

# Legal Protections and Forensic Considerations for Immigrant and Refugee Child Victims

Presented by:

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International Association of Forensic Nurses

November 8, 2017



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# Learning Objectives

- Identify and assess the cultural aspects of trauma in immigrant and refugee children;
- Become proficient in writing forensic reports helpful to immigrant and refugee child victims of sexual assault and child abuse for immigration and family law cases;
- Identify the forms of immigration relief immigrant child victims and immigrant parents of child victims qualify for under immigration, family and public benefits laws.

# In your work you most commonly encounter immigrant children....

- A. Who entered the US by themselves
- B. Who came to the US with their mothers
- C. In homes experiencing abuse of both mother and children
- D. All of the above
- E. Other Type other in chat

Answer on the left



Feedback

A

B

C

D

No Answer

Chat

Public Private

Type here to send a message

# FAMILY VIOLENCE DYNAMICS IN IMMIGRANT FAMILIES

# Coercive Control Over Immigration Status

- Among abusive spouses who could have filed legal immigration papers for survivors:
  - 72.3% never file immigration papers
  - The 27.7% who did file had a mean delay of **3.97 years.**
- 65% of immigrant survivors report some form of immigration related abuse (NIJ, 2003)

\*Edna Erez and Nawal Ammar, Violence Against Immigrant Women and Systemic Responses: An Exploratory Study (2003)

# Immigration Related Abuse

- Refusal to file immigration papers on spouse/child/parent's behalf
- Threats or taking steps to withdraw an immigration case filed on the survivor's behalf
  - Family or work based visas
- Forcing survivor to work with false documents
- Threats/attempts to have her deported
- Calls to DHS to turn her in – have her case denied

# Connection Between Abuse and Control Over Immigration Status

- Abuse rates among immigrant women
  - Lifetime as high as 49.8%
  - Those married to citizens and lawful permanent residents – 50.8%
  - U.S. citizen spouse/ former spouse abuse rate rises to 59.5%
- Almost three times the national average

Hass, G. A., Ammar, N., Orloff, L. (2006). Battered Immigrants and U.S. Citizen Spouses



# Best Practice: Screen for Immigration Related Abuse

- Immigration Related Abuse as a Lethality Factor
  - 10 times higher in relationships with physical/sexual abuse as opposed to psychological abuse\*
  - Lethality factor can predict abuse escalation
  - Corroborates existence of physical and sexual abuse

\*Mary Ann Dutton, Leslye Orloff, and Giselle Hass, Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications (Summer 2000)

# Protecting Immigrant Mothers, Protects Children

- Immigrant victims who receive help, including immigration relief, child abuse likelihood drops significantly (77% to 23%).
- Children of help seekers 20% less likely to have abuser threaten them
- One third less likely to have abuser threaten to take them away from their mother

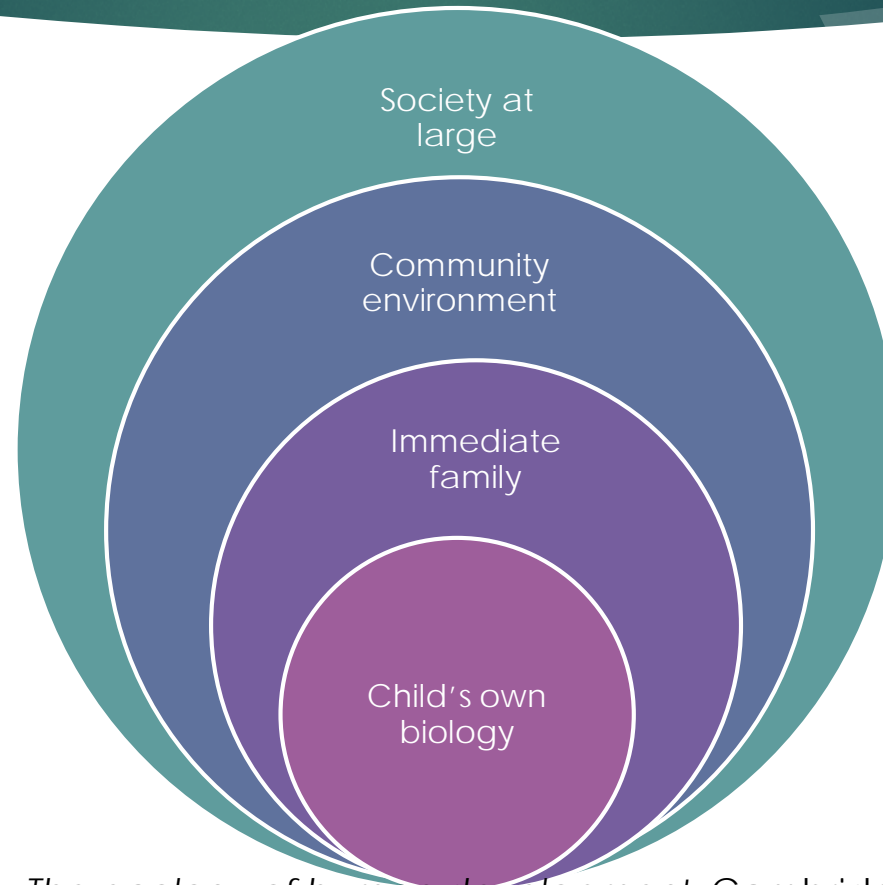
Ammar, Orloff, Hass and Dutton, *Children of Battered Immigrant Women: An Assessment of the Cumulative Effects of Violence, Access to Services and Immigration Status (2004)*

# Sexual Assault Rates Among Immigrant Girls

- High school aged immigrant girls
  - Twice as likely to have suffered sexual assault as their non-immigrant peers, including recurring sexual assault
  - Decker, M., Raj, A. and Silverman, J., Sexual Violence Against Adolescent Girls: Influences of Immigration and Acculturation, 13 Violence Against Women 498, 503 (2007).
- Latina college students
  - Experience the highest incidents of attempted rape compared to White, African American and Asian college students
  - Kalof, L., Ethnic Differences in Female Sexual Victimization, 4 Sexuality and Culture 75-97 (2000).

