

MCADSV Immigrant and Refugee Services Roundtable



October 9, 2020

NIWAP

National Immigrant Women's Advocacy Project
American University Washington College of Law



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Who We Are

- The National Immigrant Women's Advocacy Project (NIWAP) at American University Washington College of Law
- Technical assistance and advocacy organization that promotes the implementation and use of:
 - laws, policies, and practices to improve legal rights, services, and assistance for immigrant victims of domestic violence, sexual assault, stalking, human trafficking, child abuse, and other crimes.



Who We Provide TA To

- Attorneys, advocates, judges, police, sheriffs, prosecutors, and other professionals whose work affects immigrant victims and their children at the Federal, State and local levels



Types of Technical Assistance

- Case consultations
- Training materials and practice tools
- Legal research, motions, briefs
- In-person trainings and webinars
- 24/7 web library and training videos
- Help developing policies/protocols
- Strategies for removing systemic barriers
- Community of Practice and Roundtables
- List serves



You have long been involved in advocating for VAWA—can you give us a brief history of VAWA and how the self-petition, T and U Visa’s came to be??

Purpose of Crime Victim Protections

Congress enacted VAWA self-petitioning (1994) and the U and T visas (2000) to:

- Enhance victim safety
- Allow victims to report crimes and seek help from courts without fear of deportation
- Improve access to justice from family/criminal/civil courts for victims of domestic & sexual violence and child/elder abuse
- Improves survivors options for stability & economic security
Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Keep communities safe

Immigration Relief Available for Immigrant Victims of ---

- Domestic violence
 - Child abuse
- Sexual assault
- Rape
- Incest
- Prostitution
- Torture
- Felonious assault
- Manslaughter
- Murder
- Female genital mutilation
- Kidnapping
- Abduction
- Trafficking
- Involuntary servitude
- Slave trade
- Being held hostage
- Fraud Foreign Labor Contracting
- Peonage
- False Imprisonment
- Blackmail
- Extortion
- Witness tampering
- Obstruction of justice
- Perjury
- Stalking
- **Parent perpetrated**
 - **Child abuse**
 - **Child neglect**
 - **Child abandonment**

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

Can you provide a policy update for issues impacting immigrant survivors of violence at the federal level?



Emerging Issues

- Filing the strong possible
- Filing early
- Blank space
- Public charge exception
- New filing location for some states

What are you hearing
about how immigrant
survivors are being
impacted by COVID-19?
How can service
providers best respond??



COVID-19 Resources for Immigrant Survivors, Advocates, Attorneys, and Courts:

The screenshot shows a web browser window with the address bar displaying "niwaplibrary.wcl.american.edu/other-resources-covid-19". The page content is as follows:

COVID-19 Resources for Immigrant Survivors, Advocates, Attorneys, and Courts

NIWAP recognizes the impact of an increased risk for immigrant survivors and the critical need to access COVID-19 screening and healthcare, as well as access to critical aid and economic support provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Families First Coronavirus Response Act (FFCRA). It is crucial that victim advocates, attorneys, police, prosecutors, courts and other service providers working with immigrant survivors are able to accurately identify immigrant survivors who are eligible for assistance.

In response we have developed and publication titled "Immigrant Crime Victim Access to Relief During the COVID-19 Crisis Under the CARES and FFCRA Acts (May 20, 2020)" To support professionals working with immigrant survivors determine when immigrant survivors qualify for help under the CARES and FFCRA Acts. We want to lift-up a wide range of resources from partner organizations that we have compiled on this web page to help keep you informed and updated during this unprecedented time.

