

*Webinar: Serving Immigrant Survivors  
Best Practices: Part II*

*Immigration Relief and Implications for  
Access to Public And Assisted Housing*

*National Network To End Domestic Violence*  
May 26, 2022

# Introductions



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# Learning Objectives

By the end of this webinar you will be better able to:

- Be able to identify immigrant survivors of domestic and sexual violence and their children who are eligible for immigration relief.
- Understand how filing for immigration relief enhances survivor's access to public and assisted housing benefits.
- Advocate for immigrant eligible immigrant survivors' access to public and assisted housing and required non-work social security numbers.

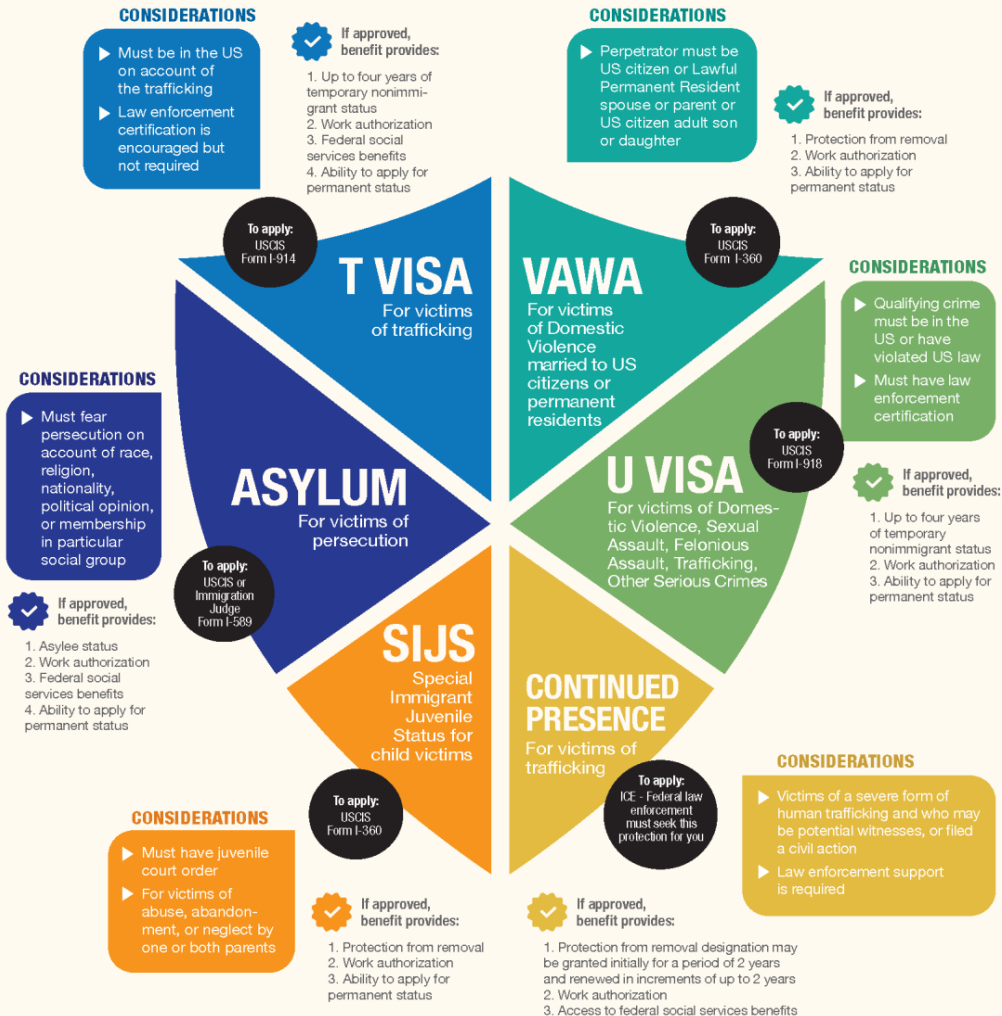
# **Poll:** Let's see who is on the webinar with us

