

Issues of Risk Assessment and Identification of Adult Victimization- Immigrant Victims

August 29, 2016

IVAT- San Diego, California

IMMIGRANT DEMOGRAPHICS

NIWAP's State by State Demographics and
Benefits Map

U.S. Immigrant Demographics

- “Immigrant” = born outside the U.S.
- 41.3 million immigrants in U.S (MPI 1/13)
 - 13.1% U.S. population (MPI 1/13)
- Among foreign born
 - 46.7% are naturalized citizens (MPI 1/13)
 - 31.8% are lawful permanent residents (DHS 9/14)
 - 21.3% (8.8 million) eligible to naturalize (DHS 9/14)
 - 11.5 million undocumented (DHS 3/12)
- Today over 27% of U.S. population are immigrants or children of immigrants
 - (US Census)
- 24.9% of children under age 18 live with at least one immigrant parent (MPI 1/13)
 - 88% of children with 1+ immigrant parents are U.S. citizens (MPI 1/15)

US – Countries/Regions of Origin (2013)*

- ▶ Asia – 29.5%
 - ▶ China/Taiwan (5.8%)
 - ▶ India (4.9%)
 - ▶ Philippines (4.5%)
 - ▶ Vietnam (3.1%)
- ▶ Latin America – 51.9%
 - ▶ Mexico (28.0%)
 - ▶ Other Central America (4.7%)
 - ▶ South America (6.7%)
 - ▶ Caribbean (9.6%)
 - ▶ El Salvador (3.0%)
- ▶ Europe – 11.6%
 - ▶ Eastern Europe (5.1%)
- ▶ Oceania – 0.5%
- ▶ Africa – 4.4%
- ▶ Non-U.S. North America – 2%

*Source: <http://www.migrationpolicy.org/data/state-profiles/state/demographics/US>
(November 2015)

DYNAMICS OF DOMESTIC VIOLENCE EXPERIENCED BY BATTERED IMMIGRANTS

Research Among Immigrant Women Found

- Similar results lifetime abuse rates for immigrant women in the U.S. 33-50%
- Immigrant women also have high rates of sexual assault, particularly during the first two years after arrival in the U.S.
- Victimization of immigrant children also high, including child sexual abuse
- Multiple immigrant populations studied

Domestic Violence Prevalence and Severity

- U.S. in general: **22.1%** (NIJ)
- Immigrant women: **30-50%**
- Research has found that immigrant victims
 - Stay longer
 - Have fewer resources
 - Sustain more severe physical and emotional consequences of abuse

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

Department of Homeland Security



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 victim's behalf
 - Family or work based visas
- Forcing victim to work with false documents
- Threats/attempts to have her deported
- Calls to DHS to turn her in – have her case denied

Coercive Control Over Immigration Status

- Among abusive spouses who could have filed legal immigration papers for victims:
 - 72.3% never file immigration papers.
 - The 27.7% who did file had a mean delay of **3.97 years.**

Immigration-Related Abuse

- Keeps victims from
 - Seeking help
 - Calling police
 - Cooperating in prosecutions
 - Getting protection order
- Affects victims documented and undocumented
- 65% of immigrant victims report some form of immigration related abuse (NIJ)
- Locks victims in abusive relationships

Immigration Related Abuse as Coercive Control

- Any time relationship and control over victim's immigration status
- Family Violence
- Sexual Assault in the workplace
- Cohesive control (Mary Ann Dutton)
 - Isolation
 - Intimidation
 - Economic Abuse
 - Immigration related abuse

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)

Sexual Assault Rates Among Immigrant Women

- High school aged immigrant girls
 - twice as likely to have suffered sexual assault as their non-immigrant peers, including recurring sexual assault
- Latina college students
 - experience the highest incidents of attempted rape compared to White, African American, and Asian college students
- Victimization of immigrant children also high
 - child sexual abuse

Risks of Removal for Victims

- Perpetrators actively reporting for removal victims with pending immigration cases
 - VAWA self-petitioners 38.3%; U visa 26.7%
- Perpetrators got the victim arrested for domestic violence
 - VAWA self-petitioners 15.4%; U visa 7.5%
- Traffic stops
 - VAWA self-petitioners 28.6%; U visa 26.7%

