

# **Immigration: Creating a Culture of Social Equity for Immigrant Women and Children**

**A KFLA Community of Practice  
Session 2**

**Presenter Leslye E. Orloff  
June 13, 2017**

# Design Team Introduction

- Michelle Di Benedetto (KFLA Collaborator)
- Lisa Cacari-Stone (Health Fellows & Scholars)
- Leslye Orloff (KNFP-14)
- Ricardo D. Garcia(KNFP-15)

# Immigration Community of Practice Series

- Session 2 - June 13, 2017 - Immigrant Women, Children, and Crime Victims
  - Facilitator – Leslye E. Orloff
  - 2 PM MDT/4 PM ETD
- Session 3 - July 18, 2017 – Advocacy for Immigrants in an Era of Immigration Enforcement
  - Facilitator – Ricardo Garcia
  - 11 am MDT/1 PM EDT
- Session 4- August 15, 2017 - Border health; advocacy, communication, and social mobilization
  - Facilitator – Eva Moya
  - 2 PM MDT/4 PM ETD

# KLFA COP - Session 2

Legal Rights, Immigration Protections and  
Opportunities: Immigrant Women, Children  
and Crime Victims

# Learning Objectives:

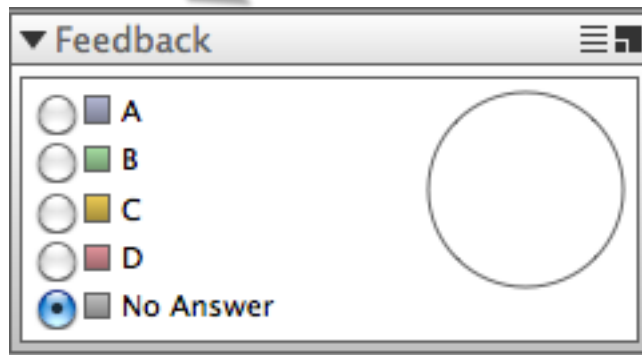
By the end of this CPO participants will be able to

- Become actively involved in identifying and helping immigrant victims and children who qualify for immigration protection
- Know where to access correct information about immigrant victims and children's legal rights to access services and justice system help
- Connect with programs with expertise serving immigrant victims and children
- Identify ways your work can help immigrant victims and children

# Let's see who is on the COP call check the box that best describes you:

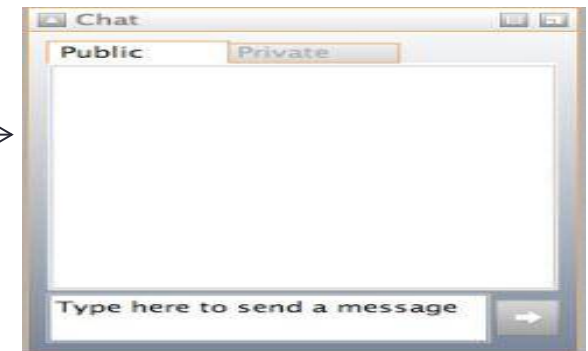
Answer on  
the left

- A. Educator/Professor
- B. Advocate/attorney
- C. Health care provider
- D. Other



A screenshot of a 'Feedback' window. It features a title bar with a dropdown arrow and the word 'Feedback'. Below the title bar, there are five radio buttons, each followed by a colored square and a letter: A (blue), B (green), C (yellow), D (red), and 'No Answer' (blue with a white dot). To the right of these options is a large empty circle.

Other  
write in  
chat box



A screenshot of a 'Chat' window. It has a title bar with the word 'Chat'. Below the title bar, there are two tabs: 'Public' and 'Private'. The main area is a large empty text box. At the bottom, there is a text input field with the placeholder text 'Type here to send a message' and a send button with a right-pointing arrow.

