

# Immigration, Family Separation, and COVID 19

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Panel - Webinar

# Introduction



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- Led drafting of VAWA self-petition, U visa and T visa protections
- Advisory Committee on Family Residential Detention Centers, Chair Health and Mental Health Committee
- Train judges, police, prosecutors, advocates and attorneys on legal rights of immigrant crime victims

# IMPORTANCE OF SCREENING

# Paths to Detention

- Recent border crossing into the U.S.
- Perpetrator turn in victim
  - Family violence, employer, trafficker, sexual assault perpetrator
- Traffic stops
- Criminal convictions
- Open criminal case

# Perpetrators Efforts to Trigger Victim's Removal

- Perpetrators actively reporting victims with pending immigration cases for removal
  - VAWA self-petitioners 38.3%; U visa 25%
- Perpetrators got the victim arrested when domestic violence victims had called the police for help
  - VAWA self-petitioners rose 2013-2017 from 15.4% -17%
  - U visa rose 2013-2017 from 7.5% -36%

Krisztina E. Szabo, David Stauffer, Benish Anver, *Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014) and Rodrigues et al. Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey (May 3, 2018)

# ICE Removal Data

## 2013

- Convicted criminals 82%
- Repeat immigration violators 7.8%
- Ordered removed and failed to depart 1.6%
- Other immigrants 7.7%

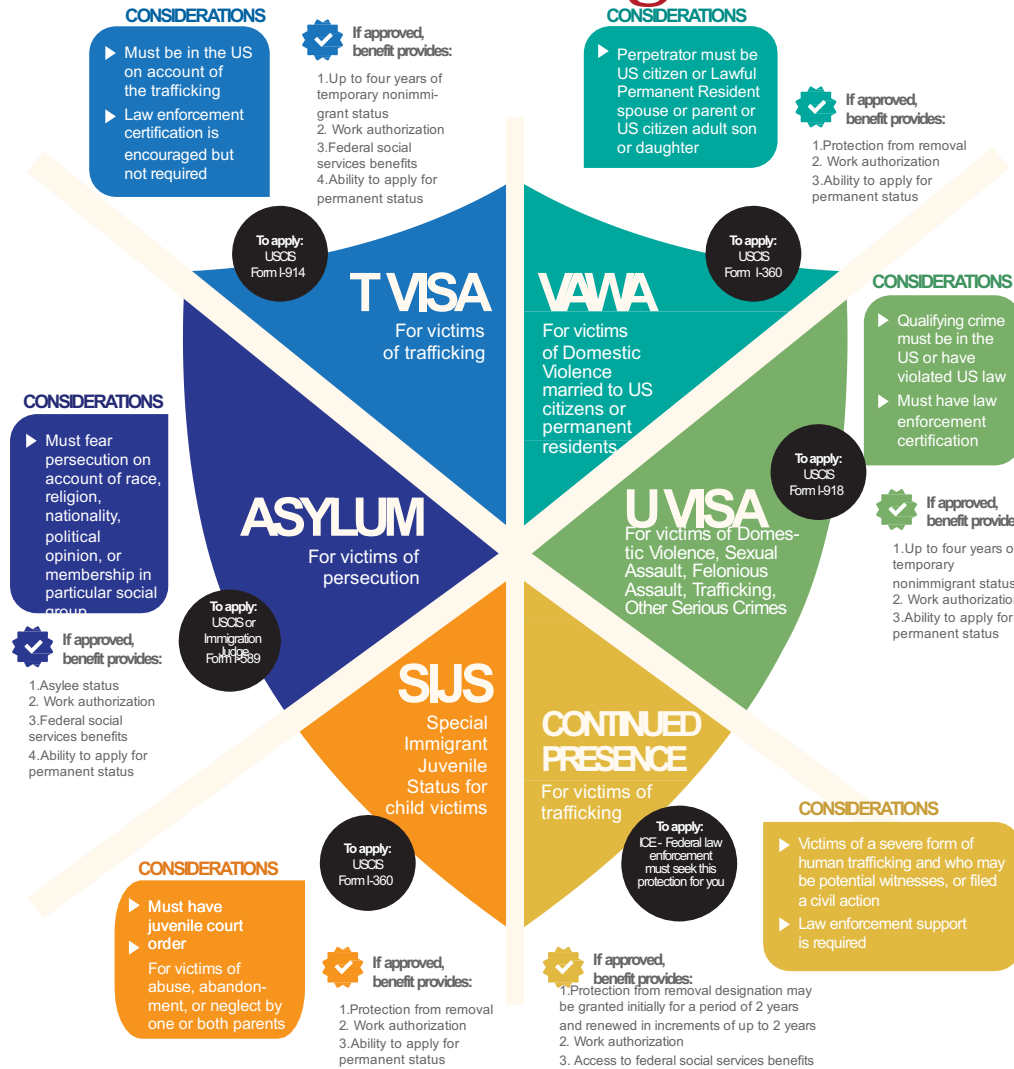
<https://www.ice.gov/doclib/about/offices/ero/pdf/2013-ice-immigration-removals.pdf>

