestic violence under the state protection order statute. Subject matter jurisdiction can also be obtained by an uncontested affidavit or pleading offered by petitioner.²³ If there is no admission and all of the allegations in the protection order petition are contested, the court must hold a hearing and issue a protection order based upon the court's findings of domestic violence.

The Dangers of Protection Orders Issued Against Immigrant Victims

While it is never recommended practice for a family law attorney to encourage her client to enter into a protection order issued against the victim, for immigrant women practices that result in the issuance of a protection order against them by consent or after a hearing are particularly dangerous. The issuance of a protection order against a perpetrator has no immigration ramifications for either the perpetrator or the victims. However, conviction or issuance of court findings, that a protection order has been violated becomes a

¹⁹ See Schramek v. Bohren, 429 N.W.2d 501, 502 (Wis. Ct. App. 1988); Gilbert v. State, 659 So. 2d 233 (Fla.1995); Master v. Eisenbart, No. 90-2897, 1991 Wisc. App. LEXIS 1270 (Wis. Ct. App. Sept. 18, 1991). See also generally Lemon, Nancy, Domestic Violence Law (West) (2006).

²⁰ 18 U.S.C. 2265(b)(1).

²¹ 42 U.S.C. § 13981 (1994).

²² Bryant v. Williams, 161 N.C. App. 444 (N.C. Ct. App. 2003); See Capron v. Van Noorden, 6 U.S. 126 (1804) ("jurisdiction over the subject matter cannot be affected by agreement or consent"); Bush v. United States, 703 F.2d 491 (11th Cir. 1983); Latin Am. Cas. Ins. Co. v. Hi-Lift Marina, Inc., 887 F.2d 1477 (11th Cir. 1989); Am. Policyholders Ins. Co. v. Nyacol Products, Inc., 989 F.2d 1256 (1st Cir. 1993).

²³ Carra, Alicia (Lacy), Orloff, Leslye, Knott, Jason & Mitchell, Darren, *Jurisdictionally Sound Protection Orders*, in Empowering Survivors at 3, available at: http://niwaplibrary.wcl.american.edu/reference/additional-materials/language-access/government-documents/final_courts_ltr_081610.pdf.

deportable offense for any non-citizen.²⁴ If an immigrant victim agrees to issuance of a protection order against her, or if she has a protection order issued against her after trial, she will be in the precarious position of being one step away from deportation. If her perpetrator can convince a judge who makes a finding in any court proceeding (custody, divorce, criminal contempt, or protection order enforcement case), the victim could be facing deportation.

It is therefore incumbent upon attorneys representing immigrant victims to do all they can to ensure that protection orders are not issued against non-citizen victims. This will require, in some instances, going to trial to fight issuance of a protection order against an immigrant victim.²⁵

There are two ways protection orders can be issued by courts against victims: mutual protection orders and cross claim protection order proceedings. A mutual protection order is an order issued against both the petitioner and the respondent in a protection order case filed by the victim. These are cases in which the petitioner filed the case, served the perpetrator, and at hearing on the victim's request for a protection order, the court issues a protection order against both the perpetrator and the victim. One goal of the 1994 VAWA was to stop courts from issuing mutual protection orders. VAWA barred jurisdictions with practices of issuing mutual protection orders from receiving VAWA funding under the Grants to Encourage Arrest Program²⁶ and granted full faith and credit enforceability only to protection orders that were issued after the party against whom the protection order was entered was given reasonable notice, an opportunity to be heard and due process.²⁷ Victims should object to the issuance of any mutual protection order, stating that the order violates their due process rights and should request a full hearing.

Although mutual protection orders are unenforceable under VAWA's full faith and credit provisions, abusers are not barred from going to court and requesting a protection order against the victim alleging that he has also been a victim of domestic violence. Attorneys representing immigrant victims whose abusers have filed protection order cases against them should carefully interview the client to evaluate the history of domestic violence in the

²⁴ Lawful permanent residents can be deported for protection order violations. For this reason, attorneys and advocates need to work closely with immigrant victims to do safety planning around protection order violations to determine whether prosecution of a non-citizen for violation of a protection order will enhance or harm victim safety. For detailed information on how to assist an immigrant victim with safety planning when protection orders are violated, see Orloff, Leslye, Olavarria, Cecilia, Martinez, Laura, Rose, Jenifer & Noche, Joyce, "Battered Immigrants and Civil Protection Orders," in *Breaking Barriers* at (2013), 4 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.