DHS Priorities for Enforcement and Victim Protection: DHS Memos/Guidance

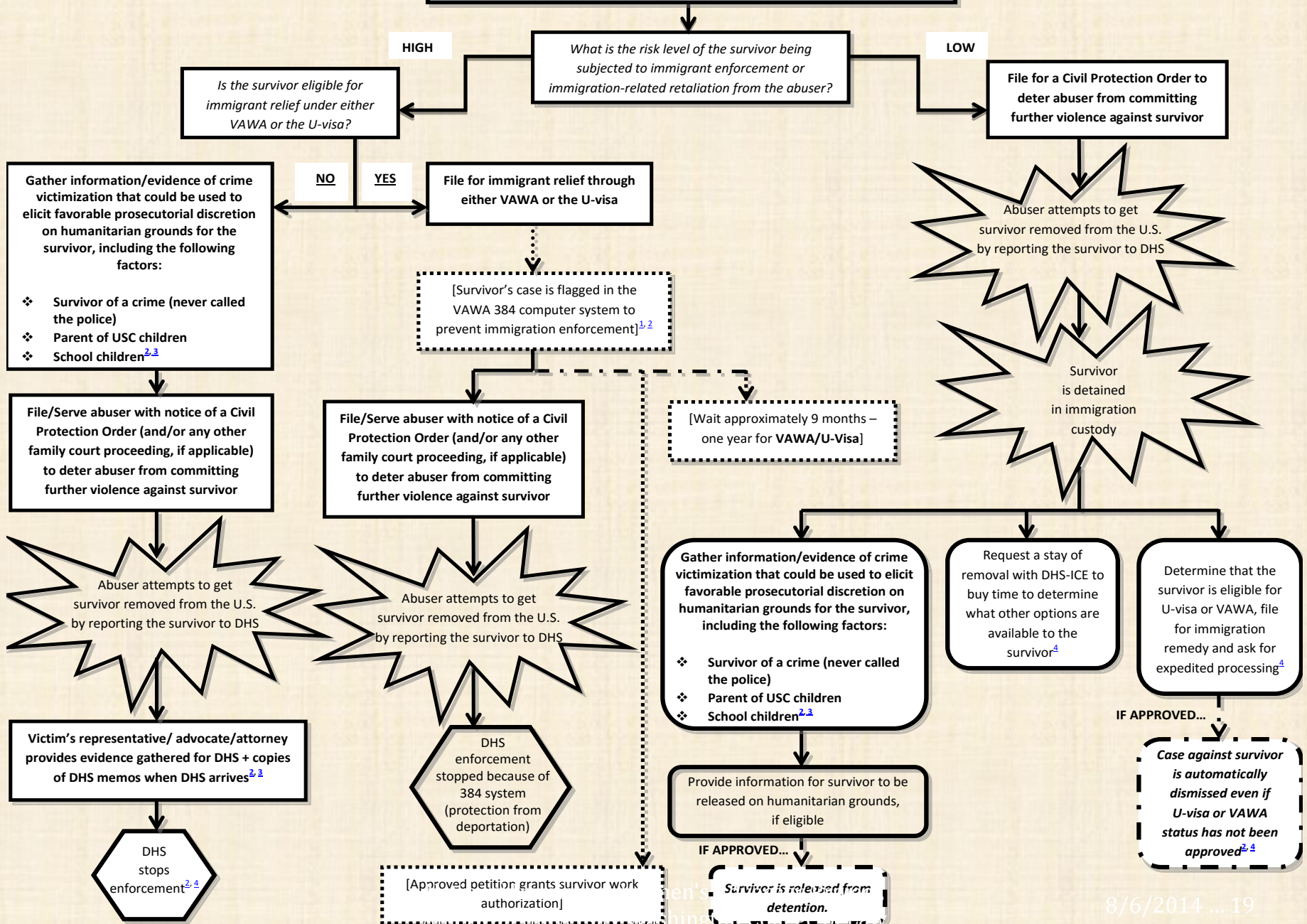
- DHS victim witness protection memo
- Prosecutorial discretion re: care giving parents
- Humanitarian release
- 384 DHS computer system (VAWA, T visas, U visas)
- Memorandum on DHS detention priorities
 - *See Web library for:*
 - Bench Card: DHS Enforcement Priorities Information for State Court Judges
 - DHS Victim Protection Resources and Guidance