CARES Act Eligibility

- NIWAP: Immigrant Crime Victim Access to Relief During the COVID-19 Crisis Under the CARES and FFCRA Acts (May 20, 2020)
- National Immigration Law Center: Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities
- National Immigration Justice Center: COVID-19 Q&A: Understanding Benefits you can receive during the COVID-19 Emergency Crisis (April 2020)
- National Employment Law Project: FAQ Eligibility for Assistance Based on Immigration Status
- Protecting Immigrant Families: Immigrant Eligibility for Public Programs During COVID-19
 - En Español: Elegibilidad de Inmigrantes Para Programas Públicos
- National Law Review: The Families First Coronavirus Response Act FAQs: The FMLA Amendments and Paid Sick Leave Requirements of the New Law

CARES Act Cash Benefits

- Human Rights Initiative: stimulus eligibility checker (please let kcohn@hronline.org if you see any errors)
 - English language version
 - Spanish language version

On the right side of the page, there is a large "NIWAP" logo, a red "DONATE HERE" button, a "Google Custom Search" box, and several resource links including "Directory of programs with experience serving immigrant victims", "State-by-state map of available public benefits", "Find upcoming webinars and trainings in your area", and "View past webinar recordings, PSAs, and a set of roll call training videos for law enforcement".

The Windows taskbar at the bottom shows the search bar with "Type here to search", several application icons (including Word, Chrome, and Outlook), and the system tray with the time "6:41 PM" and date "6/22/2020".

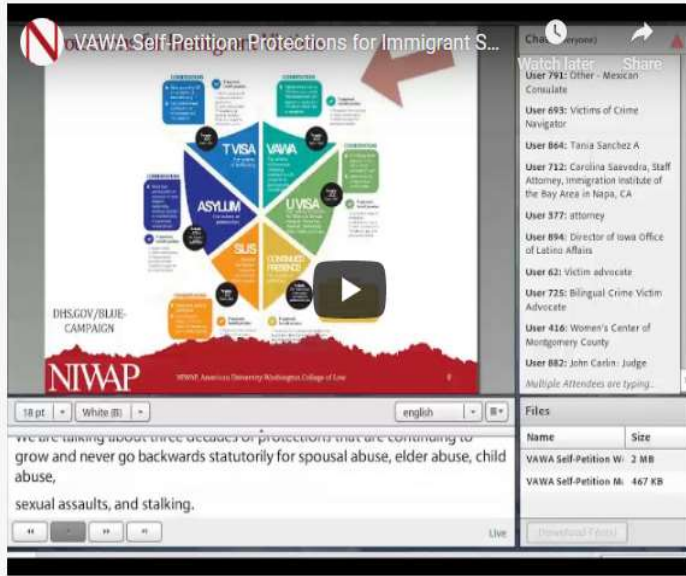
Immigrant Crime Victim Access to Relief During the COVID-19 Crisis Under the CARES and FFCRA Acts (May 20, 2020)

- Found on NIWAP Weblibrary
<http://niwaplibrary.wcl.american.edu/pubs/cares-act-unemployment-imm-victims-5-27-2020>
- Discusses eligibility of immigrant survivors who are applicants for, or recipients of, various forms of victim based immigration relief for assistance under the CARES and FFCRA legislation

Immigration Options for Immigrant Survivors and Their Children: VAWA Self-Petitions

Webinar on VAWA Self-Petition

April 22, 2020: "VAWA Self-Petition: Protections for Immigrant Survivors of Domestic and Sexual Abuse by Abusive Spouses and Parents" (Webinar)



The screenshot shows a webinar interface. The main content area displays a presentation slide titled "VAWA Self-Petition: Protections for Immigrant S...". The slide features a central diagram with five colored segments: T VISA (blue), VAWA (green), U VISA (yellow), ASYLUM (orange), and SUS (red). Below the diagram is the NIWAP logo and the text "DHS.GOV/BLUE-CAMPAIGN". The webinar interface includes a "Watch later" and "Share" button, a list of participants, and a "Files" section with two files: "VAWA Self-Petition W..." (2 MB) and "VAWA Self-Petition M..." (467 KB). The participant list includes:

- User 791: Other - Mexican Consulate
- User 693: Victims of Crime Navigator
- User 864: Tania Sanchez A
- User 712: Carolina Saavedra, Staff Attorney, Immigration Institute of the Bay Area in Napa, CA
- User 377: attorney
- User 894: Director of Iowa Office of Latino Affairs
- User 62: victim advocate
- User 725: Bilingual Crime Victim Advocate
- User 416: Women's Center of Montgomery County
- User 882: John Carlin - Judge

Multiple Attendees are typing...