## 2017

- Criminal convictions 73.7%
- Pending criminal charges 15.5%
- Outstanding notices to appear in immigration court 5.3%
- Ordered removed and failed to depart + reinstatement 2.8%
- Other immigrants 2.6%

<https://www.ice.gov/removal-statistics/2017>

# Protections For Immigrant Victims



DHS.GOV/BLUE-CAMPAIGN

# VAWA Confidentiality Prongs

- **Abuser-Provided Information:** DHS, DOJ, and the State Department are barred from taking action against a victim based *solely* upon information provided by abusers and crime perpetrators (and their family members) –
- **Location Prohibitions:** Enforcement locational prohibitions unless comply with specific statutory and policy safeguards
- **Non-Disclosure:** Unless one of the enumerated exceptions apply, DHS, DOJ and the State Department cannot disclose VAWA information to anyone
  - VAWA self-petitioners, VAWA cancellation/suspension, T visa, U visa, Battered Spouse Waiver, Abused Visa Holder Spouses



# Sensitive Locations Protected From Immigration Enforcement

## **VAWA Confidentiality**

- Victims protected at courthouses in connection with civil/family/criminal cases related to
  - Domestic violence, sexual assault, trafficking, stalking
- Shelters, rape crisis centers
- Supervised visitation centers
- Family Justice Centers
- Programs serving victims

## **DHS Policies (ICE & CBP)**

- Schools
- Medical treatment & health care facilities
- Places of worship
- Religious or civil ceremonies e.g. weddings and funerals
- Public demonstrations e.g. march, rally, parade

# DHS VAWA Confidentiality Computer System

- Directs to check for “384” computer system flag that identifies victims who have already filed for or have been granted victim-based immigration relief
- Reminds immigration officers, agents, and attorneys about immigration law protections for
  - Survivors of domestic violence
  - Crime victims survivors
  - Human trafficking survivor
- \$5000 fine and job sanctions for violation

# VAWA, T & U Visa, SIJS Eligible Victims

- When detected offer
  - Counseling & Psychotherapy to address acute symptoms
  - Refer victim to counsel
- For all detainees provide written information about
  - VAWA, T and U visa and SIJS immigration relief
  - At intake, offer informational sessions on, place in library AND
  - As part of the release from detention packet of materials
  - USCIS Brochures
    - VAWA/T/U; SIJS; IMBRA
- Check Central Index System for 384 Flag
  - Release without restrictions and halt expedited removal and reinstatement against and not deport victims