# Bronfenbrenner bioecological model of child development


(physical, mental, emotional, moral)



Bronfenbrenner, U. (1979). *The ecology of human development*. Cambridge, MA: Harvard University Press

# What are stresses that may interfere with a child's development at the individual level?

Answer on the left



Feedback

A

B

C


D

No Answer

- A. Malnutrition
- B. Developmental Disabilities
- C. Poor health
- D. Trauma

# What are stresses interfere with child development at the family level?

Answer on the left



Feedback

A

B

C

D

No Answer

- A. Physical Abuse
- B. Child sexual abuse
- C. Witnessing domestic violence
- D. Family disintegration due to migration
- E. Nutrition-activity level
- F. All of the above

# Community level stresses that interfere with child development at the community and societal levels include:

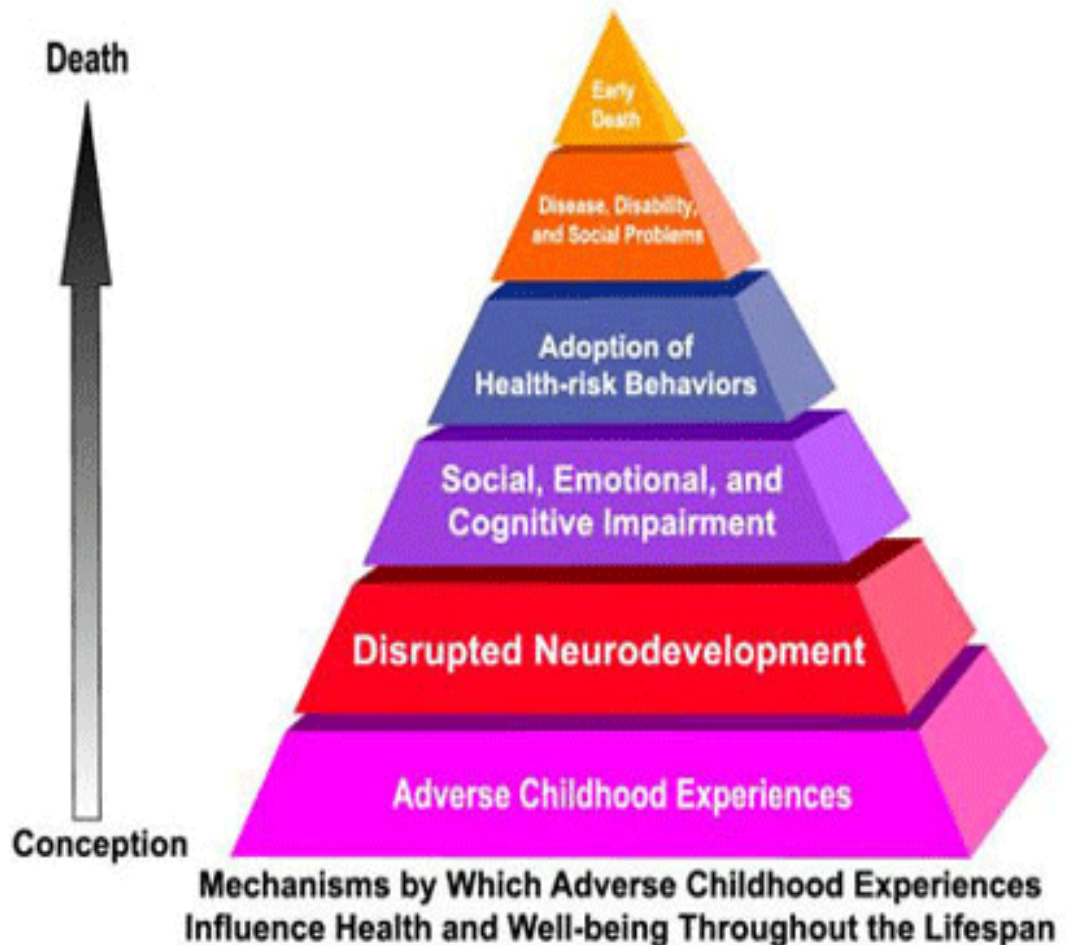
- ▶ Gang violence
- ▶ Domestic violence
- ▶ Sexual Assault
- ▶ Lack of police protection against violence

## SOCIETAL

- ▶ Political instability
- ▶ Environmental Hazards
- ▶ Health Care Inequities

# ADVERSE CHILDHOOD EXPERIENCES (ACEs)

- ▶ ACE is a landmark research study conducted by Kaiser Permanente and the Centers for Disease Control and Prevention (CDC).
- ▶ Participants were recruited between 1995 and 1997 and have been in long-term follow. The study has demonstrated a **dose-response** association of ACEs with health and social problems as an adult.





# IMPACT OF CHILDHOOD TRAUMA



The CDC and Kaiser Permanente surveyed 17,000 of the health plan's members to ask whether they'd had adverse childhood experiences defined as:

## ABUSE

Psychological  
Physical  
Sexual

## NEGLECT

Emotional  
Physical

## HOUSEHOLD CHALLENGES

Family member experiencing:  
Domestic abuse  
Mental illness  
Imprisonment

The landmark study found those with adverse childhood experiences were at higher risk for:



HEART, LUNG, AND LIVER DISEASE



OBESITY



DIABETES



DEPRESSION

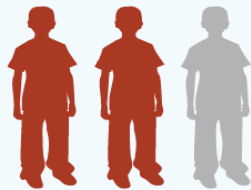


SUBSTANCE ABUSE

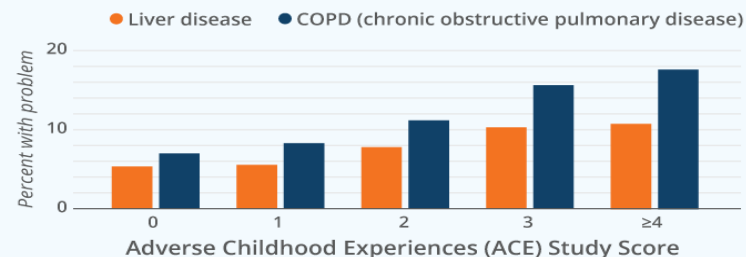
## THE STUDY ALSO FOUND

**NEARLY TWO THIRDS**

of those surveyed experienced at least one event.