**Please check the box that best describes you:**

- A. Victim Advocates
- B. Coalition Staff
- C. Attorneys
- D. Systems based advocates – victim witness staff
- E. Other – type in the chat



# PROTECTIONS FOR IMMIGRANT VICTIMS



DHS.GOV/BLUE-CAMPAIGN

For victim support call 1-888-373-7888 or text INFO or HELP to BeFree (233733)

# Immigration Relief Available for Immigrant Survivors of —

- Domestic violence (battery or extreme cruelty)
    - 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**

# VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
  - Spouse; Parent; Stepparent; 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
- Battered Spouse Waiver if perpetrator files
- Access to some federal/state benefits = 3 months
- Work authorization = 4–24 months (2021)

# Battered Spouse Waiver

- Helps immigrant spouses with 2-year conditional residence (green cards)
  - Whose citizen spouse filed a family visa petition for them
- Requires proof of:
  - Battering or extreme cruelty to immigrant spouse or immigrant spouse's child or step-child
  - Good faith marriage
- Waives
  - Joint filing requirement with abusive citizen spouse
  - Two-year wait to full lawful permanent residence



# 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
- **Timeline to work authorization, waitlist approval, and some very limited state benefits = 1–5 years(2021)**

# 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 for helpfulness in investigating or prosecuting trafficking.  
Exceptions
  - Under age 18
  - Physical or psychological trauma impede helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
- **Work authorization and *many* federal and state public benefits = 3–18 months (2021)**

# Special Immigrant Juvenile Status (SIJS)

- Immigration relief for unmarried children
- Under the age of majority under state law
- Victims of abuse, abandonment, neglect, or dependency
  - By at least **one parent**
- To apply must submit required findings from a state court with jurisdiction over
  - the care, custody, or dependency of the child
- Timeline to approval, lawful permanent residency, & some federal/state public benefits = 6 – 36 months (2021)

# Case Scenario (Handout)

Clara met Eduardo, a lawful permanent resident, when he came back to his hometown to visit 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. When they arrived in the U.S. Eduardo took Clara, Miguel and Lupe's passports and became physically and sexually abusive of Clara and abusive of 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. One night when Miguel was 13 and Lupe was 5, 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 call the police for help, 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: What forms of immigration relief would Clara qualify for (Check =all that apply):**

- A. U visa
- B. VAWA self-petition and the mother of Lupe
- C. T visa

Feedback

A

B

C

D

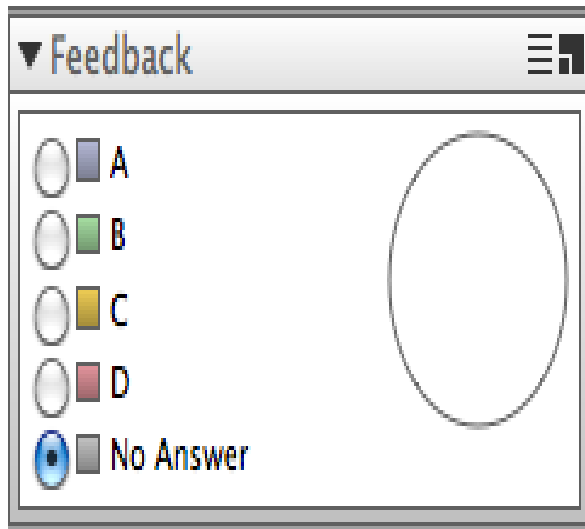
No Answer

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

The image shows a screenshot of a poll interface. At the top left, there is a 'Feedback' header with a downward arrow and a menu icon. Below this, there is a list of five radio button options: 'A' (blue square), 'B' (green square), 'C' (yellow square), 'D' (red square), and 'No Answer' (blue circle). To the right of these options is a large, empty oval shape, likely intended for a user to write a comment or provide additional information.