# **DYNAMICS OF DOMESTIC VIOLENCE AND A BUSE EXPERIENCED BY IMMIGRANT VICTIMS AND CHILDREN**

# Systemic Barriers

- Fear of Deportation
- Fear of Losing Custody/access to children
  - Fear of Abandoning Home
- Language Barriers
- Economic Survival
- Misinformation about the U.S. Legal System
- Fear of Being Ostracized by Cultural Community



# Fear of Deportation: Primary Barrier

- Unaddressed blocks all access to
  - Victim services
  - Shelter
  - Health Care
  - Police
  - Justice system
- Role of lack of information about US legal and social services system
- Affects both documented and undocumented immigrant victims

# 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

# 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.



# 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

# Vulnerability of Foreign-Born Children and Youth to Crime Victimization

- Dating Violence
  - One in three adolescents reports knowing a peer who has been part of a physically abusive relationship. (Davis, Antoinette, MPH. 2008. Interpersonal and Physical Dating Violence among Teens. The National Council on Crime and Delinquency Focus.)
  - Similar vulnerability for Asian, Black and White immigrant girls with Latino girls at reduced risk for dating violence (but not sexual assault)  
Silverman, J., Decker, M., and Raj, A., Immigration-based disparities in adolescent girls' vulnerability to dating violence, Maternal Child Health J. 2007 Jan; 11(1):37-43).

# 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

# 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



# 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%





How does attaining  
legal immigration  
status benefit  
survivors?