²⁵ *Id.*

²⁶ 42 U.S.C. § 3796hh(c)(3) ("certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self—defense").

²⁷ 18 U.S.C. § 2265.

relationship. In any case where there appears that there may be merit to the abuser's claim that the victim also perpetrated abuse, the victim's attorney should investigate the case to determine whether the victim was acting in self-defense. If so, the victim's attorney should come to court prepared to litigate the self-defense case and prove that the battered immigrant client is the actual victim in the relationship. The goal is to win dismissal of the perpetrator's protection order case against the victim and receive a protection order issued on the victim's behalf against the perpetrator.²⁸ This approach is very important to pursue particularly during times of increased immigration enforcement since violation of a protection order is a deportable offense and issuance of a protection order against a victim can put immigrant victims one step away from removal.

CRAFTING CREATIVE AND EFFECTIVE PROTECTION ORDERS

Protection orders may address and contain a wide range of remedies that can be used to address the specific needs of immigrant victims of domestic violence. To be most effective, protection orders should be as specific, and contain as much relief, as possible to minimize the harm exerted upon a victim by her abuser. When the parties have children in common, it is essential that the protection order award custody to the non-abusive parent and address any visitation rights of the perpetrator. The victim's attorney should be creative in advocating for remedies that reduce the power and control issues the victim may be experiencing with the relationship. Relief in protection orders should be tailored to meet the individual safety concerns of the immigrant victim client.²⁹

Abusers may take advantage of gaps in relief, or lack of specificity, to further harm the victim. In other cases, gaps in the relief or lack of specificity create difficulty in enforcing some provisions. In addition to the protections generally included in state protection order statutes, immigrant victims need protections included that address their particular needs.

The catch-all provisions in state protection order statutes are used by judges to offer further life-saving help to immigrant victims. Although your client may or may not directly request the following remedies, it is important that as counsel for a battered immigrant attorneys are able to show her all the potential remedies available to her. After reviewing this list with a battered immigrant client, it is important that attorneys discuss with a client any other

²⁸ For further information on case strategies if the perpetrator of abuse seeks a protection order against an immigrant victims, see Orloff, Leslye, Olavarria, Cecilia, Martinez, Laura, Rose, Jenifer & Noche, Joyce, *Battered Immigrants and Civil Protection Orders*, in *Breaking Barriers* at 29-31 (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.

²⁹ See generally, *id.*

concerns she may have regarding what she believes might trigger future abuse. This discussion could reveal other creative remedies that could be included in the protection order to cut off additional avenues of coercive control.

Traditional Remedies Available Through Protection Orders

- **No Contact Provisions:** Include all locations frequented by the victim (e.g. place of worship, immigrant community organizations, drug-store, health care provider, employer). No contact at work protections are crucial for battered immigrants whose legal work authorization may be tied to a particular employer and is not transferable.
- **Custody:** Obtaining custody awards as part of a civil protection order is crucial for non-citizen battered immigrants, because the custody determination is being made in the context of court findings regarding the abuse. Getting these awards early, even if custody needs to be litigated as part of the protection order case, undermines the ability of the perpetrator to downplay the abuse and raise immigration status as a negative factor in a later custody case. Also, having the custody decision in place strengthens the victim's confidence in the justice system and takes away from the abuser a powerful tool.
- **Visitation:** Even in cases of severe violence, it can be very difficult to cut off visitation by an abuser. It is therefore recommended that an attorney work with the client in preparation for the civil protection order case to design the safest way to exchange the children. The safest exchange provisions are those that do not contemplate any contact between the victim and the perpetrator (e.g. pick up and drop off by a third party trusted by both parents; pick up and drop off at the children's school, etc.). If a no-contact approach to visitation exchange is not possible, then identify a safe public location where there will be witnesses. This can include drop off and pick up at a police station (which works very well when the abuser is a non-citizen) or use of a visitation center.
- **Child and spousal support:** Although immigrant victims are eligible to receive legal work authorization through their application for a VAWA self-petition or U visa, victims typically have waits of longer than a year before they receive legal permission to work. Obtaining a child support and/or spousal support order with payments made through the court can provide crucial support immigrant victims need to support themselves and their children while living apart from their abusers. Obtaining a court ordered child support award provides the victim evidence of income that can be useful in her immigration application as proof that she is not likely to become a public charge. It also provides non-citizen perpetrators with evidence they have been paying child support that they will need to prove good moral character in any application they file for citizenship. In some instances the