This webinar includes an overview of the basic requirements for VAWA Self-Petition. It also covers how to identify who may be eligible for VAWA Self-Petition immigration relief and how to screen and identify types of assistance that immigrant survivors qualify to receive. The presentation provides information on how to apply for and afford a VAWA Self-Petition. [View the VAWA Self-Petition](#)

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DONATE HERE

Google Custom Search Search

For technical assistance on the legal rights of immigrant crime victims, please contact us at (202)274-4457 or at info@niwap.org

Other resources:

Directory of programs with experience serving immigrant victims

State-by-state map of available public benefits

Find upcoming webinars and trainings in your area

View past webinar recordings, PSAs, and a set of roll call training

<https://niwaplibrary.wcl.american.edu/2020-vawa-self-petition-webinar>

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How would you describe
the advocate/service
provider/non-attorney's
role in supporting a
survivor throughout the
process?



What Advocates Can Do

- Screening and identifying survivors
- Helping survivors obtain identity documents
- Assist survivors with writing a declaration using the trauma informed tool
- Providing a letter of support/ expert affidavit of services provided
- Collaborating with certifiers to obtain U visa certification
- Flagging for immigration inadmissibility
- Collecting other evidence

What are the first steps a survivor should focus on for a VAWA self-petition?



What are the key elements that a survivor should include in their statement?
What advice do you give to survivors about writing their statement?



Trauma-Informed Declaration Writing

- **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

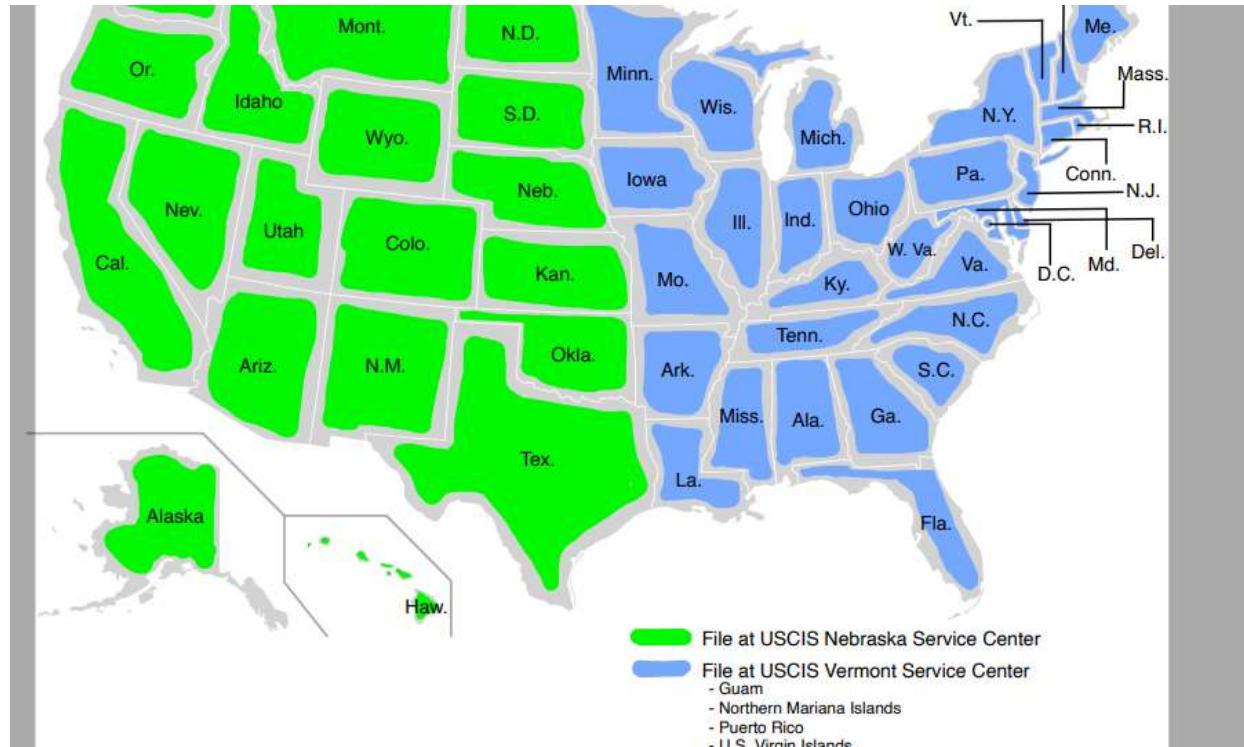
Is it possible for a survivor to apply for a VAWA self-petition if they do not want to leave their abusive partner? What advice do you have to support these survivors?