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

# Poll: What forms of immigration relief would Lupe not qualify for:



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

# Access to Benefits and Services Grows as Children and Victims Pursue Immigration Relief





# Children and Crime Victims Qualified to Receive Public Benefits— Common Examples

- 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

# Qualified Immigrant Access to Federal Public Benefits

- All qualified immigrants can access some federal public benefits
  - Which benefits they can access depends on:
    - Immigration status
    - When they entered the United States
    - Whether they meet heightened program requirements for some programs
    - What benefits are offered by the state

# Federal Benefits Immigrant Restrictions

- Only programs that as a matter of law have immigrant restrictions are those categorized as:
  - “federal public benefits,” “state public benefits” or
  - “federal means-tested public benefits”
- Not a federal or state benefits unless payment is made directly to:
  - An individual
  - A household
  - A family eligibility unit

# Examples of “Federal Public Benefits”

- **US Agency Funded/Provided:**
  - Grants
  - Contracts
  - Loans
  - Professional or commercial licenses
    - Drivers licenses
- **Federally Funded Benefits for**
  - Retirement
  - Welfare
  - Health
  - Disability
  - Postsecondary education
  - Public or assisted housing
  - Food assistance or
  - Unemployment

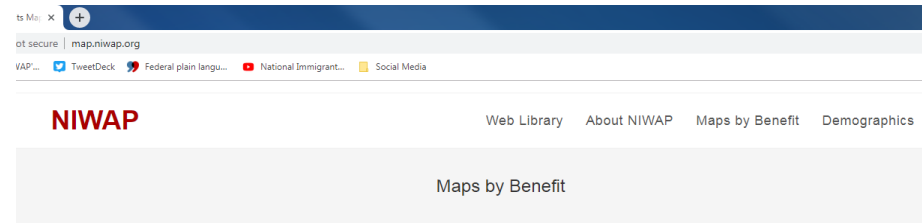
# Who are “Qualified Immigrants”?

- 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
- VAWA: 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
- Supportive housing for the elderly or disabled
- Post-secondary educational grants & loans
- Access to most subsidized child care
- Receive payments for providing foster care
- FEMA individual family grants and disaster unemployment
- Job opportunities for low income individuals
- Adoption assistance
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Social services block grant programs

# Interactive Public Benefits Map



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.

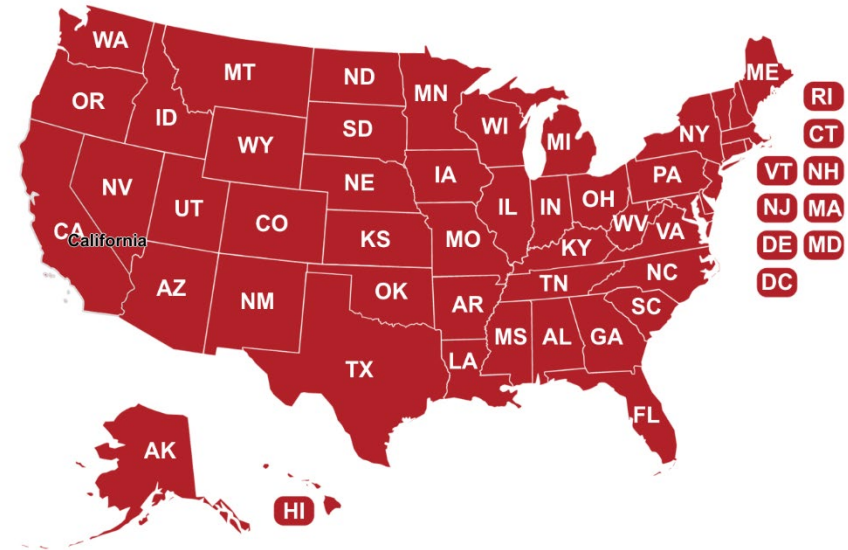
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#### Earned Income Tax Credit



