

NIWAP



***Enhancing Victim Safety: Immigration
and Family Law Protection for
Immigrant Domestic and Sexual
Violence Survivors***

Nevada Coalition to End Domestic and Sexual Violence

**Reno, Nevada
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NIWAP

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Join a NIWAP Community of Practice

- NIWAP runs several Communities of Practice that meet virtually to provide peer-to-peer learning opportunities for victim advocates and attorneys serving immigrant victims of domestic violence, sexual assault, dating violence, stalking, and human trafficking.
- Please join & encourage others in your community to join:
- Victim Advocates COP
 - <https://www.surveymonkey.com/r/VictimAdvocateCOPApp>
- Family Law Attorneys COP
 - www.surveymonkey.com/r/FamCOP2023

Learning Objectives

- Screen and support survivors for immigration relief eligibility using a trauma-informed approach
- Improve victim safety and economic security through immigration relief, public benefits access in Nevada, and identifying co-occurring human trafficking
- Help survivors obtain U & T visa certifications and SIJS judicial determinations
- Ensure survivors receive VAWA confidentiality protections, civil protection orders, and custody awards

IMMIGRATION RELIEF OVERVIEW AND SCREENING

How do VAWA's
immigration protections
benefit immigrant victims
and their children ?

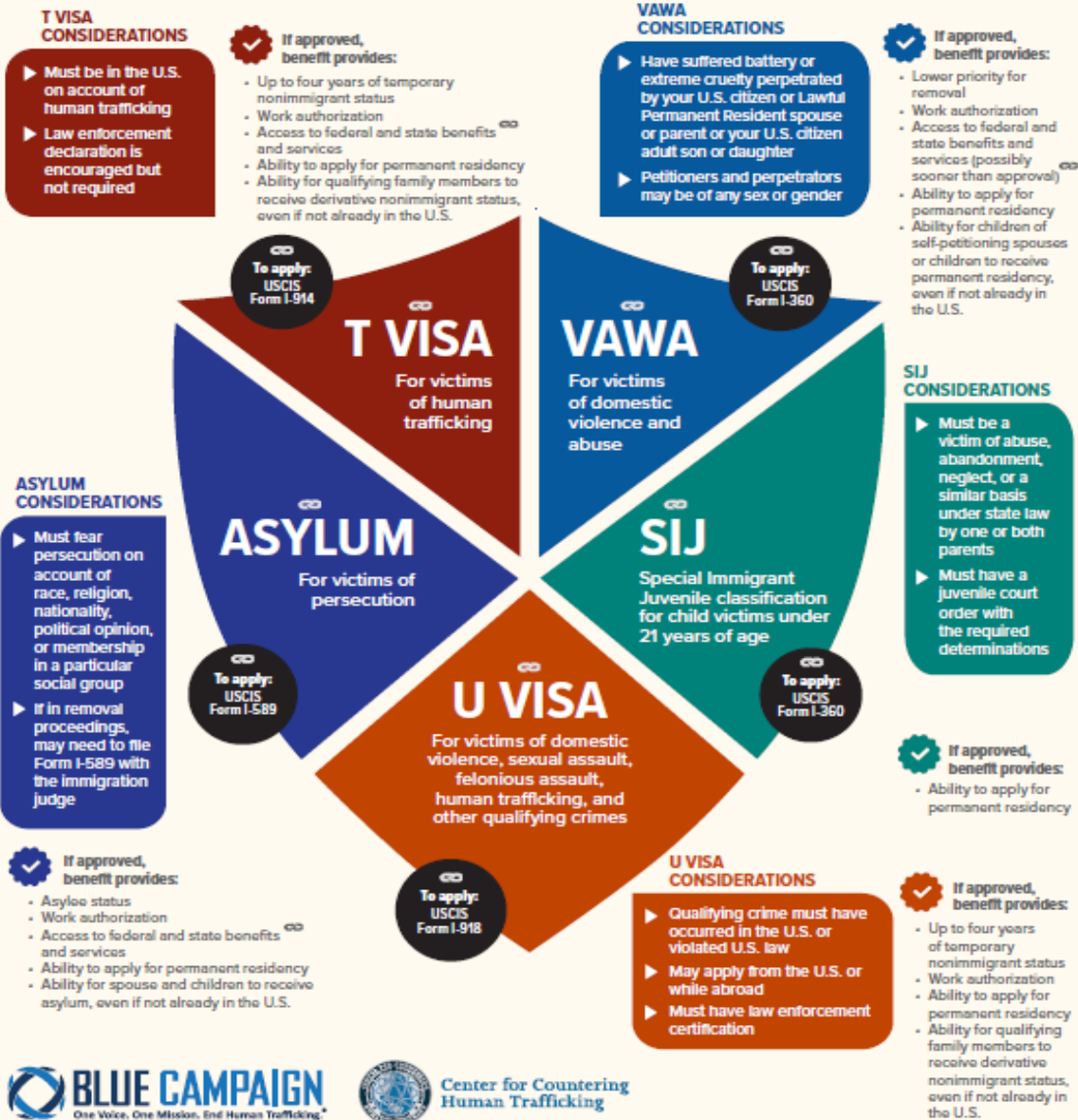


Benefits for Survivors

- Protection from deportation
- Access to lawful immigration status
- Financial independence from the perpetrator
 - Employment authorization (6 months to 2 years from filing)
 - Issuance of federally recognized driver's licenses and IDs
 - Increased access to federal and state public benefits
- VAWA confidentiality

U.S. Immigration Benefits for NONCITIZEN CRIME VICTIMS

Immigration Protections for Noncitizen Victims of Crime and Abuse



Center for Countering Human Trafficking

VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
 - spouse; parent; or citizen adult son/daughter (over 21)
- With whom Self-Petitioner Resided
 - No time period required
- Good Moral Character
- Good Faith Marriage
- VAWA cancellation of removal has similar eligibility requirements
- 2023 time to work authorization = 4-34 months

Battered Spouse Waivers

- For domestic violence survivors, provides for waiver of the “condition” placed on the status of immigrant spouses of marriages less than two years old
- Waives both the joint filing requirement and two year wait for full lawful permanent resident status
- Requires proof that:
 - Marriage to a U.S. citizen or permanent resident entered into in good faith and