What do survivors need to know about the changes in USCIS processing center locations?



As of 10/9/2020, Missouri files at VSC

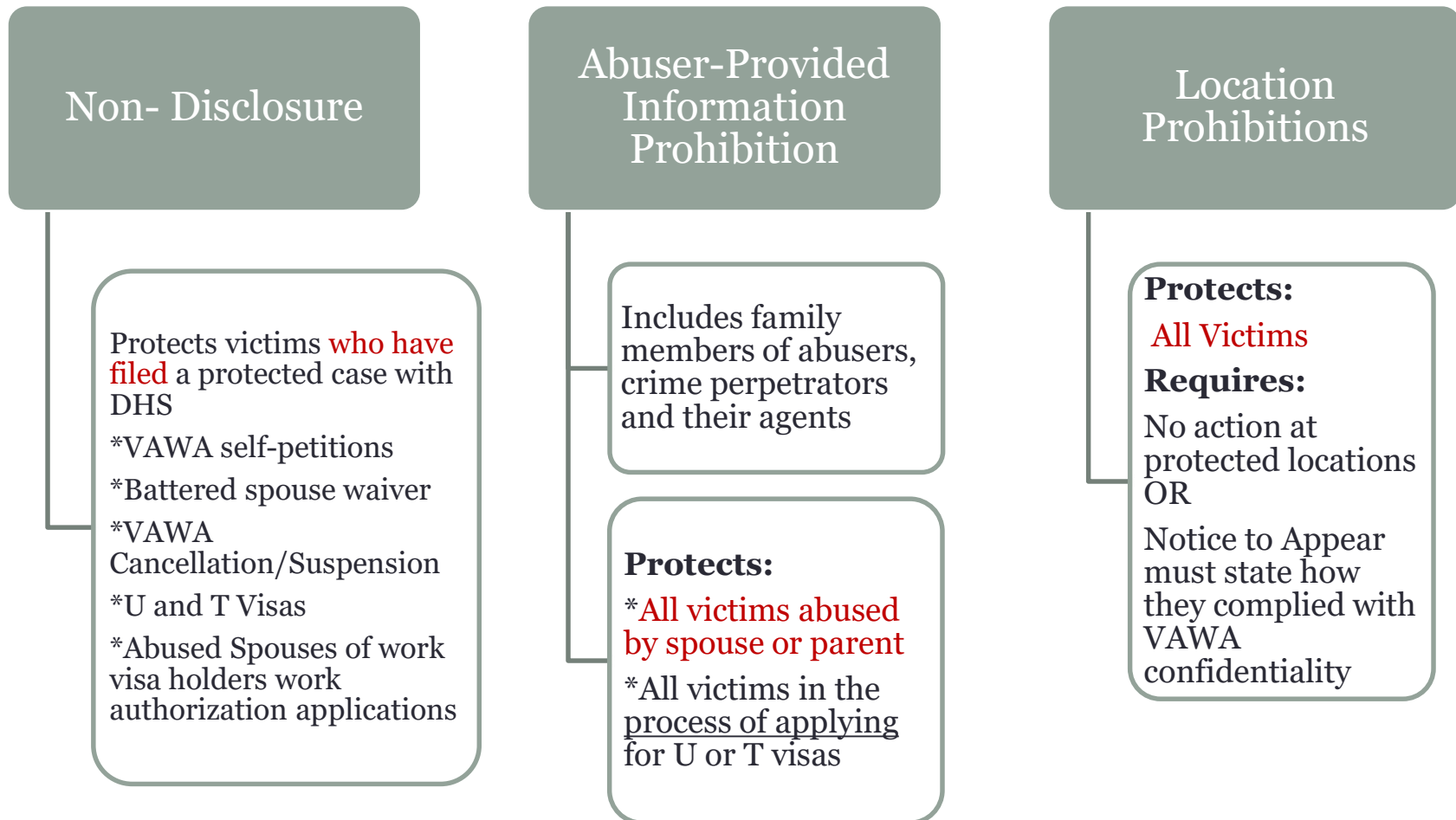


<https://niwaplibrary.wcl.american.edu/wp-content/uploads/USCISC-filing-locations-map-07.24.20.pdf>

Can you explain VAWA confidentiality? Who and what is protected by it?



VAWA Confidentiality Prongs Chart



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

Immigration Options for Immigrant Survivors and Their Children: U Visa



How long is the processing time currently? Can you speak to the U Visa cap and any potential for it to be increased?

What family members are eligible for U Visa relief if a child is a victim of crime?
What is their application process?



U Visa Relief for Family Members

- If the survivor is 21 or older
 - Spouse
 - Must Legally married at the time of applying
 - Unmarried child(ren) under 21
- If under 21 years old
 - Spouse
 - Unmarried children under
 - Parents
 - Unmarried siblings under 18
- In some cases a parent(s) may apply if child victim is a U.S. citizen
- Family member must be admissible or may need to file a waiver
- If your family member was the person who committed the crime against you, then s/he will not be eligible

Survivors often do not wish to involve law enforcement in their case. Are they eligible for a U Visa even if they do not wish to report the abuse to the police? If so, how?



Range of U Visa Certifiers

*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



Supplement B, U Nonimmigrant Status Certification

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-918