#### Emergency Housing & Safety Programs



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

# Maps by Benefit

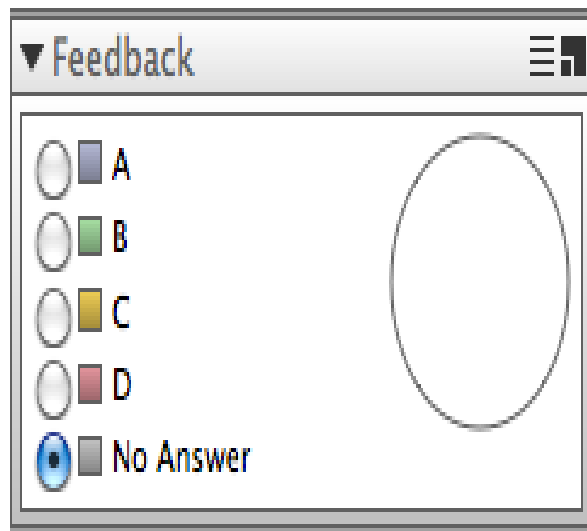
- Cash Assistance (TANF)
- Child Care
- Children's Health Insurance Program
- Driver's License
- Earned Income Tax Credit
- Emergency Housing & Safety Programs
- Emergency Medicaid
- Federal Education Benefits
- FEMA Assistance
- FEMA Restricted Programs
- Food Stamps
- Forensic Costs Coverage
- Income Tax Credits
- Legal Services
- Medicaid
- Post-Assault Healthcare
- Prenatal Care
- Purchasing Health Insurance on the Exchanges
- State Education Benefits
- Supplemental Security Income
- Weatherization & Energy Assistance
- WIC
- Unemployment (coming soon)



# Public Benefits Map Demonstration: Public and Assisted Housing

# Immigrant Access to Public and Assisted Housing

**Poll:** Which of the following programs does **NOT** have immigrant access restrictions under Section 214?



- A. Public Housing
- B. Section 8 Vouchers
- C. Project Based Section 8
- D. Low Housing Income Tax Credit
- E. Section 514 and 516 Farm Labor Housing programs

# For Information and Locating Low Income Housing Tax Credit Housing

- <https://www.vawahome.com/>
- More than 6 million apartments nationally
- Map with apartment locations
  - <https://www.vawahome.com/what-is-lihtc>

# “Section 214” Restricted HUD Programs

- Public Housing
- Housing Choice Voucher Program
- Section 8 Project-Based Housing
- Section 236 Housing
- Section 235 Homeownership Housing
- Rent Supplement Housing
- Housing Development Grants (HoDAG)
- Section 23 Leased Housing Program

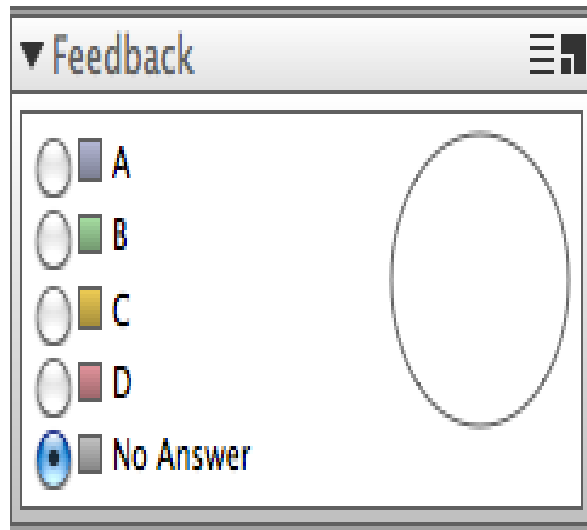
# “Section 214” Restricted RD Programs

- Section 514/516 farm labor housing
- Section 502 direct homeownership home loan program
- Section 504 minor rehabilitation loan and grant program
- Section 521 Rental Assistance Program
- RD Voucher Program

# Federal Housing Programs That Are Not Restricted by Section 214

- 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

**Poll:** Which of the following immigrant survivors of domestic or sexual violence, or stalking is **NOT** Eligible for Public and Assisted Housing?