 - Spouse or child, including a stepchild, was battered or subjected to extreme cruelty.

2023 time to approval 17.5 to 29 months

Immigration and Nationality Act § 216(c)(4)

Special Immigrant Juvenile Status (SIJS)

- Child is dependent on a juvenile court or legally committed to or placed under the custody of an agency or department of State, or an individual or entity appointed by a State court.
- Reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law.
- Child's best interest would not be served by being returned to his or her country of origin.

8 U.S.C. § 1101(a)(27)(J)

U Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful in
 - Detection, investigation, prosecution, conviction or sentencing
- 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
- 2023 time to work authorization – 60-62 months

T Visa for Trafficking Victims

- A victim of a severe form of trafficking in persons
 - Sex or labor trafficking involving victim under 18 or and adult subject to force, fraud or coercion
- Victim is physically present in the U.S. on account of trafficking
- Victim must comply with reasonable requests to help in investigating or prosecuting of trafficking. Exceptions
 - Under age 18
 - Physical or psychological trauma impedes helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
- 2023 time to work authorization = 18 months

Protections for Abused Children and Family Members

- VAWA self-petitioner = Abused child, stepchild, parent or parent of an abused child can apply for the family:
 - Over 21: applicant's children/stepchildren
 - Under 21: Can include their parent and their children
- U and T visa applicant = Victim/parent of an abused child can apply for family:
 - Over 21: spouse and children/stepchildren
 - Under 21: spouse, children, stepchildren, parents, unmarried siblings under 18
- Special Immigrant Juvenile Status = child victim
 - Family included: None

Clara and Eduardo Case Scenario -1

Clara met Eduardo, an LPR, when he visited his family in El Salvador. Eduardo started dating Clara who was raising her 9-year-old son Miguel. After Clara became pregnant and gave birth to a baby girl Lupe, Eduardo decided to bring Clara, Miguel and Lupe to the U.S. to live with him.

Clara and Eduardo Case Scenario -2

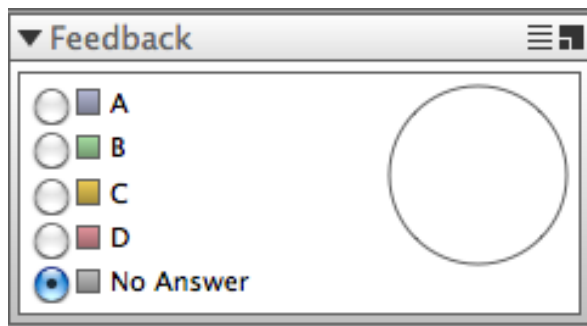
When they arrived in the U.S. Eduardo took Clara's and the children's passports and became physically and sexually abusive of Clara. He also abused Miguel, who tried to protect his mother from Eduardo's abuse. Eduardo also physically beat Lupe when he said she misbehaved. Within a year following their arrival in the U.S. Eduardo forced both Clara and Miguel to work for his family's business and never paid them for their labor.