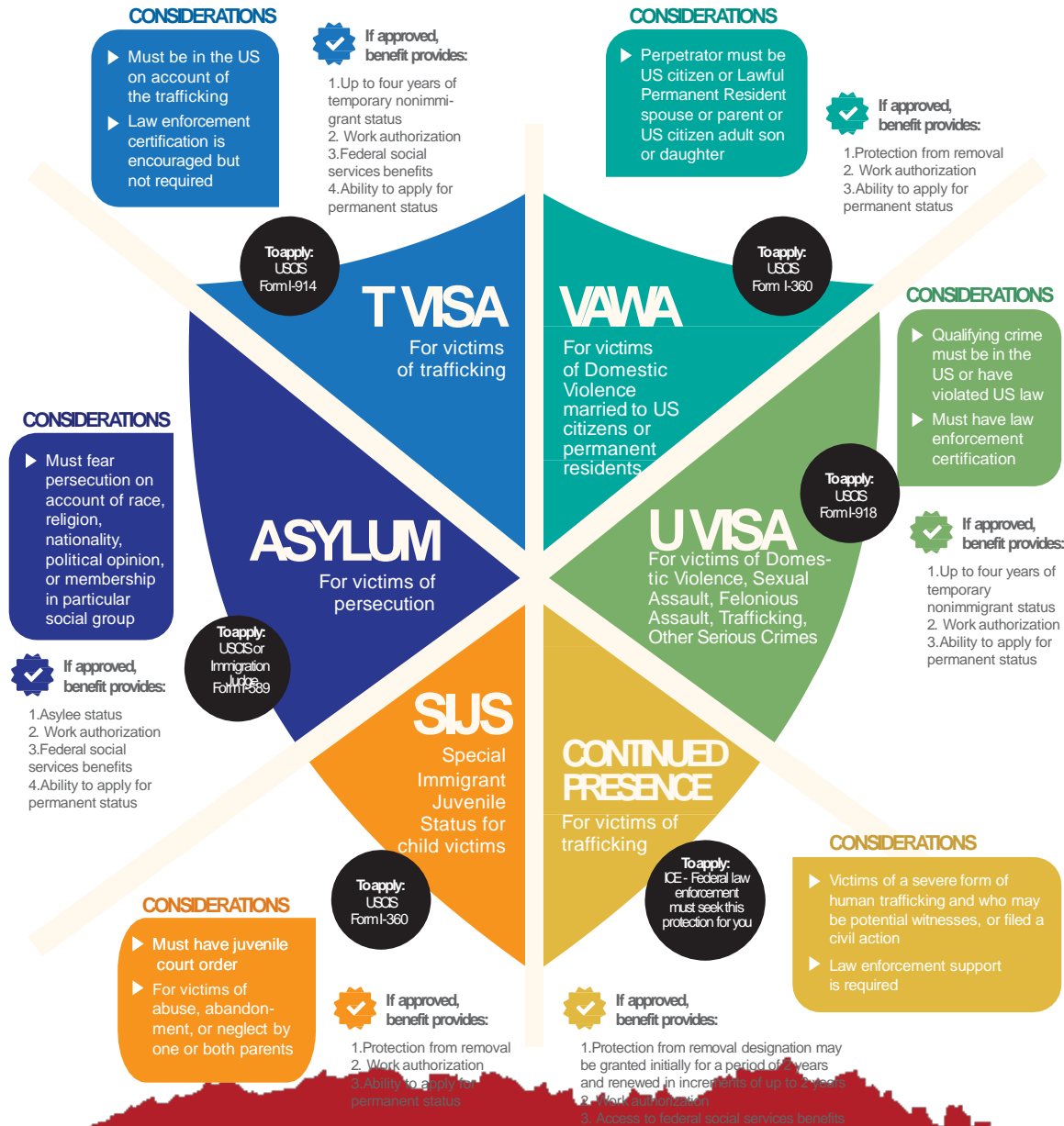
# Benefits for Survivors

- Protection from deportation
- Legal work authorization (7-24 months of filing)
- Access to some state federal or state public benefits including housing and health care
- Access to drivers licenses
- VAWA confidentiality protections
- Enhanced safety for survivors
- Financial independence from perpetrator
- Temporary legal immigration status
- Protections for family members
- Greater access and outcomes from justice system, protection orders, custody, outcomes for children

# Improving Immigrant Victim Safety Through Early Screening

- Know forms of immigration relief immigrant survivors qualify for
- Document history of abuse
- Know differences between immigration options
- File victim's immigration case ASAP
  - DHS VAWA confidentiality computer system
  - Sufficient evidence for prima facie
- Incorporate into safety planning
  - How victim can safely carry DHS document copies

# PROTECTIONS FOR IMMIGRANT VICTIMS



# Immigration Protections for Immigrant Victims

- Legal Protections 1989 – 2013
- Gender neutral
- Help for children, adults, elders



# 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
- 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
- Asylum
  - Well founded fear of persecution on account of race, religion, nationality, political opinion, social group
  - Domestic violence as gender based asylum



# Immigration Law's Domestic Violence Definition “Battering or Extreme Cruelty”

Any state crime committed against a family member sufficient for issuance of a protection order including sexual abuse, stalking, threats, attempts AND/OR:

- Emotional abuse;
- Economic abuse;
- Using children;
- *Deportation threats and immigration related abuse;*
- Intimidation;
- Social isolation;
- Degradation;
- Possessiveness;
- Coercive control;
- Harming pets

# VAWA's Success (8/2015 data)

- 86,000+ U visas
  - Including 50,000+ children
- 84,000+ VAWA self-petitions
  - Including 140,000+ children
- Additional T visas for human trafficking victims
- Numbers of programs serving immigrant victims has increased exponentially
- VAWA funds provide key support to sustain programs serving immigrant victims
- Both legal and social services funded

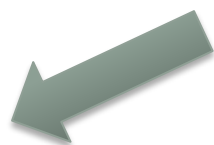


# **ACCESS TO BENEFITS AND SERVICES GROWS AS CHILDREN AND VICTIMS PURSUE IMMIGRATION RELIEF**





# UNDOCUMENTED VICTIMS AND CHILDREN CAN ACCESS TRANSITIONAL HOUSING PROGRAMS?



▼ Feedback

☐ ☒ Yes

☐ ☒ No

☒ ☐ No Answer



# VAWA, HHS, VOCA, HUD Funded Transitional Housing

- Emergency shelter and transitional housing without immigrant restrictions/requirements for:
  - Victims of:
    - Domestic violence
    - Sexual assault
    - Stalking
    - Dating violence
    - Human trafficking
    - Child abuse
    - Other abuse
  - Homeless
  - Runaway or homeless youth
  - Abandoned children