victim will have a U.S. citizen or lawful permanent resident spouse who as part of a family based visa petition on the victim's behalf may have signed an affidavit of support. That affidavit provides evidence of the perpetrators ability to pay spousal support.³⁰

- Order to Vacate Provisions: Vacate orders are particularly important as they allow the victim and the children to remain in the family home and in a community where she is less isolated linguistically and culturally than she would be if she were to move to shelter. The vacate order should prohibit the perpetrator from re-entering the home, require that all keys be turned over and order that he refrain from damaging the property or tampering with or interfering with utilities³¹ or mail service. It should explicitly state that the abuser is not allowed to remove any financial records or other documents from the home when he vacates.
- Court ordered participation in a batterer's treatment program: When the perpetrator is limited English proficient, it is essential that any order for treatment include the requirement that the perpetrator participate in a program that is run in his native language or that an interpreter be provided to facilitate his participation. This removes the possibility that the perpetrator will use the excuse that interpretation was not provided to excuse his non-participation in the program.
- Respondent shall pay the medical expenses of the victim and shall maintain health insurance for the victim and children in common: This is particularly important for non-citizen victims only some of whom will qualify for health care public benefits under specified conditions (pregnancy, child birth, medical emergency) and must otherwise rely on HHS funded primary care clinics for health care.³²

Creative Protection Order Remedies

Catch-all provisions, or residual clauses, in state protection order statutes can be used in a creative manner to obtain culturally specific relief for immigrant victims of domestic violence. Catch all provisions are to be broadly interpreted to provide victims with the relief specifically needed in each case to help cut off the abusers' ability to exert coercive control and to reduce the abusers' opportunities for ongoing abuse.³³ These provisions can also be used

³⁰ Issues that arise in custody, child support and spousal support cases involving immigrant victims are discussed in more detail below.

³¹ Utility companies in some states have begun requiring social security numbers to reconnect utility service. As a last resort, as part of the protection order or in a motion to modify the protection order, if the abuser is ordered to leave the home, he should also be ordered to leave the utilities in his name with his social security number and not to interfere with the service.

³² For the location of public health clinics in your clients jurisdiction that are open to all persons without regard to immigration status go to www.hrsa.gov and type in the victim's zip code.

³³ *Powell v. Powell*, 547 A.2d 973, 975 (D.C. 1993).

to remove barriers that prevent victims from being able to leave their abusers. Courts have the power to exercise discretion to order additional relief as necessary to prevent abuse.³⁴ In *Maldonado v. Maldonado*,³⁵ the court confirmed the wide range of relief provided by a catch-all provision and included provisions to assist the battered immigrant petitioner:

[T]he husband shall relinquish possession and/or use of the wife's pocketbook, wallet, working permit, ID Card, bank card, Social Security card, passport and any other item of the children's personal belongings, table, four chairs and dishes. . . . the husband shall not withdraw the application for permanent residence that he had filed on behalf of the wife.³⁶

Immigration related abuse is 10 times higher in physically and sexually abusive relationships than in emotionally abusive relationships. The power and control an abusive spouse has over the victim's immigration status provide a potent tool that perpetrators use to abuse immigrant spouses. Abusers often control access to documentary evidence that the victim needs to proceed with her VAWA self-petitioning case without the abuser's knowledge or assistance. Exchange of property provisions in protection orders can be a helpful and safe way for the victim to obtain the documentation she needs for her immigration case. Protection order courts across the country commonly include the following creative remedies in protection orders issued to immigrant victims:

- Turn over documents or copies of documents: This includes evidence of a valid marriage (wedding photos, love letters, marriage license, photos from family trips, children's birth certificates, joint bank accounts, insurance policies, tax returns, holiday cards addressed to both parties); evidence of the abuser's citizenship or lawful permanent residency status ("A" number, passport number, copy of green card); evidence of prior divorces of the perpetrator (divorce orders); evidence that the parties lived together (lease, utility bills, phone bills); copies of any documents the perpetrator filed with DHS in an application for benefits for the victim and/or the parties' children.³⁷

³⁴ *Id.*

³⁵ *Maldonado v. Maldonado*, 631 A.2d 40 (D.C. 1993).