Clara and Eduardo Case Scenario - 3

One night when Miguel was 13 and Lupe was 4, Eduardo's rage led to severe beatings with a belt of Miguel and of Lupe. When Clara intervened to protect the children, Eduardo strangled her until she passed out. The neighbors called the police for help and Clara talked to police when they arrived. The police arrested Eduardo for attempted murder and child abuse, took Clara to the hospital and placed the children in the care of the state.

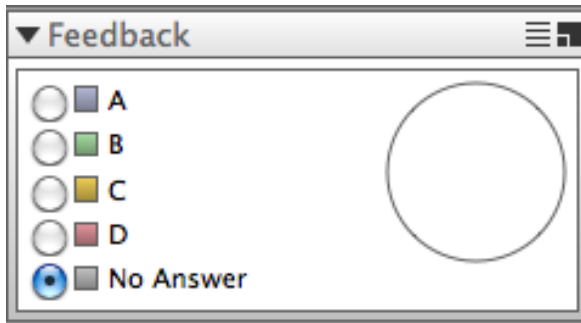
Poll 1: What forms of immigration relief would Clara qualify for:

- A. U visa
- B. Included in Lupe's VAWA self-petition
- C. T visa
- D. All of the above



A screenshot of a poll interface. The window title is "Feedback". On the left, there are five radio button options: A (blue square), B (green square), C (yellow square), D (red square), and No Answer (blue circle). On the right, there is a large empty circle.

Poll 2: What forms of immigration relief would Miguel qualify for: (Select all that apply)



A screenshot of a poll interface. The window has a title bar with a dropdown arrow and the word "Feedback". Below the title bar, there are five radio buttons, each with a colored square next to it: A (blue), B (green), C (yellow), D (red), and No Answer (grey). The "No Answer" option is selected. To the right of the radio buttons is a large empty circle.

- A. VAWA self-petition
- B. U visa
- C. T visa
- D. SIJS

Poll 3: What forms of immigration relief would Lupe *NOT* qualify for:

The image shows a screenshot of a poll interface. At the top left, there is a 'Feedback' button with a downward arrow and a menu icon. Below this is a legend with five options: 'A' (blue square), 'B' (green square), 'C' (yellow square), 'D' (red square), and 'No Answer' (blue circle). To the right of the legend is a large, empty oval shape, which is the poll question area.

- A. VAWA self-petition
- B. U visa
- C. Special Immigrant Juvenile Status (SIJS)
- D. T visa

VAWA CONFIDENTIALITY IMPROVES VICTIM SAFETY

Poll 4: Have you worked with survivors who have ... (Check all that apply)

- A. Received threats of deportation from perpetrators
- B. Been contacted by immigration enforcement officials
- C. Fears about abusers raising immigration status against them in a custody case

VAWA Confidentiality Prongs Chart

Non-Disclosure

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

- *VAWA self-petitions
- *Battered spouse waiver
- *VAWA Cancellation/Suspension
- *U and T Visas
- *Abused Spouses of work visa holders work authorization applications

Abuser-Provided Information Prohibition

Includes family members of abusers, crime perpetrators and their agents

Protects:

- ***All victims abused by spouse or parent**
- *All victims in the process of applying for U or T visas

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

Safe Protected Locations

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 Policy 10/27/21 At or Near:

- Schools and universities
- Medical or mental health care facilities
- Places of worship, religious events, weddings, funerals
- Places where children gather
- Social services: e.g., crisis, domestic violence, child advocacy, food banks, victim services, shelters, supervised visitation, family justice centers
- Disaster/emergency response offered including family reunification
- Ongoing parade, demonstration, rally

Value of Filing Early

- File the victim's immigration case ASAP
 - DHS VAWA confidentiality computer system
 - Sufficient evidence for prima facie/bona fide
- Benefits for victims of early filing:
 - Protection from deportation
 - Safer for victims to cooperate in criminal cases
 - Earlier access to work authorization
 - Speeds access to public benefits
 - Better position in the family law case
 - Can submit additional evidence as it becomes available before adjudication

After VAWA Self-Petitioners and U Visa Victims Receive Work Authorization and Deferred Action