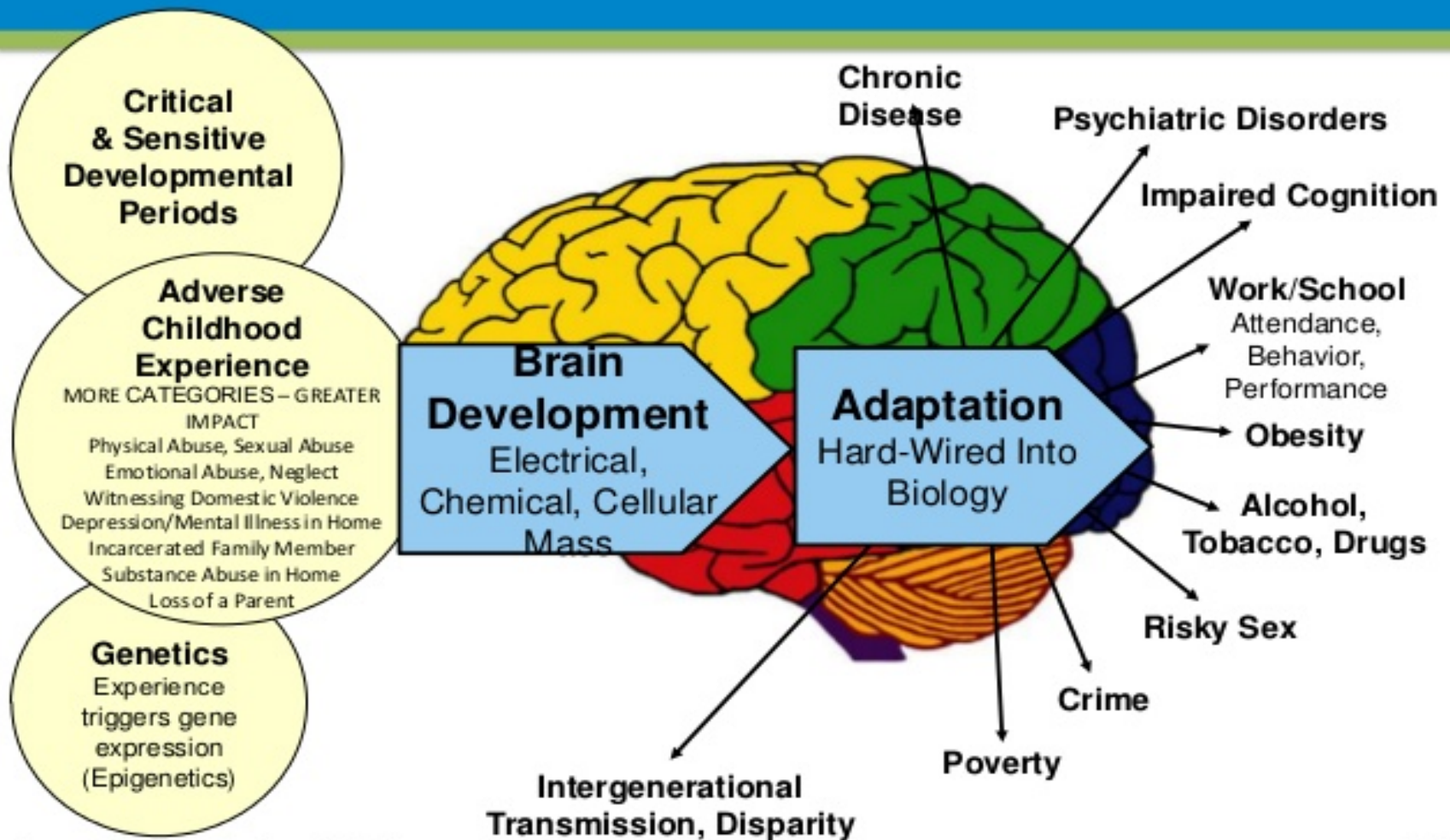


The higher the score on ACE survey, the more likely people were to be in poor health:



Sources: CDC ACE Study page <https://www.cdc.gov/violenceprevention/acestudy/> and V. J. Felitti and R. F. Anda, "The Relationship of Adverse Childhood Experiences to Adult Health, Well Being, Social Function, and Health Care," from *The Impact of Early Life Trauma on Health and Disease: The Hidden Epidemic* (Cambridge, England: Cambridge University Press, September 2010).

# Lifespan Impacts of ACEs



# COMPLEX TRAUMA

## Adverse Childhood Experiences Score Complex Trauma--Trauma “Dose”

Number of individual types of adverse childhood experiences were summed...

| <u>ACE score</u> | <u>Prevalence</u> |
|------------------|-------------------|
| 0                | 33%               |
| 1                | 26%               |
| 2                | 16%               |
| 3                | 10%               |
| 4 or more        | 16%               |

# THE LASTING IMPACT OF LIVING UNDER A FLIGHT – FIGHT-FREEZE RESPONSE- CULTURAL ISSUES



EXPERIENCED OR EXPOSURE TO SA OR DV  
EXPERIENCE OR EXPOSURE TO PERSECUTION OR VIOLENCE  
EXPERIENCE NATURAL OR MAN MADE DISASTERS

Pre-  
journey

Journey

Post-  
journey

# Children escape from direct and/or indirect violence

- ▶ Domestic & sexual violence
- ▶ Gang violence & recruitment
- ▶ Narco-trafficking cartels and other organized crime
- ▶ Political violence and/or persecution
  - ▶ Including being lesbian, gay, bisexual, or transgender
- ▶ Gender violence
  - ▶ Being female in a world that does not protect women and girls' rights
- ▶ Also: No adequate caretaker, stark poverty, no future or job opportunities, poor or limited education

# Trauma of Journey

- ▶ The walk
- ▶ The train of death
- ▶ Being assaulted, drugged, kidnapped
- ▶ The physical exhaustion
- ▶ The mistreatment and abandonment by “coyotes”
- ▶ Add to this separation and loss:
  - ▶ Children carry immense grief generated by the separation from their loved ones
  - ▶ Often superimposed on earlier separation from parent