³⁶ *Id.* at 41.

³⁷ Rebecca Story, Olavarria, Cecilia & Preda, Moira Fisher, *VAWA Cancellation of Removal*, in *Breaking Barriers* at 6-10 (2013), available at: <http://niwaplibrary.wcl.american.edu/immigration/vawa-self-petition-and-cancellation/articles/3.4-VAWA-Cancellation-2010-MANUAL-BB.pdf>; see also Olavarria, Cecilia & Preda, Moira Fisher, *Additional Remedies Under VAWA: Battered Spouse Waiver*, in *Breaking Barriers* at 3-4 (2013), available at: http://niwaplibrary.wcl.american.edu/immigration/battered-spouse-waiver/tools/3.5_Battered-Spouse-Waiver_2004-MANUAL-BB.pdf.

- Turn over victim's personal property. This clause should include clothing, personal property and effects as well as cultural and personal religious items. For immigrant victims of domestic violence it is important to include essential identity documents, passport, visa, work permit and/or other immigration documents for her and her children.
- Continue with case filed on victim's behalf. The respondent shall not withdraw an application for permanent residency that he has filed on the petitioner's behalf, and shall take any and all action to ensure that the petitioner's application for permanent residency is approved.
- Do not contact government officials about the victim. The respondent shall not contact any government agency, including but not limited to the DHS, the (particular) Embassy, or the (particular) Consulate about the petitioner, absent permission from the court, a police employee, or a subpoena. This protection order provision reduces the abuser's ability to interfere with the processing of her immigration case.
- Pay costs of documents destroyed, lost or stolen. The respondent shall pay to the petitioner through the court all costs associated with replacing documents destroyed, hidden or claimed to be missing by the respondent, including the petitioner's or the children's passports, alien registration cards, social security cards, birth certificates, bank cards, work authorization documents, driver's licenses, or papers in any immigration case filed on behalf of the petitioner or the children.
- Sign Freedom of Information Act (FOIA) Request. This request authorizes DHS to turn over to the victim copies of immigration case files filed by the perpetrator, including those filed to provide benefits to the victim and/or her children.
- Provisions designed to prevent child abduction domestically and internationally.³⁸ Can require that the perpetrator turn over the children's passports to the court; the perpetrator not remove the children from the jurisdiction or the country, require that the perpetrator and

³⁸ In 1988, the Department of Justice estimated that parents or family members abducted 354,000 children in the United States. It is suspected that 31.8% of these abducted children were taken out of the U.S. In the event that batterers successfully remove children to other countries, it may be particularly difficult to trace or retrieve the children. If a provision designed to prevent removal of the children from the United States is included in the protection order, a copy of the order must be forwarded to the Office of Passport Services within the Bureau of Consular Affairs of the United States Department of State to prevent the issuance of passports or duplicate passports for the children if the respondent attempts to obtain them. The children should also be registered in the State Department's Children's Passport Alert Program that will notify the victim if the abuser tries to obtain another passport for the children.

victim sign statements asking the embassy of the abuser's home country not to issue a visa or passport to the parties children absent court order. These provisions should be included in the protection order whenever there is a risk or threats of parental kidnapping. Anytime the abuser makes threats that he will take the children and/or that he will prevent the victim from seeing the children ever again, it is important to explore with the victim the likelihood of a future international child kidnapping situation.³⁹

³⁹ Checklist of Questions to ask:

1. Does the abuser have family members or friends living abroad?
2. Does the abuser have the financial means to travel abroad with the children?
3. Has he in fact taken trips abroad in the past to visit family living abroad?
4. Has the abuser himself lived abroad?
5. Is the abuser's country of origin a member and signatory to the Hague Convention?
6. Has the abuser made threats to kidnap the children or prevent the petitioner from seeing them?
7. Did the abuser recently lose or leave his job here in the United States?