- Increased justice system involvement
 - 114% increase in willingness to trust the police
 - 36% make police reports regarding future crimes
 - 60% seek protection orders and/or custody
 - 22% help other victims report abuse and seek help/justice
- Significant reductions in abusers using the victim's immigration status as a tool to perpetuate abuse
 - 74% decline in immigration-related abuse
 - 78% decline in threats to snatch/cut off access to children
 - 65% decline in efforts to use the immigration status of the victim to gain an advantage in family court

As Part of Safety Planning

- Try to file immigration case before:
 - Protection order, family, or criminal court case
 - Victim relocates to a new, safe location
 - Particularly when victims are experiencing immigration-related threats
- Understand the role of VAWA confidentiality laws
 - Letter stating victim is in the process of filing a VAWA, T visa or U visa case
- Help victims gather sufficient evidence at filing to receive prima facie or bona fide determination

U VISAS PROMOTE TRUST AND
ACCESS TO JUSTICE:
U VISAS AND U VISA CERTIFICATION

U Visa Requirements

Victim

- Qualifying criminal activity
- Possesses information about the crime
- Criminal activity occurred in U.S. or violated U.S. law

Helpfulness

- Victim has been, is being, or is likely to be helpful in *any of the following*:
 - Detection
 - Investigation
 - Prosecution
 - Conviction
 - Sentencing

Harm

- Substantial physical or mental abuse as a result

This is not a part of the certification.

Qualifying Criminal Activity

Abduction	Hostage	Sexual Assault
Abusive Sexual Contact	Incest	Sexual Exploitation
Blackmail	Involuntary Servitude	Slave Trade
Domestic Violence	Kidnapping	Stalking
Extortion	Manslaughter	Torture
False Imprisonment	Murder	Trafficking
Felonious Assault	Obstruction of Justice	Witness Tampering
Female Genital Mutilation	Peonage	Unlawful Criminal Restraint
Fraud in Foreign Labor Contracting	Perjury	Prostitution
Rape	Attempt, conspiracy or solicitation to commit crime or similar activity	

Similar Criminal Activity

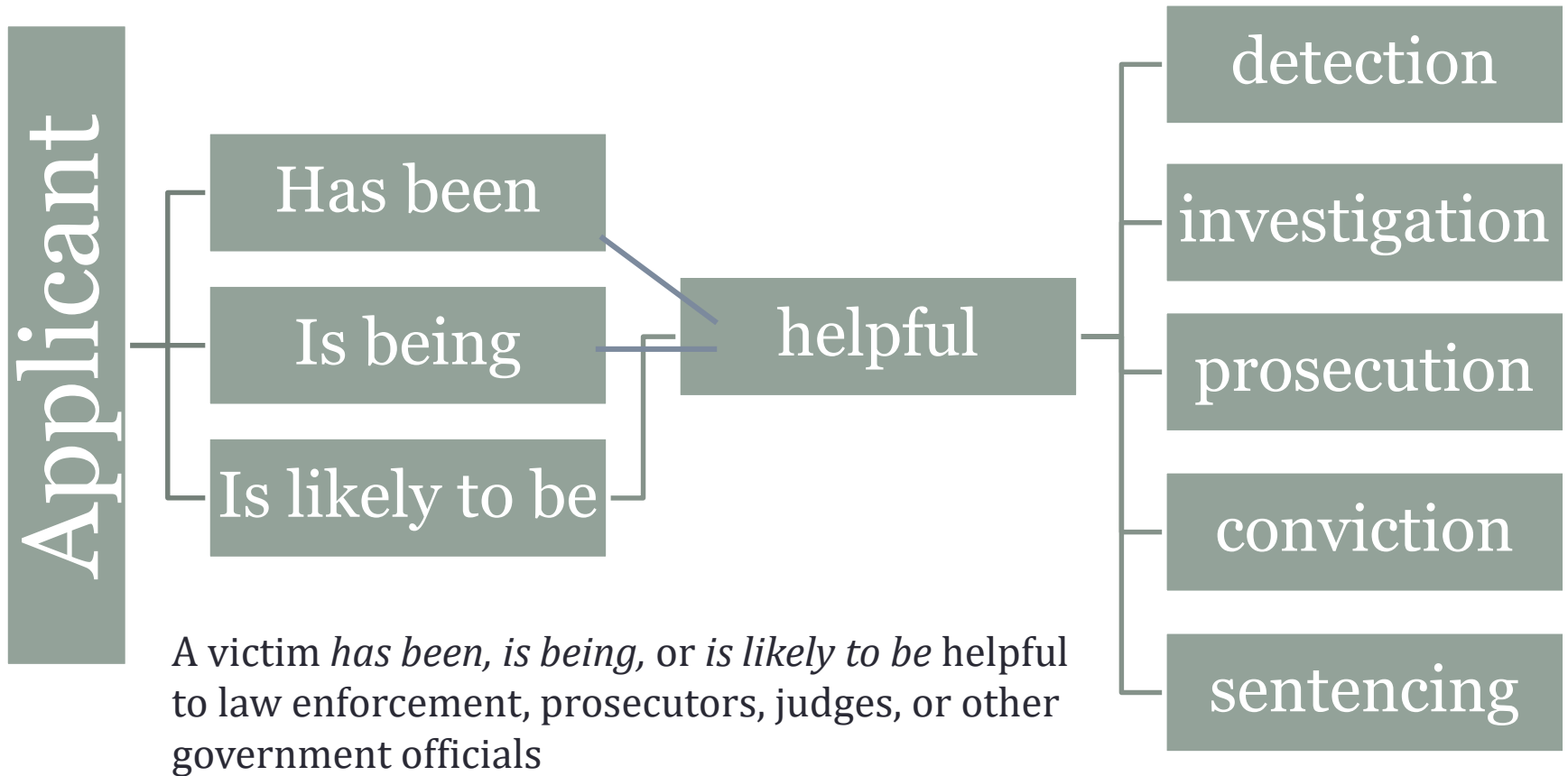
- Qualifying criminal activity includes any similar activity where the elements of the crime are substantially similar. Examples:
 - Hate crimes
 - Video voyeurism
 - Elder abuse/abuse of adults with disabilities
 - Child abuse
 - Robbery or aggravated robbery could include felonious assault, depending on the evidence and state law definition