# Housing Programs With No Immigrant Restrictions

- Low Income Housing Tax Credit (LIHTC)
- Section 202 Housing for the Elderly
- Section 811 Housing for the Disabled
- Section 221 (d)(3)
- Indian Housing
- CDBG
- HOME
- HOPWA
- McKinney-Vento/HEARTH Act
- Rental Rehabilitation
- HOPE 2
- Section 515 Rural Rental Housing Program (without Rental Assistance)
- Rural Housing Preservation Grants
- Section 538 Multi-family Loan Guarantees

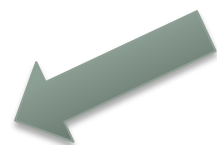


# Immigrants Eligible for Public Housing and Housing Vouchers (Sec. 214)

- U.S. Citizens/U.S. Nationals
- Lawful Permanent Residents (Including SIJS Children)
- **VAWA self-petitioners** (SAVE)
- Refugees and Asylees
- Parolees
- Persons granted withholding of removal/deportation
- Victims of trafficking – Continued presence and T visa bona fide
- Persons granted admission for emergent or public interest reasons
- Persons granted amnesty under the Immigration Reform and Control Act of 1986
- Immigrants eligible for registry who entered the U.S. before June 30, 1948
- Lawful U.S. residents under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam
- Immigrants admitted for lawful temporary residence prior to January 1, 1982



# FEDERALLY FUNDED HEALTH CARE IS AVAILABLE FOR UNDOCUMENTED IMMIGRANTS?



▼ Feedback

☐ ☒ Yes

☐ ☒ No

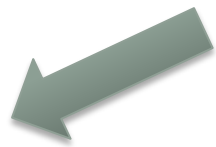
☒ ☐ No Answer

# 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



# DHS REQUIRES UNIVERSITIES TO ASK ABOUT IMMIGRATION STATUS OF APPLICANT OR ENROLLING STUDENT?



▼ Feedback

☐ Yes

☐ No

☒ No Answer





# Education

- DHS does not require universities to ask about immigration status of applicant or enrolling students
- Immigrants eligible for student federal student loans
  - VAWA self-petitioners and their children
  - Permanent residents including SIJS
  - Trafficking victims
  - Refugees/asylees
  - SIJS recipients of lawful permanent residency

# Post secondary educational grants and loans

- Battered immigrant self-petitioners and their children are qualified immigrants eligible to receive DOE funded grants and loans
- Universities are to accept DHS/Immigration Judge
  - Documentation of VAWA self-petition/cancellation status
- On FAFSA check “eligible noncitizen” and provide “A” number
- Explains no-match with DOE/DHS computer system and
  - DOES NOT require verification
- DHS documents must be current at each time of re-application
- Students remain eligible after age of majority unless
  - VAWA case is denied