- A. Lawful permanent residents
- B. Refugees & asylum recipients
- C. VAWA self-petition applicants
- D. U visa applicants/recipients
- E. Battered spouse waiver applicants
- F. T visa bona fide/recipients



# Section 214 Eligible Immigrant Categories

- U.S. Citizens/U.S. Nationals
- Lawful Permanent Residents
- VAWA self-petitioners
- 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

# Who is Eligible for Section 214 Housing?

- Mixed Status Families
  - If at least ONE member of the household has eligible immigration status, then the family can receive prorated assistance.
  - A minor can be the eligible household member
  - The non-eligible family member certifies that they do not wish to contend eligibility and can still live in the assisted unit

# Housing Providers Must Report to DHS When They Know an Ineligible Immigrant is Seeking Housing Benefits

- “KNOW” has a very narrow definition
  - A finding of fact or conclusion of law made by the PHA as part of a formal determination that is subject to administrative review on the applicant’s claim, **AND**
  - The finding is supported by a determination by USCIS or the Executive Office of Immigration Review (EOIR), such as a Final Order of Deportation
- Reporting is *not triggered by*:
  - An oral or written admission by the immigrant;
  - A worker’s suspicion, assumption, or firm conviction about the person’s immigration status;
  - A response from USCIS to a SAVE inquiry that fails to confirm an applicant’s immigration status or that shows an immigrant status that would make the applicant ineligible; or
  - A formal finding that the person is ineligible for a benefit.

# VAWA Self-Petitioners

- HUD issued a legal memo confirming that VAWA self-petitioners have “satisfactory immigrant status” when applying for Section 214 housing.
  - Housing providers must verify immigrant status by using the SAVE system
  - Documents to verify VAWA self-petitioner’s status
  - VAWA protections apply
- HUD PIH issued notice for public housing authorities on VAWA self-petitioner verification procedures.

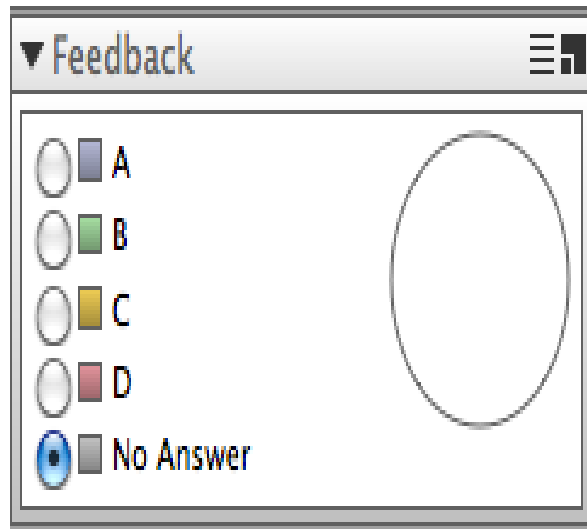
# VAWA Self-Petitioners and HUD

- Victims with VAWA self-petition filed
  - Children included in VAWA self-petition
- VAWA cancellation of removal and VAWA suspension of deportation applicants
  - Victims' children are not included in these applications
  - Will only appear in SAVE system if have work authorization
- Victims with approved I-130 visa petitions filed by their abusive spouse or parent
  - Children included in I-130 visa application filed for victim

# How Housing Providers Are to Complete DHS -SAVE System Online

- 1) Enter into SAVE the VAWA immigrant victim's:
  - Name + A# + Date of birth
- 2) System issues “Match” or “No Match” response
- 3) If “No Match” - Click “Institute Additional Verification”  
AND Enter in the note field either
  - “Verify VAWA Self-Petition” or “Verify I-130 Visa Petition” AND
  - Upload copy of the victim's DHS document:
    - I-360 VAWA self-petition
    - I-130 Family-based visa petition
    - I-797 Notice of Action: Used for receipt notice, prima facie determination, and approval notice

**Poll:** For which VAWA eligible applicants may HUD request evidence of battering or extreme cruelty?



- A. VAWA self-petitioners
- B. Approved I-130 visa applicants
- C. VAWA cancellation of removal applicants with work authorization
- D. Battered spouse waiver applicants

# Steps When DHS Verifies Case of a Battered Immigrant Spouse with an Approved I-130 Visa Petition

- These are cases in which DHS will not have adjudicated battering or extreme cruelty as part of the DHS case
- Petitioner submitting the family-based visa petition must provide the housing provider evidence of
  - “battering or extreme cruelty”
  - DHS any credible evidence rules apply - 8 U.S.C. 1154(a)(1)(J)



# Definition “Battering or Extreme Cruelty”

- Being the victim of any act or a threatened act of violence, including any forceful detention,
- Which results or threatens to result in physical or mental injury.
- Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor) or forced prostitution shall be considered acts of violence.
- Other abusive actions may also be acts of violence under this rule.
- Acts or threatened acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence. 8 C.F.R. §204.2(c)(1).