Who can apply?

- Parents and guardians can apply as an “indirect victim” if:
 - The direct victim is a child under 21 years of age and/or is incompetent, incapacitated, or deceased due to murder or manslaughter
 - They demonstrate helpfulness
- When the victim is a child, the helpfulness requirement can be met by a “next friend” or family member being helpful
- Bystander victimization – very limited

Definition of “Helpfulness”

8 C.F.R 214.14(b)(3)



What are some examples of helpfulness that you have seen in your work with immigrant survivors?



Type Examples in Text Box

Helpfulness May Include:

Calling 911

Having a Rape Kit performed

Providing a description of offender or their whereabouts

Allowing photographs to be taken

Filing for a protection order

Bringing a minor victim to court

Providing a statement about “other bad acts”

Providing evidence of abuse in a custody, child welfare, or divorce case

Testifying at a bond hearing, trial, or sentencing

The following are **not required** to certify that a victim has been helpful

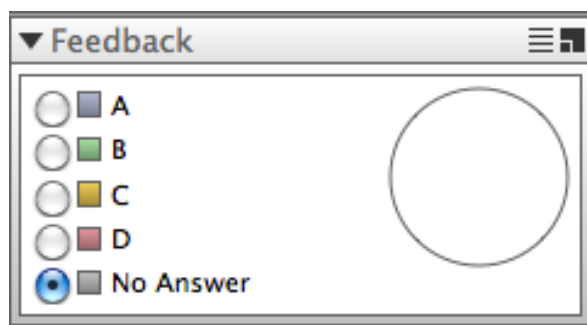
- Certification signed within the statute of limitations of the qualifying criminal activity. No SOL for U visa
- Conviction
- Charges filed
- Offender arrested/prosecuted
- Victim provides testimony at trial
- Victim is a necessary witness
- Offender is identified
- Case involving offender is open or closed



Victim-centered approach

Poll 5: As a Victim Advocate How Could You Help Domestic or Sexual Violence Survivors With Their U Visa Cases?

(Select all that apply)



A screenshot of a poll interface titled "Feedback". It features a list of five radio button options: A (blue square), B (green square), C (yellow square), D (red square), and No Answer (grey square). The "No Answer" option is selected. To the right of the options is a large empty circle.



A screenshot of a chat interface titled "Chat". It has two tabs: "Public" and "Private". Below the tabs is a large empty text area. 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.