# Trafficked Children Brought involuntarily

- ▶ Trafficking for forced labor, domestic work, work on construction sites and plantations
- ▶ Most children are trafficked for sexual exploitation
- ▶ Girls trafficked for forced labor and domestic work often end up sexually exploited by their employers



# POST RELEASE EXPERIENCE

Older teenagers are seen as economic contributors

Sponsor homes are at greater risk of abuse

Family integration is very complicated and often dysfunctional

Mental health services are rarely accessed

# Raise your hand

- ▶ If you have interviewed an immigrant child, raise your hand if you:
  - ▶ Found it hard to follow the story
  - ▶ Were left with many questions about what happened
  - ▶ Found yourself distracted and not engaged
  - ▶ Had to gain control over the interview to get what you needed



# VULNERABLE BUT NOT BROKEN



*Resilience*

The Courage to Come Back

# TRAUMA INFORMED CLINICAL INTERVIEW

- ▶ TO TELL AND RE-TELL THEIR HISTORY OF TRAUMA GOES AGAINST THEIR INSTINCTS
- ▶ SYMPTOMS OF TRAUMA SOMETIMES PREVENT THE EMOTIONAL ENGAGEMENT OF THE CHILD
- ▶ TAKE INTO CONSIDERATION ALTERATIONS IN EXECUTIVE FUNCTIONING
- ▶ TAKE INTO CONSIDERATION ATTITUDINAL AND CULTURAL VALUES PROPER OF CHILDREN IN THEIR HOME ENVIRONMENT

# Guiding Values of Trauma-Informed Care

## "Healing Happens in a Relationship"



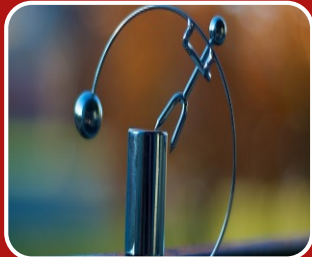
# Good reports flow from good interviews





## DESCRIBE HARM AND IMPACT

- Help reader understand the child's mental functioning and functional impairment
- Present the child's story of hardship and abuse



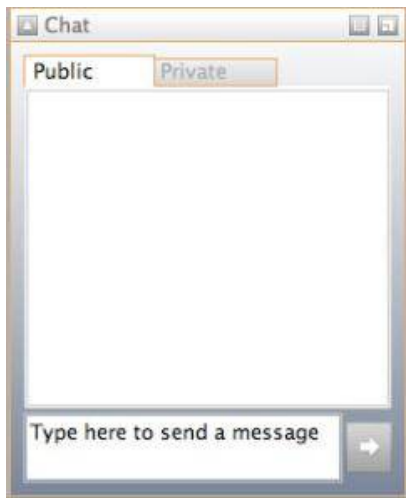
## CREDIBILITY

- Motivations for problems in reliability: is not all or none
- Explain what may erroneously appear as harming credibility



## HUMANIZE

- Balance professional observations with insight into what is like for this child
- Place child in proper contextual setting



- ▶ What do you think that immigrant children need in terms of services?



## What they need

- ▶ Medical attention
- ▶ Mental health services
- ▶ Help exercising their legal rights under immigration, family and public benefits laws
- ▶ School enrollment
- ▶ Referral to child protection services if in an unsafe placement
- ▶ Establish a new developmentally appropriate life and routine

# Herman's Stages of Recovery

- ▶ Stage 1: Safety
- ▶ Stage 2: Remembrance & mourning
- ▶ Stage 3: Reconnection
- ▶ Stage 4: Commonality

# Legal Protections for Abused Immigrant Children and Their Protective Non-Abusive Parents

# Barrier: When Service Providers DO NOT Have Accurate Information About....

- Immigrant victims' legal rights to
  - Legal services
  - Language access
  - Immigration relief
  - Family law protections
  - Life and safety programs including
    - Shelter, transitional housing, and victim service
  - Health care options

How does attaining legal immigration status benefit survivors?



# Benefits for Survivors

- Protection from deportation
- VAWA confidentiality protection
- Enhanced safety for survivors
- Financial independence from perpetrator
- Legal work authorization (7-28 months of filing)
- Temporary legal immigration status
- Protections for family members
- Greater ability to gain/maintain custody of her children
- Better access to survivor services, health care, and benefits