OMB No. 1615-0104
Expires 02/28/2019

Family/Civil Case Examples: Evidence of Helpfulness

- Filed and/ or appeared at hearing for full protection order
- Plead and or testified about abuse or sexual assault in a court case (e.g. protection order, divorce, custody, small claims, housing, employment)
- Evidence in case that victim called the police, made a police report, cooperated in a criminal or EEOC investigation
- Serving the perpetrator with notice of a
 - temporary protection order
 - A case in which the pleadings contain allegations of facts that constitute domestic violence, sexual assault or other U visa criminal activities

Do you have any suggestions for service providers working with law enforcement who refuse to sign the U Visa certification?



Resources for Law Enforcement

- Direct TA with a peer
- Onsite training on immigrant crime victim issues and language access
- U Visa Law Enforcement and Prosecutor Toolkit
- Language access tools for law enforcement

Training for Law Enforcement in Your Community

- Onsite or virtual training on immigrant crime victim issues and language access
- Virtual Roundtables for Law Enforcement and Prosecutors
 - Discussion on a various topic and strategies that will improve ways departments can build rapport, establish trust, and ensure safety

What other forms of relief are available if a survivor is not eligible for a U Visa and/or a VAWA Self-Petition?

Update on asylum relief available to victims of violence?

Updates on DACA?



Public Benefits for Immigrant Survivors

What should service providers be telling immigrants about the Public Charge Rule?