- A. Screen for eligibility
- B. Use trauma informed tool to get information for affidavit
- C. Obtain a certification from law enforcement/prosecutor/ CPO judge
- D. Help victim make a police report
- E. Other type in chat

IDENTIFYING HUMAN TRAFFICKING IN DOMESTIC AND SEXUAL VIOLENCE CASES: ADVOCATES ROLE

*What do advocates
need to know to
identify human
trafficking?*



Sex Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1591

Process -Act

- **Recruits**
- **Entices**
- **Harbors**
- **Transports**
- **Provides**
- **Obtains**
- **Advertises**
- **Maintains**
- **Patronizes**
- **Solicits**
- **Benefits, financially or by receiving anything of value**

Means

- **Force**
- **Fraud**
- **Coercion**

- **Proof of force, fraud, or coercion not required for sex trafficked children under 18.**

Purpose-End

- **Commercial Sexual Activity**

- **A commercial sex act is any sexual act for which something of value is given or received**
 - Money
 - Drugs
 - Food
 - Shelter
 - Clothing
 - Transportation

New Regulations –Effective Aug 28, 2024

Expanded Explanation– Commercial Sex

Commercial sex act means any sex act on account of which *anything of value* is given to or received by any person.

- DHS explains that “[a]nything of value’ does not always have an exact monetary value” and includes but is not limited to:
 - “safety, protection, housing, immigration status, work authorization, or continued employment.”

2024 Preamble: 89 Fed. Reg. 34864, at 34872.

Labor Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1590

Process-Act

- Recruits
- Harbors
- Transports
- Provides
- Obtains
- Benefits, financially or by receiving anything of value

Means

- Force
- Restraint
- Threats of harm
- Abuse or threatened abuse of the legal system
- Any scheme, plan, or pattern intended to cause the person to believe that if they did not perform labor, they would suffer serious harm or restraint
- No federal exception for minors

Purpose-End

- Involuntary servitude
- Peonage
- Debt Bondage
- Slavery

*How does USCIS
describe labor
trafficking occurring
within families?*



Updated Involuntary Servitude Definition

- A condition of servitude
 - Induced by means of any scheme, plan, or pattern
 - Intended to cause a person to believe that, if the person did not enter into or continue in such condition
 - That person or another person would
 - Suffer serious harm or physical restraint
- A condition of servitude induced by the abuse or threatened abuse of legal process.

8 C.F.R. § 214.201

Involuntary Servitude Continued

- Includes a condition of servitude in which the victim is forced to work for the trafficker by the use or threat of:
 - Physical restraint, or
 - Physical injury, or
 - By the use or threat of coercion through the law or the legal process.
- This definition encompasses those cases in which the trafficker holds the victim in servitude
 - By placing the victim in fear of physical restraint or injury or legal coercion.

8 C.F.R. § 214.201

What would involuntary servitude look like in your domestic violence cases?



Involuntary Servitude in a Domestic Violence Relationship

- Abuser/Trafficker controls victim's liberty creating conditions of servitude
- Expectation that the victim's life fulfills the trafficker's orders
 - E.g., demand from the trafficker to perform domestic labor at an unreasonable level, including unreasonable working hours, and/or constant availability to labor regardless of health or energy;
- Lack of control over the victim's own wages (or not paid) despite laboring under the trafficker's demands; or
- The imposition of unequal living arrangements as part of a campaign of force, fraud, and coercion
 - E.g., unequal sleeping arrangements, living arrangements, or access to nourishment.

<https://www.uscis.gov/policy-manual/volume-3-part-b-chapter-2>

Definition Includes “Attempted Trafficking”

- The preamble to the 2024 T Visa Rule and DHS policy Manual include protections for victims of attempted trafficking
 - Cases where the applicant has not performed labor or services or a commercial sex act
 - When the victim can prove they are otherwise eligible for a T visa and
 - But/for some intervention or victim’s escape the perpetrator would have trafficked them

2016 Preamble: 81 Fed. Reg. 92266, at 92271

Victim Advocates' Role in Helping Victims of Domestic and Sexual Violence File For Immigration Relief

Where are the lawyers with expertise on victim-based immigration relief in your state? (Check all that apply)

- A. Immigration or faith-based non-profits specializing in cases of immigrant victims
- B. Family lawyers
- C. Legal services lawyers
- D. Pro bono law firms
- E. Other – type in chat



In what ways have you assisted survivors and attorneys in collecting evidence for their immigration application ?