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



- 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





# Immigration Relief Expands Benefits Access

## VAWA self-petition

- Prima facie = Qualified Immigrant
- Self-petitioner and children

## 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

## Family Based Visa Petition Approved + Battering or Extreme Cruelty

- Public and Assisted Housing
- Not required to file for VAWA

## Special Immigrant Juvenile

- Health care 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



# Who are “Qualified Immigrants”?

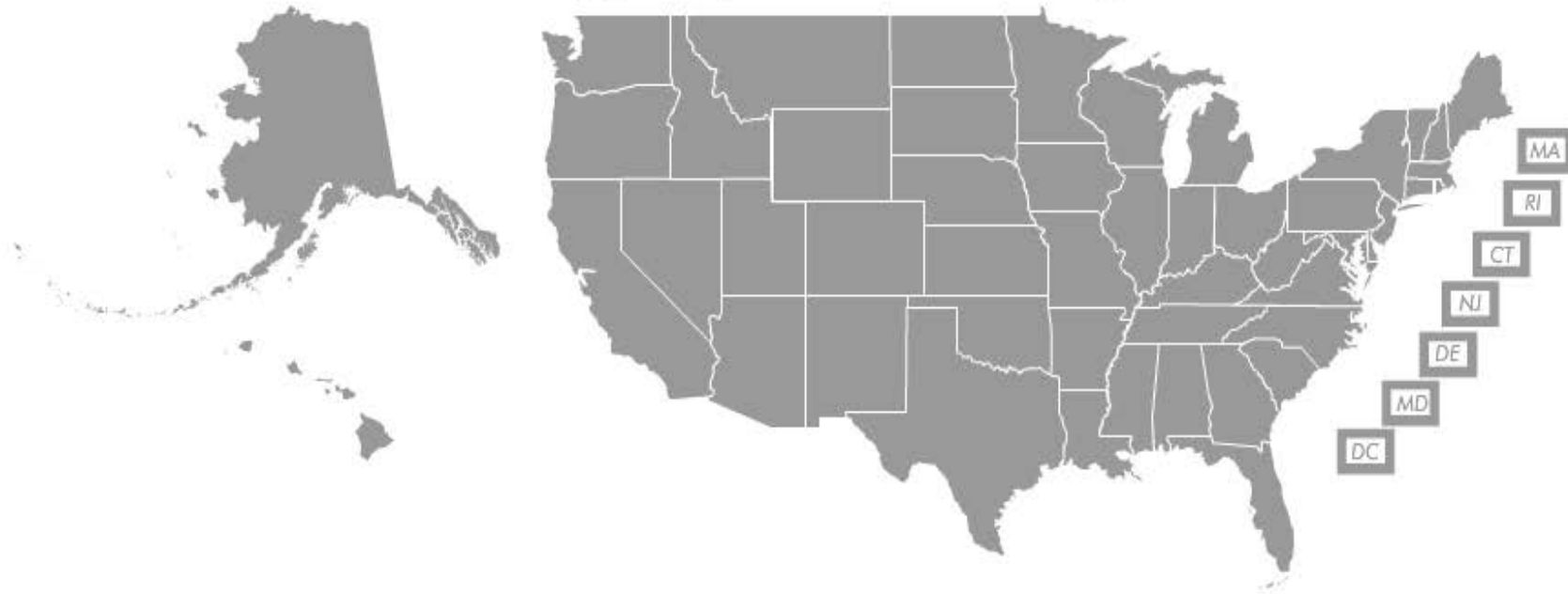
- Lawful permanent residents
- Refugees and asylees
- Cuban/Haitian entrants
- Veterans
- Amerasians
- Trafficking victims filing for or with T visas
- Persons granted conditional entry
- Persons paroled into U.S. one year or more
- Persons granted withholding of deportation or cancellation of removal
- Persons who (or whose children) have been battered or subject to extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent



# Partial List of Federal Public Benefits/Community Programs Open to All “Qualified Immigrants”

- Public and assisted housing
- Post-secondary educational grants & loans
- Access to most subsidized child care
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Job opportunities for low income individuals
- Adoption assistance
- Foster care
- Social services block grant programs
- Supportive housing for the elderly or disabled

# 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.*


# NIWAP






# Partial List of Federal Public Benefits/Community Programs Open to All “Qualified Immigrants”

- Public and assisted housing
- Post-secondary educational grants & loans
- Access to most subsidized child care
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Job opportunities for low income individuals
- Adoption assistance
- Foster care
- Social services block grant programs
- Supportive housing for the elderly or disabled



# Partial List of Federal Public Benefits/Community Programs Open to All “Qualified Immigrants”

- Public and assisted housing
- Post-secondary educational grants & loans
- Access to most subsidized child care
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Job opportunities for low income individuals
- Adoption assistance
- Foster care
- Social services block grant programs
- Supportive housing for the elderly or disabled



# Partial List of Federal Public Benefits/Community Programs Open to All “Qualified Immigrants”

- Public and assisted housing
- Post-secondary educational grants & loans
- Access to most subsidized child care
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Job opportunities for low income individuals
- Adoption assistance
- Foster care
- Social services block grant programs
- Supportive housing for the elderly or disabled

# Family Law

- Custody
- Protection Orders
- National Judicial Education Project
  - Kellogg Funded
  - DE, LA, MI, MO, NM, MS