“Public Charge” Rule

- The public charge inadmissibility test does not apply to all immigrants –
 - Exceptions for including refugees; people granted asylum; survivors of trafficking, domestic violence, or other serious crimes (VAWA, T or U visa applicants/holders); and applicants for temporary protected status (TPS).
 - Exemptions are in the immigration statute and cannot be changed by regulations.
- Most immigrants who are subject to public charge are not eligible for the benefits that count under the rule, and many benefits are not considered in the public charge assessment.

How can service providers
find out what benefits
survivors are eligible for
based on their immigration
status?



Interactive Public Benefits Map

NIWAP Web Library About NIWAP Maps by Benefit Demographics

NIWAP

Web Library About NIWAP Maps by Benefit Demogr

Legal Services

Maps by Benefit

These maps break down available public benefits based on immigrant's state and immigration status.

We are still working on this site, so if you cannot click on your state, check back soon for completed maps.



Cash Assistance (TANF)

Temporary Assistance for Needy Families (TANF) provides cash assistance to low income families with children.

[Go to Map](#)



Child Care

Child Care services may be provided through public benefits.

[Go to Map](#)



Children's Health Insurance Program

Medical assistance is available to children through the Children's Health Insurance Program (CHIP).

[Go to Map](#)



Driver's License

State-specific requirements to be issued a driver's license.

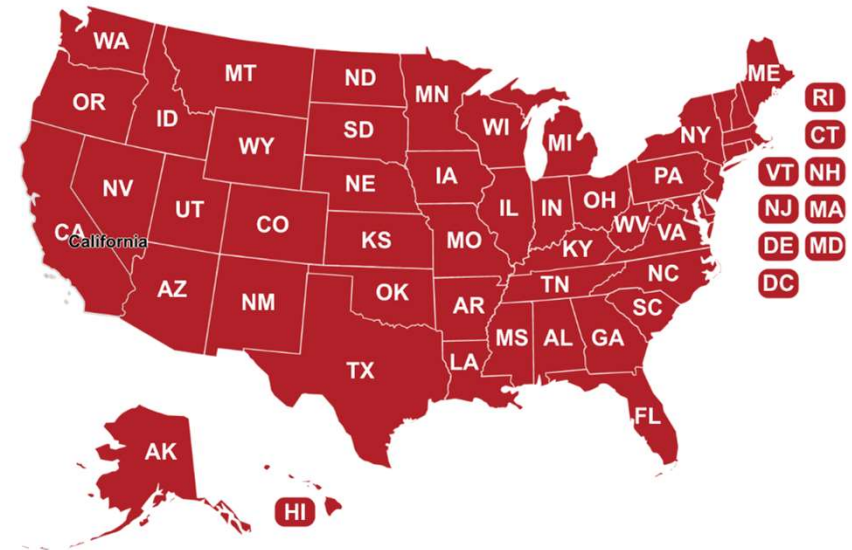
[Go to Map](#)



Earned Income Tax Credit



Emergency Housing & Safety Programs



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

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In civil proceedings
who is required to
provide an interpreter:
the court? Attorneys?



Title VI of the Civil Rights Act 1964

Meaning:

Government & government funded programs must provide meaningful access to programs & benefits to persons with limited English proficiency

DOJ LEP Directive to State Courts on Federal Civil Rights Requirements (8/20/2010) - Interpreters

- LEP individuals are to be provided qualified interpreters
 - For all parties, defendants and witnesses and all persons whose presence is necessary or appropriate (e.g., parents of minor crime victims)
 - In ALL court room proceedings whether civil, criminal, administrative, includes motions and status hearings
 - LEP individuals should not incur any fees for these services

DOJ LEP Directive to State Courts on Federal Civil Rights Requirements (8/20/2010) - Interpreters

- LEP individuals are to be provided qualified interpreters
 - Not restricted to court rooms, also other court functions including:
 - Clerks offices, records room
 - Alternative dispute resolution
 - *Pro se* clinics
 - All interactions with court appointed personnel (e.g. batterers treatment, guardians ad litem, court psychologists, testing)

Do you have any
recommendations for
using interpreters while
practicing social
distancing?