# IMMIGRATION RELIEF

# Improving Immigrant Victim Safety Through Early Screening

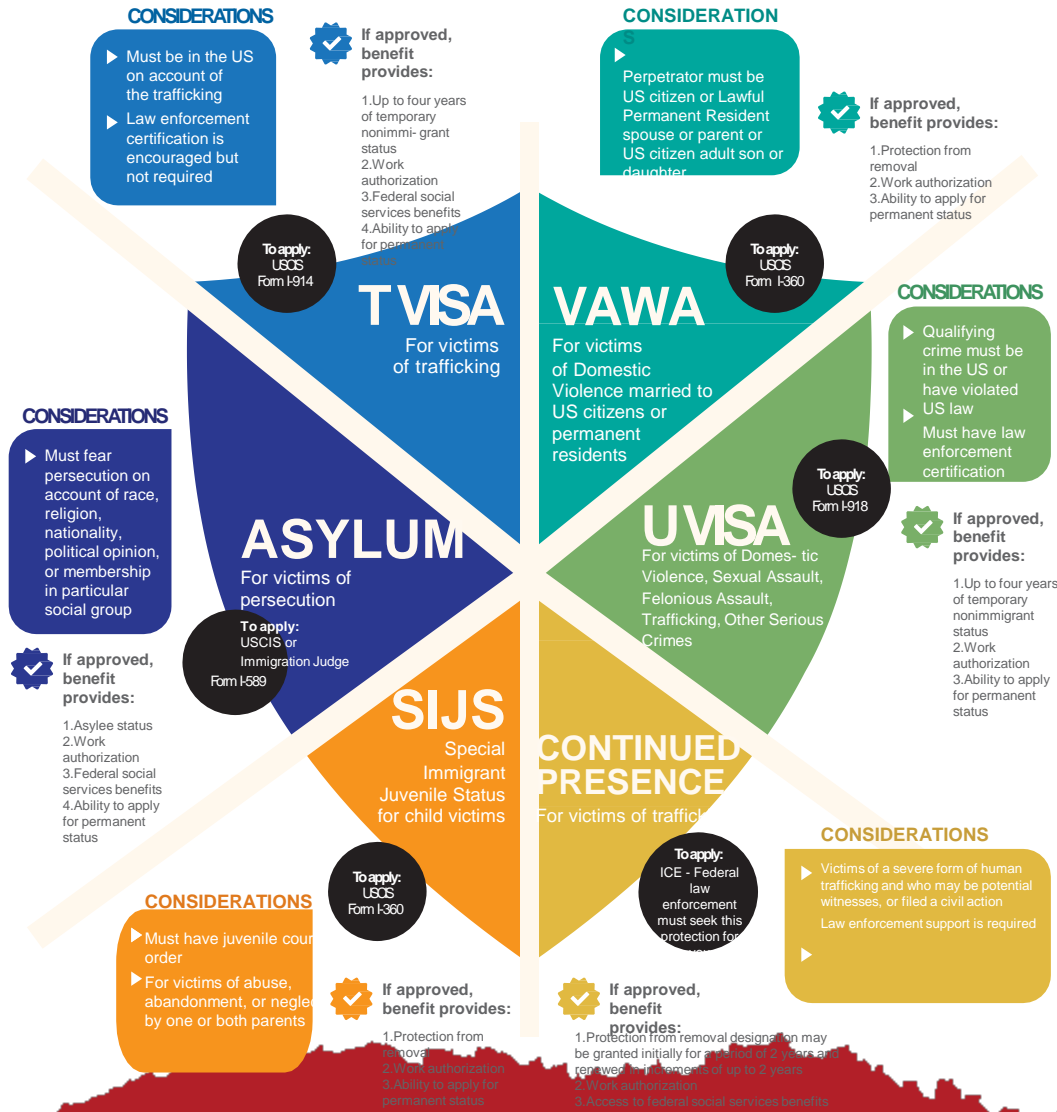
- Know forms of immigration relief abused immigrant children and their non-abusive parents qualify for
- Document history of abuse
- Know differences between immigration options
- Make referrals to programs with expertise serving immigrant victims
  - Directory



# Purpose

- Congress enacted VAWA self-petitioning (1994) and the U and T visas (2000) to:
  - Improve community policing and community relationships
  - Increase prosecution of perpetrators of crimes against immigrant victims
  - Allow victims to report crimes without fear of deportation
  - Enhance victim safety
  - Keep communities safe

# PROTECTIONS FOR IMMIGRANT VICTIMS



# VAWA Confidentiality Prongs

## Non- Disclosure

Protects victims **who have filed** a protected case with DHS

## Abuser-Provided Information Prohibition

Includes family members of abusers, crime perpetrators and their agents

Protects:

- \*All victims **abused by as spouse or parent**
- \*All victims in the process of applying for U or T visas
- \*Abused spouses of visa holders with VAWA work authorization filed

## Location Prohibitions

Protects:

**All Victims**

Requires:

No action at protected locations OR

Notice to Appear must state how they complied with VAWA confidentiality

Violation = \$5,000 fine and/or disciplinary action

# DHS VAWA Confidentiality Computer System

- DHS “red flag” “384” computer system to identify victim who have already filed for or have been granted victim-based immigration relief
- Reminds immigration officers, agents, attorneys about immigration law protections for
  - Victims of domestic violence
  - Crime victims
  - Human trafficking victims

# Immigration Options for Immigrant Crime Victims and Children

(Red = VAWA Confidentiality Protected Case)

- VAWA self-petition
  - Abused spouses/children of US citizens and lawful permanent residents
  - Abused parents of U.S. citizens over 21 years of age
- VAWA cancellation of removal
- VAWA suspension of deportation
  - Abused spouses/children of US citizen and lawful permanent residents protection from deportation
- Battered spouse waiver
  - Abused spouses of US citizens with two-year conditional permanent residency
- U visa
  - **Has been, is being or is likely to be helpful in the detection, investigation, prosecution, conviction or sentencing**
  - **Substantial harm from criminal activity**
- T visa and Continued Presence
  - Victims of severe forms of human trafficking
- Abused Spouse of Visa Holders
  - Spouses battered or subjected to extreme cruelty by spouses with the following visas: A(diplomats), E(3)(Australian specialty occupation workers), G (foreign gov- Int'l orgs), H (work visas)
- Special Immigrant Juvenile (SIJS)
  - Children abused, battered, abandoned or neglected by one or both parents
- Deferred Action (DACA)
  - Deferred action for child arrivals including Dreamers
- Asylum
  - Well founded fear of persecution on account of race, religion, nationality, political opinion, social group
  - Domestic violence as gender based asylum

# General VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
  - spouse;
  - parent; or
  - adult son/daughter (over 21)
- With Whom Self-Petitioner Resided
  - No time period required
- Good Moral Character
- Good Faith Marriage

# Forms of Extreme Cruelty

- Emotional Abuse
- Economic Abuse
- Sexual Abuse
- Coercion
- Deportation threats
- Immigration related abuse
- Intimidation
- Social Isolation
- Degradation
- Possessiveness
- Harming pets

# VAWA self-petitioning available

- If perpetrator is the child's step-parent must file before marriage to child's natural parent is terminated
- If parent is filing to protect abused child or step-child must file within 2 years of marriage termination
- Child abuse up to age of 25 to file
- Credible evidence standard of proof



# VAWA self-petitioners get:

- Deportation: Protection from deportation soon after filing.
- Benefits for Child's Family Members:
  - VAWA self-petitioner's children and non-abusive parent receive immigration benefits
- Public Benefits: As qualified immigrants ( $\approx$  2 months)
- Employment authorization:
  - Citizen abuser ( $\approx$  4 months);
  - Lawful permanent resident abuser ( $\approx$  7 months).
- Lawful permanent residency
  - Citizen perpetrator apply upon approval (1 year)
  - Lawful permanent resident perpetrator ( $\approx$  3+ years)