# Is Immigration Status Relevant to Custody?

- Relevant to: Immigrant crime victim presents evidence of immigration related abuse, power and control suffered
  - Either not filing or withdrawing immigration papers
  - Threats to turn victim in for deportation
  - Part of history of violence
- Not relevant to:
  - Core primary caretaker determination
  - Evaluation of parenting skills
  - Best interests of the child determination
  - Requirements regarding custody awards to non-abusive parent





# Myth vs. Fact:

## Parents Without Legal Immigration Status

### Myth

1. Deportation is imminent
2. Parent is likely to flee U.S. with child
3. The parent has no livelihood
4. Legally present parent must have custody in order to file for benefits for child

### Fact

1. DHS policies prevent detention/removal of immigrant parents who are:
  - Parents of U.S. citizen/Lawful permanent resident children
  - Primary caretaker parents of minor children without regard to the child's immigration status
2. Legal immigrants/naturalized citizens are more likely to flee with children, especially when
  - There have been threats of kidnapping children
  - They are dual nationals
  - They travel freely to and from U.S.
3. Abused immigrant parents in family court have a path to immigration relief, work authorization & some benefits
4. Custody does not affect parent's ability to file for or gain immigration benefits for their children.

# 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

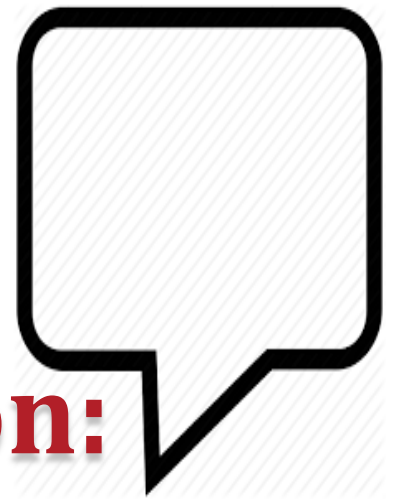


# Protection Orders

- 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 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



**Questions and Discussion:**  
Questions and issues you would  
like to discuss a with the group?



# Resources

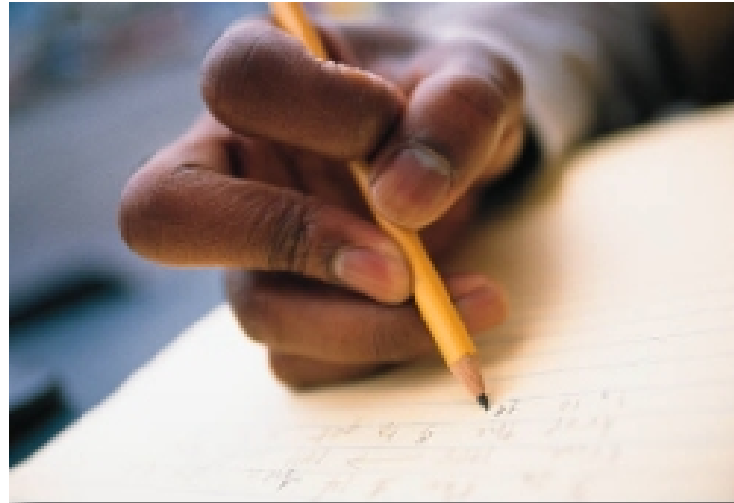
- Materials for this COP is posted at [www.niwap.org/go/KFLACOP2](http://www.niwap.org/go/KFLACOP2)
- Technical Assistance is available at
  - 202-274-4457
  - [info@niwap.org](mailto:info@niwap.org)

# Immigration Community of Practice Series

- Session 2 - June 13, 2017 - Immigrant Women, Children, and Crime Victims
  - Facilitator – Leslye E. Orloff
  - 2 PM MDT/4 PM ETD
- Session 3 - July 18, 2017 – Advocacy for Immigrants in an Era of Immigration Enforcement
  - Facilitator – Ricardo Garcia
  - 11 am MDT/1 PM EDT
- Session 4- August 15, 2017 - Border health; advocacy, communication, and social mobilization
  - Facilitator – Eva Moya
  - 2 PM MDT/4 PM ETD



# Evaluations



Thank You!