Language Access: TA Provider



Ana Paula Noguez Mercado, LL.M
Interpretation Training and Technical
Assistance Coordinator
Asian Pacific Institute on Gender-Based
Violence

Cannon Han
Program Manager
Asian Pacific Institute on Gender-
Based Violence

BEST PRACTICES FOR WORKING WITH REMOTE INTERPRETERS



Tip Sheet

Remote Interpreting in Domestic Violence/ Sexual Assault Victim Service Settings

This is a dynamic and living document. Our intention is for it to reflect new issues and solutions as they develop. If you have any additional information on remote interpreting from a healing-centered approach, please email us at anoguez@api-gbv.org to incorporate that knowledge into these resources.

What is Remote Interpreting?

Remote interpreting is a telecommunication service that uses devices such as web cameras or video phones to provide sign language or spoken language interpreting services¹. Remote interpreting modalities are:

- Over-the-phone interpreting (OPI): Interpreting provided over the phone via a landline or browser app with audio
- Video Remote Interpreting (VRI): Interpreting provided over video platforms with a camera (using one audio channel)

In domestic violence/ sexual assault victim services settings, remote interpreting may be appropriate when:

- It is impossible to provide on-site interpreting due to disaster response restrictions
- No certified or qualified interpreter is available in person

For best practices and tips on Remote Counseling and Advocacy, visit:

- **NNEDV**, How to Operate as a Remote Workplace During a Public Health Crisis:

<https://www.techsafety.org/remote-work-public-health-crisis>

- **NJCEDV**, Tips for Remote Counseling and Advocacy, <https://njcedv.org/tips-for-remote-counseling-advocacy/>

Victim service agencies providing remote advocacy need to ensure their services are equally available to survivors with Limited English proficiency (LEP). They need to meet clients where they are, and provide safe options that allow them to communicate with the program, and benefit from services in their primary language.

Below some basic considerations/guidelines to ensure the provision of accessible services to populations with LEP.

Basic Considerations

1) Protecting client's confidentiality:

- Ask interpreters/interpreting agency what safeguards they implement to ensure the protection of confidential information shared during appointments/events
- Sign an agreement with interpreters/interpreting agencies detailing client's confidentiality and

What advice do you have for domestic and sexual violence services providers and immigrant service providers to best coordinate services? (related to differences in philosophical approaches, confidentiality, safety etc.)?



NIWAP has trained judges in Missouri. Do you have any insight from that experience that would be helpful for this group?



What is the best way for services providers to stay informed of policies that impact immigrant survivors of violence?

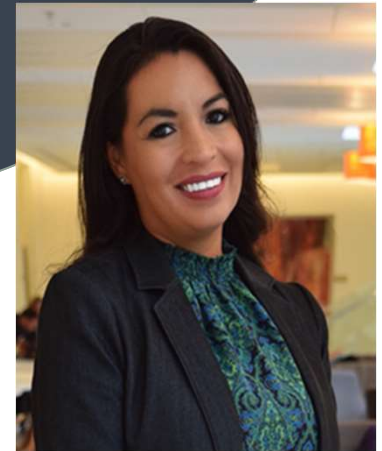


The Alliance for Immigrant Survivors (AIS)



<https://www.immigrantsurvivors.org/about-us>

What changes in
immigration relief and
resources for immigrant
victim of crime are you
concerned about?
Hopeful for?



Continued Support from NIWAP, Resources, Technical Assistance, Evaluation and Conclusion

Technical Assistance and Materials

- NIWAP Technical Assistance:
 - Call (202) 274-4457
 - E-mail niwap@wcl.american.edu
- Web Library: www.niwaplibrary.wcl.american.edu