Legal Immigration Status Options for Non-citizen Crime Victims and Children

- 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
 - 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
- Asylum
 - Well founded fear of persecution on account of race, religion, nationality, political opinion, social group
 - Domestic violence as gender based asylum
- 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
- 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
- DHS Prosecutorial Discretion
 - “low priority” for removal immigrants -- survivors, witnesses, parents, children, elderly, disabled
 - Humanitarian detention release

Materials overview of remedies - <http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/benefits>

IMMIGRANT SURVIVOR WALKS THROUGH THE DOOR OF YOUR AGENCY



Value of Filing Early

- Filing basic/short affidavit
- Benefits for victims of early filing
 - Protection from deportation
 - Earlier access to work authorization
 - State benefits in some states
 - Better position in family law case

Trauma Informed Legal Advocacy

- Use an approach that helps clients heal
- At the same time strengthens the legal case
- Building a relationship of trust
- Transparency – Explain your role, why you ask certain questions, why you need certain information

Trauma-Informed Pointers

- Schedule adequate time to talk
- Give the client space to tell her story
- Use open-ended questions
- Listen more than you talk

Trauma Informed Approach to Story Writing

- **Story Writing Intervention**
 - Process by which advocate/attorney supports and helps survivors write their own story
 - By capturing trauma history through narrative, survivors are helped to heal from trauma
 - What research tells us about importance of writing the trauma narrative

Story Writing Intervention Method

- 1. Invite the survivor to write/tell her story**
 - Support, witness, listen without judgment, allow space
 - Goal: story comes out unedited/uninterrupted
- 2. Follow up with interview**
 - Structured Interview Questionnaire for Immigration (SIQI)
 - Take notes for follow up during story telling interview
- 3. Edit together**
 - Story + structured interview responses into affidavit
- 4. Survivor reads back the final story**

Interviewing Tool Review

Visit:

www.niwap.org/go/trauma-materials

Immigration Story Writing Intervention

- **Affidavit = A Survivor's "Story"**
 - **Unique opportunity for trauma informed healing**
 - Most important pieces of evidence submitted
 - DHS hears directly from the survivor, in her voice
 - Less affidavit, than "story" of the survivor's experience
 - Getting the full story for the immigration case can be a traumatic experience for survivors
 - The goal is to develop an approach that:
 - Obtains more complete information
 - Improves outcomes and helps survivors heal

Types of Cases That Could be Strengthened By This Approach

- Immigration
 - VAWA
 - U Visa
 - SIJS
 - T Visa
- Family Law
 - Custody
 - Protection Order
 - Divorce
 - Economic Relief

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
- Emergency Medical Care
- HHS funded health centers
- Obtain Public Benefits for
Their Children

Life and Safety Services

- 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



Reading and Resources

- *“Are You Safe At Home?”*
<http://niwaplibrary.wcl.american.edu/pubs/safe-at-home-brochure-english/>
- *“Know Your Rights”*
<http://niwaplibrary.wcl.american.edu/pubs/brochure-know-your-rights-english/>
- Fact Sheet: Immigrant and Limited English Proficient Victims’ Access to the Criminal Justice System: The Importance of Collaboration
<http://niwaplibrary.wcl.american.edu/pubs/langaccessuvisacollaboration/>
- Immigrant and Refugee power and control wheel
<http://www.mincava.umn.edu/documents/immigrantwheel/immigrantwheel.html>

Technical Assistance and Materials

- Power Point presentations and materials for this training are available at www.niwap.org/go/IVAT/
- Benefits map: www.niwap.org/benefitsmap
- **NIWAP Technical Assistance:**
 - Call (202) 274-4457
 - E-mail niwap@wcl.american.edu
- Website: www.wcl.american.edu/niwap