Type in the Chat Box

What Victim Advocates Can Do

- Screen and identify eligible survivors
 - Separately determine any of the victim's children eligible for immigration relief that is faster or comes with more access to benefits
 - Particularly SIJS and T visa eligibility
- Help survivors obtain identity documents
- Assist survivors with writing a declaration
- Provide a letter of support/ expert affidavit of services provided

More Victim Advocates Can Do

- Providing victims letters stating they are in the process of filing a victim-based immigration case
- Help victims obtain civil protection orders
- Collaborate with certifiers to obtain U or T visa certification
- Identify potential red flags to help attorneys identify any inadmissibility
- Collect other evidence

Unauthorized Practice of Law

In *In re Discipline of Lerner*, the Court affirmed that the definition of the practice of law did not lend itself to a bright-line rule and must be analyzed on a case-by-case basis. The Court focused on the “touchstone principle” that the practice of law includes activities **“calling for the exercise of trained judgment in applying the general body of legal knowledge to the specific problem of a client and recommending a course of action.”**

In re Discipline of Lerner, 124 Nev. 1232, 197 P.3d 1067 (2008)

Examples of Unauthorized Practice of Law

- Interviewing potential clients and deciding whether to accept their case
- Evaluating the merits of an immigration case
- Advising a client of the claim's merits
- Negotiating a client's claim with an insurance carrier
- Engaging in settlement discussions
- Discussing legal strategy with clients
- Preparing and signing demand letters
- Appearing before state administrative agencies on behalf of a party
- Filing a notice of appeal on behalf of a trust

PROTECTION ORDERS



Immigrants and Protection Orders

- All persons are eligible to receive civil protection orders regardless of immigration status of any party or child
- Immigrant victims and their children often need creative protection order remedies using the state catch-all provisions

Use 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 the care of a child
- Deter parental kidnapping
- Child/Spousal support
 - Affidavit of support
- Health insurance

Helpful Evidence

Evidence of Legal Marriage

- Marriage certificate
- Wedding/family pictures
- Health insurance

Good Faith Marriage

- Children birth certificates
- Love letters, cards, text, emails
- Copies of joint leases/utility bills
- School records
- Letters and other mail addressed to the victim and to the abuser at the same address

Evidence of Battery or Extreme Cruelty

- Police, medical, court documents about the relationship
- Protection order
- Affidavits of neighbors, relatives, friends

Evidence of Abuser's Legal Status

- Green card or U.S. passport
- Copy of I-130 petition
- Enhanced Driver's License

Poll: Why Might Victims Not Separating From Their Abusers Seek Protection Orders?

(Check all that apply)



- A. Living in extended families
- B. Limited housing options
- C. Awaiting legal work authorization
- D. Curb abuse
- E. Help shift power and control in relationship

The Majority of Immigrant Victims Stay With Their Abusers ...

- Until the victim receives work authorization as part of their immigration case, or their case is approved
- Percent who leave before receiving work authorization or approval
 - VAWA self-petitioners 33.9%
 - U visa victims 30.1%

Victims Who Stay: No Unlawful Contact Protection Orders

- No state's protection order statute requires separation of the parties
- Provisions:
 - No abuse
 - No unlawful contact
 - Batterer's treatment

Poll 3: Violation of a protection order is a deportable offense

A. True

B. False

Violation of DV Protection Order

Immigration law provides for the removal of any noncitizen:

- who at any time after admission is enjoined under a protection order issued by a court and whom **the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable**. For purposes of this clause, the term “protection order” means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions)

INA§237(a)(2), INA§237(a)(2)(E)(ii) (emphasis added).

Violation of DV Protection Order

- The statute only requires that a court “determines” that the immigrant has engaged in conduct violating the protection order, a finding is sufficient, and conviction is not required.
- Includes family court adjudications (“court has found”)
- Includes violation of “no-contact” provision of an order of protection.

Crimes Against Children

Crime of “child abuse, child neglect, or child abandonment”

- “[A]ny offense involving an intentional, knowing, reckless, or criminally negligent act or omission that constitutes maltreatment of a child or that impairs a child’s physical or mental well-being At a minimum, this definition encompasses convictions for offenses involving the infliction on a child of physical harm, even if slight; mental or emotional harm, including acts injurious to morals; sexual abuse . . . as well as any act that involves the use or exploitation of a child as an object of sexual gratification or as a tool in the commission of serious crimes.”
- No actual harm is required
 - Minority **must** be an element of the offense

CUSTODY OF CHILDREN IN IMMIGRANT FAMILIES

Tool: Immigrant Victims and
Custody Bench Card

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



Poll: Which parents are the *most* likely to be removed from the U.S. by DHS?