# Once Victims Apply for Immigration Relief They Gain Greater Access to Public Benefits and Services

# Both documented and undocumented immigrants can access:

- Family Court – e.g. divorce, custody, child support, protection orders, child welfare
- Language Access
- Police Assistance
- Have perpetrators prosecuted
- Obtain public benefits for their children
- Elementary & Secondary education
- School lunch/breakfast
- Soup kitchens, food banks, nutrition assistance
- Communicable disease immunizations, testing, treatment, treatment from public health centers
- Services necessary to protect life and safety
- Most COVID-19 Cares Act rental assistance
- Legal Services
- Assistance for Crime Victims
- Emergency Medicaid
  - COVID-19 treatment
- Emergency Shelter
- Transitional Housing
- Child and Adult protective services
- Crisis counseling and intervention
- Violence/abuse prevention services

# Who is a Qualified Immigrant Who Can be Eligible for More Public Benefits Access

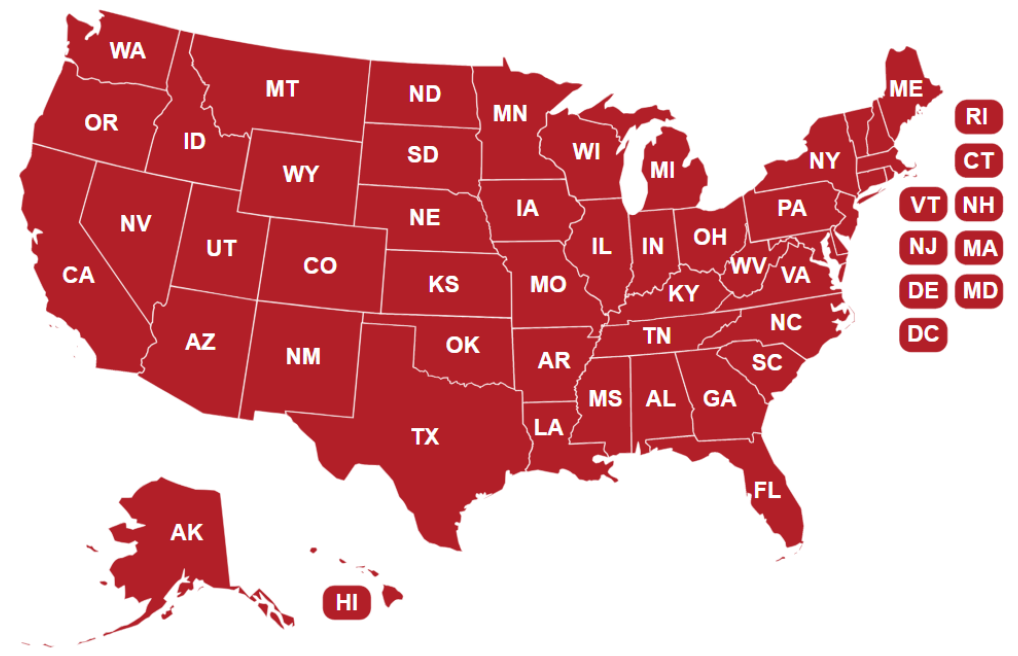
- Qualified Immigrants benefits eligible
  - Lawful permanent residents
    - Includes U visas and SIJS
  - Refugees/Asylees
  - VAWA self-petitioners
  - Trafficking victim with
    - Continued presence or
    - Bona fide determination in T visa case
- Not generally benefits eligible some variation by state
  - Asylum applicants
  - DACA recipients
  - U visa applicants & recipients
  - Work/Student visa holders
  - Undocumented

Many immigrants with work authorization qualify for CAREs Act Rebates and unemployment insurance both state and CAREs Act

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

- Public and assisted housing
- Post-secondary educational grants & loans
- Driver’s Licenses
- Access to most subsidized child care (Not TANF)
- Adoption assistance
- Foster care
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Job opportunities for low income individuals

<http://map.niwap.org/>





# 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

# 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**

# Technical Assistance and Materials

- Power Point presentation and materials for this conference at <https://niwaplibrary.wcl.american.edu/immigration-family-separation-covid-19>
- **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)