# Child Self-Petition Scenarios

- Abuser is a citizen or lawful permanent resident parent or step-parent
  - Abused child and non abusive parent both undocumented
  - Child is citizen or lawful permanent resident with undocumented non-abusive parent
  - If parent filing to protect a child
    - If marriage = self-petition
    - If no marriage VAWA cancellation

# Crime Victim (“U”) Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law

# Qualifying Criminal Activity

|                           |                                    |                        |
|---------------------------|------------------------------------|------------------------|
| Domestic Violence         | Kidnapping                         | False imprisonment     |
| Sexual Assault            | Abduction                          | Blackmail              |
| Rape                      | Trafficking                        | Extortion              |
| Incest                    | Involuntary servitude              | Witness tampering      |
| Prostitution              | Slave trade                        | Obstruction of justice |
| Torture                   | Being held hostage                 | Perjury                |
| Female genital mutilation | Peonage                            | Stalking               |
| Felonious assault         | Fraud in foreign labor contracting | Manslaughter           |

\*Attempt, conspiracy or solicitation to commit any of these crimes any similar activity

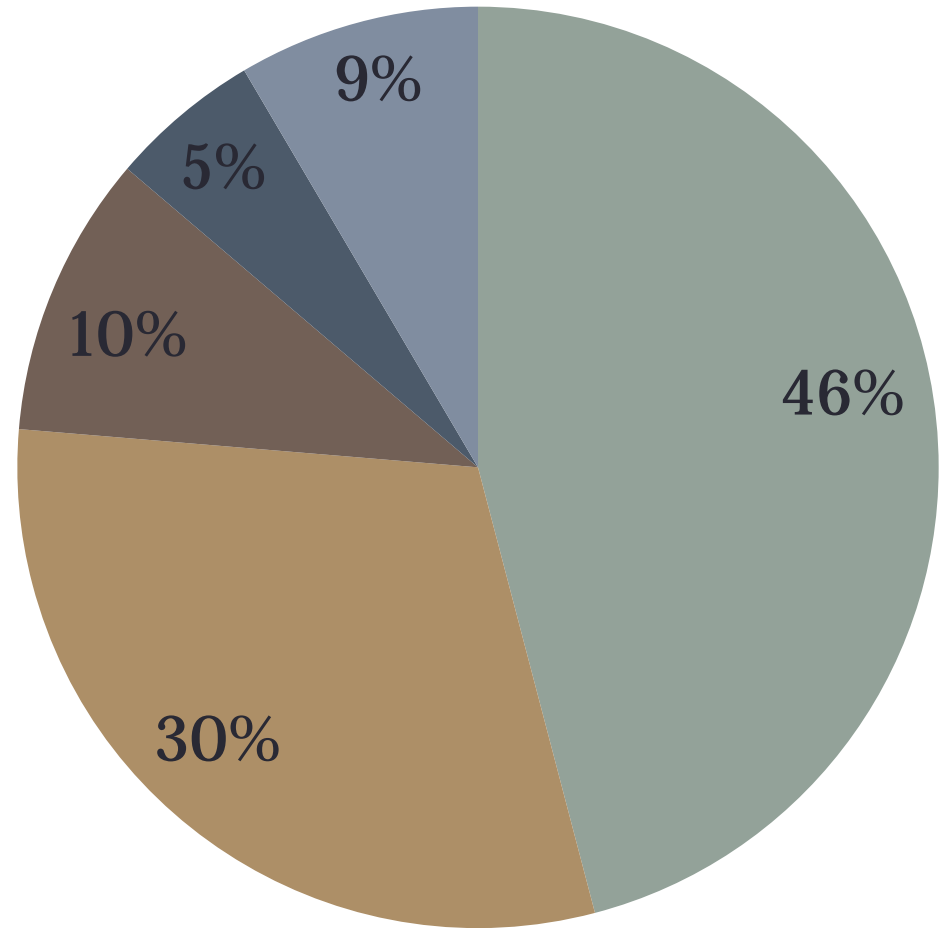
# Certification Required From:

*DHS U and T Resource Guide states:  
“law enforcement” & “law enforcement agencies” =*

- Federal, state, and local
  - Law enforcement
  - Prosecutors
  - Judges, Magistrates, Commissioners
    - Civil protection order
    - Divorce, Civil &
    - Criminal cases
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and Elder Abuse investigators and agencies
- Other government agencies

# U-Visa Criminal Activities (11/2011 data)

- Domestic violence and Child Abuse- 45.9%
- Rape, Sexual Assault, Incest, Trafficking- 30.4%
- Felonious Assault, Murder, Manslaughter- 9.9%
- Blackmail, extortion, perjury, obstruction of justice, attempts, conspiracy, solicitation- 8.47%
- Kidnapping, being held hostage, unlawful criminal restraint, torture- 5.3%



# U-visa Facts and Benefits

- Only 10,000 U-visas can be granted annually
  - Waitlist approval backlog over 100,000 visas
- The U-visa grants a temporary 4 year stay
- Work authorization ( ≈ 28 months)
- Benefits for family members applicants
  - Under 21: spouse, children, parents, unmarried siblings under age 18
  - Over 21: spouse and children
- Lawful permanent residency after 3 years if
  - Cooperation or not unreasonably refuse to cooperate
  - + humanitarian need, family unity or public interest
- U.S. citizenship after 5 years of lawful permanent residency+ proof of good moral character

# U Visa Typical Scenarios

- Undocumented child suffered child abuse, sexual assault, other U visa criminal activity
  - Unaccompanied or with parent or guardian
  - Any perpetrator
- Documented children without path to lawful permanent residency who suffered criminal activity including
  - DACA
  - Abused children of work visa holders



# T Visa Overview

- 4 Year Visa
  - Victim of Severe form of Trafficking
  - In the US or territories on account of trafficking
  - Respond to reasonable requests for collaboration with investigation
  - Prosecution unless victim is under 18
  - Hardship upon return to home country
- May apply for lawful permanent residency after investigation/prosecution is over or 3 years, what ever time is shorter

# What are Severe Forms of Human Trafficking?

- **Sex Trafficking:** in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- **Labor:** The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery

(Federal Law—“Victims of Trafficking and Violence Prevention Act of 2000 can be found at [www.ojp.usdoj.gov/vawo/laws/vawo2000/](http://www.ojp.usdoj.gov/vawo/laws/vawo2000/))

# Family Members Who Can Be Included in T Visa Application

- Child victims under age 21 can include:
  - Spouse, children, parents and unmarried siblings under age 18
- Victims over 21 can include:
  - Spouse and children

# T Visa Benefits

- While Case is Pending
  - Protection from deportation and removal
  - VAWA Confidentiality
- Upon receiving a bona fide determination or continued presence and HHS certification
  - All federal and state public benefits
  - Health Care Exchanges
  - Receives work authorization
  - Drivers licenses
- Upon Approval
  - Immigration benefits for children (and unmarried siblings if applicant is under age 21)
  - Eligible for lawful permanent residence after 3 years
  - Can travel outside of the U.S. but may need permission

# Special Immigrant Juvenile Status (SIJS)

- Immigration relief for unmarried children under the age of majority under state law who have been
  - Victims of abuse, abandonment, neglect
  - By at least **one parent** (cannot be a step parent)
- State Court Findings Required
  - State court with jurisdiction over care, custody, dependency or placement of the child
  - has issued a court order, finding, or declaration on three statutorily required issues
- The state court order does **not** award SIJS
  - **ONLY DHS can provide legal immigration status**

# State Court Findings Needed for SIJS

## \*State Law Applies To Each\*

1. The court issued regarding the care, custody, dependency or placement of an immigrant child with
  - An individual (e.g. non-abusive parent, grandparent, kinship care, guardian, next friend) OR
  - State agency, private agency, including foster care system
2. Reunification of the child is not viable with a parent due to the parent's abuse, abandonment, or neglect
3. It is not in the child's best interest to return to their home country
  - Best caregiver determination/often not necessary to compare countries

# What Children with SIJ Status Receive

- While case is pending:
  - Protection from deportation and removal
  - As lawfully present children – health care exchanges and subsidies in Maryland while under 21
  - Programs and services necessary to protect life and safety
- At approval:
  - Lawful Permanent Residency
    - (separate but usually concurrent filing)
  - Legal work authorization
    - Brings access to federally recognized driver's licenses and IDs
  - Eligible for citizenship after 5 years

# SIJS Typical Scenarios

- Undocumented child entered US as an unaccompanied minor
  - Placed by HHS with sponsor in your state
- Child reunited with a parent or extended family members
- Any protection order or child welfare case where the child is foreign born and not a citizen or lawful permanent resident with
  - Abuse, abandonment, or neglect by 1 parent



# **ACCESS TO BENEFITS AND SERVICES GROWS AS CHILDREN AND VICTIMS PURSUE IMMIGRATION RELIEF**

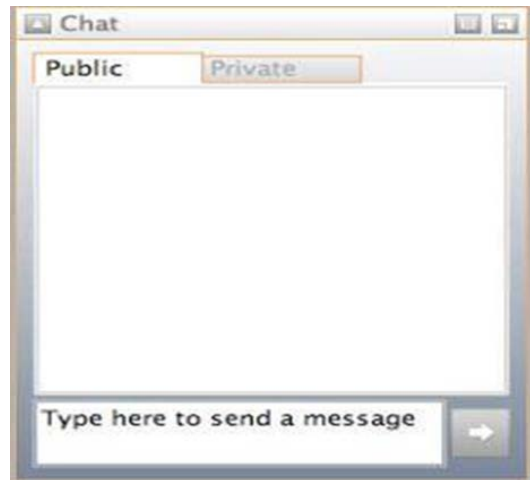


# Immigrants and Benefits: True or False

1. Undocumented victims and children can access transitional housing programs
2. Federally funded health care is available for undocumented immigrants
3. DHS requires universities to ask about immigration status of applicant or enrolling students



What types of services and assistance are open to all persons without regard to immigration status?



# Access for All

Both documented and undocumented immigrant survivors can access:

- Legal Services
- Family Court (Divorce)
- Language Access
- Police Assistance
- Protection Orders
- Child Custody and Support
- Have Their Abusers  
Criminally Prosecuted
- Assistance for Crime Victims
- Shelter
- Transitional Housing
- Receive Emergency Medical  
Care
- Obtain Public Benefits for  
Their Children

# Legal Services Corp. Funded Legal Assistance under Anti-Abuse Laws

- LSC funded programs can represent the following immigrant survivors **without regard to the survivor's immigration status**
  - Domestic violence (battering or extreme cruelty)
  - Child abuse
  - Elder abuse
  - Sexual Assault
  - Human trafficking
  - Other U visa criminal activity
- Representation available *whether or not the survivor has filed for or plans to file for any form of immigration relief*
- Helps child victims of battering or extreme cruelty *occurring any where in the world*

# Attorney General's List of Required Services

Former Attorney General  
Janet Reno



- In-kind services
- Provided at the community level
- Not based on the individuals income or resources
- Necessary to protect life and safety

# Benefits Available to All Immigrants

- Crisis counseling and intervention
- Child and adult protection services
- Violence and abuse prevention
- Victim assistance
- Treatment of mental illness or substance abuse
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Short-term shelter or housing assistance for the homeless, victims of domestic violence, or for runaway, abused, or abandoned children
- Nutrition programs for those requiring special assistance



# Federal Benefits Available to ALL Immigrants



- Elementary and Secondary education
- School lunch and breakfast
- WIC
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid



# Health Care Open to All Immigrants

- Community and migrant health clinics
  - [www.nachc.com](http://www.nachc.com)
  - [www.hrsa.gov](http://www.hrsa.gov)
  - Enter zip code
- State funded programs
- Post-assault health care paid by VOCA
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid



# Undocumented Immigrant Survivors Have a Legal Right to Access Shelter and Transitional Housing



Open to All Immigrants Without Regard to:

- Immigration Status
- Citizenship
- Nationality
- English Language Ability

Anti-discrimination protections apply

# Benefits Available to all Immigrants

## Include:

- Short-term shelter or housing assistance, victim services counseling, and intervention for:
  - Victims of:
    - Domestic violence
    - Sexual assault
    - Stalking
    - Dating violence
    - Human trafficking
    - Child abuse
    - Other abuse
  - Homeless
  - Runaway or homeless youth
  - Abandoned children

# Applies to Government Funded Housing

- Violence Against Women Act (VAWA)
- Family Violence Prevention and Services Act
- Victims of Crime Act (VOCA)
- Housing and Urban Development funded:
  - Emergency Solutions
  - Continuum of Care Programs
  - Rapid re-Housing
  - Rural Housing Stability
  - Safe Haven
  - HOME

# When children qualify and their parents do not:

- If a child qualifies for benefits as a citizen or qualified immigrant the benefits granting agency may only ask questions about the child's eligibility
- No questions may be asked about the immigration status of the child's parent if the parent is not applying for additional benefits for themselves

# Immigration Relief Expands Benefits Access

## VAWA self-petition

- Filing = Public/Assisted Housing
- Prima facie = Qualified Immigrant
  - Education, SNAP for children; Health subsidies for children or pregnant

## Battered spouse waiver

- Qualified Immigrant
- Can avoid deeming

## Continued Presence

- Benefits access like refugees
- Need HHS certification

## T visa

- Benefits access like refugees (7 years) with HHS certification
- Qualified Immigrant with bona fide determination

## U visa

- Lawfully present upon wait-list approval = health care exchanges

## Family Based Visa Petition

### Approved + Battering or Extreme Cruelty

- Public and Assisted Housing
- No VAWA filing required

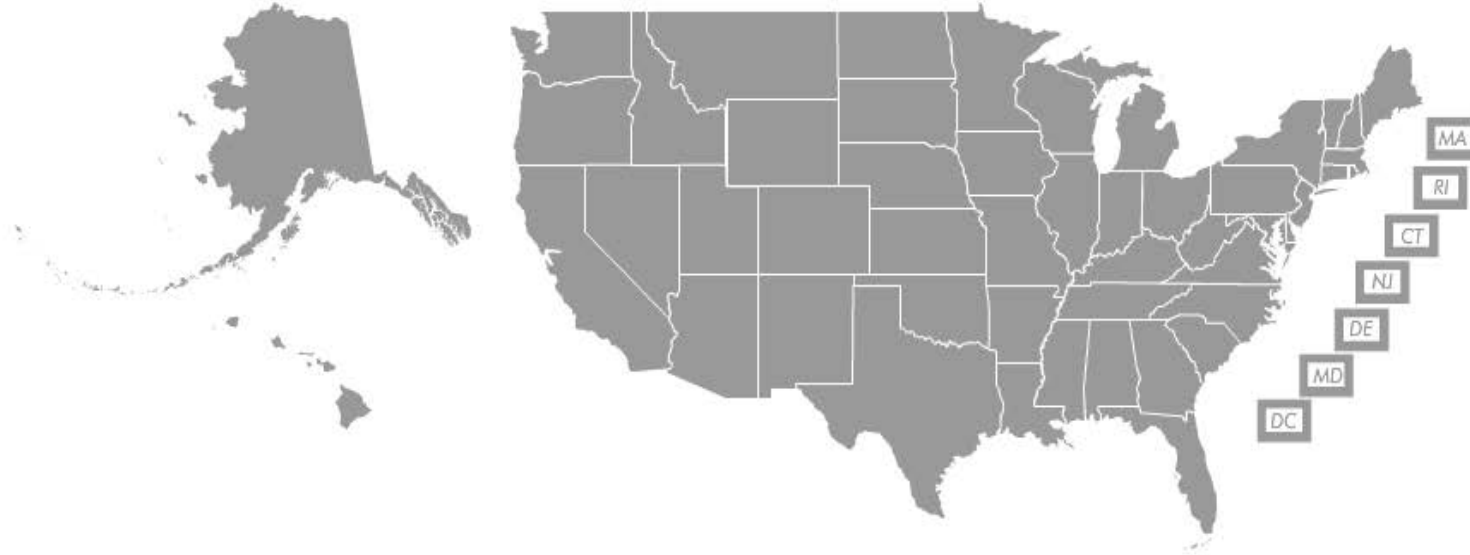
## Special Immigrant Juvenile

- Health care exchange access due to lawful presence upon filing
- Qualified Immigrant upon approval and receipt of lawful permanent residency

## Deferred Action for Childhood Arrival (DACA)

- No access to exchanges or subsidies under ACA

# NIWAP Demographics Map



- Demographics
- TANF
- Health Care
- Post-Assault Care
- Pre-Natal Care
- Emergency Medicaid
- Forensic Exams
- Child Care
- Driver's Licenses
- Food Programs
- In-State Tuition
- SSI
- Energy/Weatherization

*If you have additional questions or need technical assistance on immigrant victim access to federal and state public benefits, contact NIWAP by e-mail at [info@niwap.org](mailto:info@niwap.org) or by phone at 202-274-4457.*

# Importance of Victim Advocacy

- Benefits law complex
- Need trained advocates and attorneys
- Importance of accompanying immigrant and LEP victims applying for benefits
- Link benefits providers to legally correct information about benefits immigrant victims qualify to receive



# PROTECTION ORDERS



# NIJ Funded CPO Study Found

- With support immigrant victims will use and benefit from justice system assistance
  - 60.9% did not know about CPOs
  - 81% got CPO with help from advocate/attorney
  - 96% found them helpful
  - 68.3% of violations immigrant related

# Protection Orders

- All persons are eligible to receive civil protection orders without regard to the immigration status of any party or child
- Protection order issuance = no effect on immigration status
- A conviction *or finding* of violation of the “*protection against abuse provisions*” of a protection order is a deportable offense
- Immigrant victims and their children often need creative protection order remedies using the state catch all provisions

# Creative Remedies to...

- Stop immigration related abuse
- Protect victims still living with their abusers
- Obtain documents the victim needs for an immigration case or for care of child
- Deter parental kidnapping
- Child/Spousal support
  - Affidavit of support
- Health insurance

# Technical Assistance and Materials

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

# Questions



**Thank You!**