- A. Immigrants with orders of removal
- B. Undocumented immigrant victim parents
- C. Immigrants with criminal convictions
- D. Immigrants with notices to appear in immigration court

Department of Homeland Security Victim Witness 2011 Memo – still effective

Goal: “Minimize any effect that immigration enforcement may have on the willingness and ability of victims, witnesses, and plaintiffs to call police and pursue justice.”

- “Absent special circumstances or aggravating factors, it is against ICE policy to initiate removal proceedings against an individual known to be the immediate victim or witness to a crime.”
- Crime victims and witnesses should receive “release from detention and deferral or a stay of removal.”

Poll: Who is the *least* likely to flee with children from the United States?



- A. U.S. citizens
- B. Undocumented immigrant victim mothers
- C. Dual national parents
- D. Multiple entry visa holder parents

Fact: Legal immigrants/naturalized citizens are more likely to flee with children

- **Particularly when**
 - There have been threats of kidnapping children
 - They are dual nationals
 - They can travel freely to and from U.S.
- The Ninth Circuit found that “there is no evidence that undocumented status correlates closely with unmanageable flight risk.” *Lopez-Valenzuela v. Apaio*, 770 F.3d 772, 786 (9th Cir. 2014).

Myth vs. Fact:

Parents without Legal Immigration Status

Myth

1. Deportation is imminent
2. The parent has no livelihood
3. Legally present parent must have custody to file for benefits for child

Fact

1. DHS policies prevent detention/removal of immigrant parents who are crime victims
2. Abused immigrant parents in family court have a path to immigration relief, work authorization & some benefits
3. Custody does not affect parent's ability to file for or gain immigration benefits for his children.

ICE Parental/Guardian Interests Directive

July 2022

- Requires affirmative and ongoing inquiries about and identification of parents/legal guardians of minor children and incapacitated adults
- Status as a caregiver parents/legal guardian impacts
 - Decision to detain, initial placements, transfers of parents
 - Court ordered custody prevents immigration enforcement against parent/guardian
 - ICE required to bring detained parents/guardians to court and establish communication with courts.

DIVORCE AND ECONOMIC SUPPORT

Impact of Divorce

- VAWA self-petitioners:
 - Spouse must file within two years of final divorce
 - Step-children must file before divorce
- Ends legal immigration status for spouses and children of visa holders:
 - Students, Work Visa Holders, Diplomats
- Divorce cuts off access to lawful permanent residency for spouses and children of people seeking lawful permanent residency based on:
 - Employment
 - Asylum
 - Family relationships
 - Cancellation of removal

Annulment Instead of Divorce

- Annulment can lead to a marriage fraud finding that:
 - Permanently bars approval of any visa petition
 - Is a ground for deportation
 - Can lead to an unfavorable exercise of discretion by an immigration judge not to grant immigration relief
 - Can set victim up for marriage fraud investigation
- Impacts
 - Spousal support
 - Property division

Affidavits of Support

- Each person who petitions for a family member to immigrate to the United States must execute a legally enforceable affidavit of support. 8 U.S.C. § 1182(a)(4)(C)(ii)
 - Contractually committed to support sponsored family member at annually at 125% of Federal Poverty Guidelines
- Affidavits of Support are enforceable as contracts by the sponsored immigrant
- Support obligation lasts till immigrant spouse
 - Naturalizes, dies, earns 40 quarters of work credit, or gives up lawful permanent residence and leaves the U.S.

Immigration Issues Arising in Child Support Cases

- Lack of legal work authorization is not a valid defense to non-payment of child support
- Can order child support, but not a job search, of an undocumented non-custodial parent
- Can order non-custodial parent to obtain an ITIN and pay taxes
- When parents are immigrants the immigration cases of both the custodial and paying parent benefit from seeking and paying child support

NIWAP <http://niwaplibrary.wcl.american.edu>

- Training Materials for:
 - Victim Advocates
 - Attorneys
 - Judges
 - Law Enforcement
 - Prosecutors
- Web Library
 - Training tools
 - Podcasts
 - Webinars
 - Statutes, Regulations, Policies & Government Publications
- Language Access
 - Multilingual Materials
- Immigration
- Family and criminal Law
- VAWA Confidentiality
- Public benefits, legal services & economic relief
- Dynamics, culture, collaboration & safety
- Best practices, legal research, and tools

Technical Assistance and Materials

- Power Point presentations and materials for this conference at <https://niwaplibrary.wcl.american.edu/honolulu-may-2024-trainings/>
- **NIWAP Technical Assistance**
 - Call (202) 274-4457
 - E-mail info@niwap.org
- Web Library: www.niwaplibrary.wcl.american.edu

Evaluation