# Any Credible Evidence of Battery or Extreme Cruelty

- Affidavits/Statements of the victim, witnesses, advocates
- Medical records
- Photographs of injuries
- Helpful but not required:
  - Police reports
  - Protection orders
  - Criminal court or family court records
- “Any Credible Evidence” standard allows victims the greatest flexibility to prove abuse in the safest way possible
  - Recognizes dangers of perpetrator controlled evidence
- Specific forms of evidence cannot be required
- Housing provider decides the credibility of the evidence

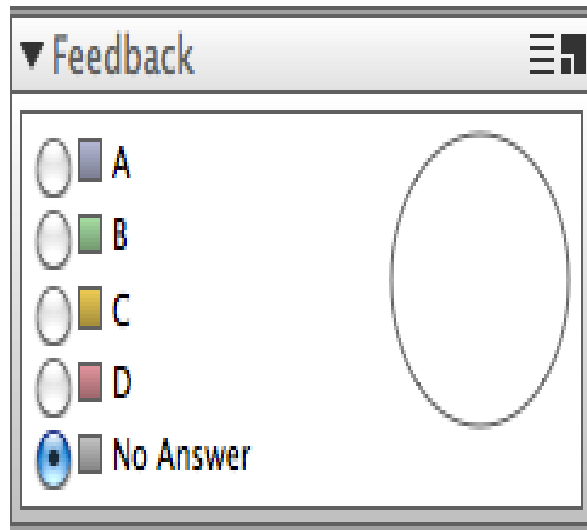
# Be Prepared to Advocate...

- For survivor and children remaining in the unit when perpetrator is removed
- Based on a child's or survivor's legal status to avoid proration and include the survivor as a qualified immigrant in the subsidy

# Importance of Accompanying Immigrants in Applying for Public Benefits

- Help educate state benefits workers
- Accompanying immigrant applicants helps
  - Children and survivor get what they are legally entitled to access
    - Varies by state, immigration status, benefits program
  - Helps undocumented parents file for benefits for their citizen or LPR children
  - State welfare worker reporting requirements

**Poll:** What would you take with you to a public benefits agency with an immigrant survivor?



- A. Copy of the state/federal benefits statute
- B. DHS documents showing how victim is eligible
- C. Relevant state/federal policies
- D. All of the above

# HUD Social Security Number

## Requirements (24 C.F.R. part 5, Subpart B)

- For most HUD programs, every member of an applicant household must disclose their SSNs to be eligible for assistance. This requirement applies to:
  - Public Housing
  - Any program under Section 8 of the Housing Act of 1937
  - Section 202 Supportive Housing for the Elderly
  - Section 811 Supportive Housing for Persons with Disabilities;
  - Any program under 24 C.F.R. parts 215, 221, 236, or 290
  - Homeowner assistance

## SSN Disclosure Requirements Do Not Apply to:

- Applicants who do not “contend eligible immigration status”
  - 24 C.F.R. § 5.216; HUD Notice PIH 2012-10 (Feb. 14, 2012)
- A housing provider *may not* deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend eligible status
  - HUD Notice PIH 2012-10 (Feb. 14, 2012)

# Non-Work SSN for VAWA Self-Petitioners

- HUD regulations require that public and assisted housing recipients provide a Social Security Number.
- VAWA self-petitioners can request a non-work social security number from SSA.
- The victims' advocate or attorney should simultaneously request that the Public Housing Authority who received the victims' application for public or assisted housing to issue a letter that the victim can request a non-work social security number from SSA.



# Best Practices: Non-Work SSNs

- Provide PHA with draft letter including
  - Survivor's name, birthdate & "A" number
  - Statement that
    - Survivor is eligible for public and assisted housing under Section 214
    - Survivor meets all requirements except an SSN which HUD regulations require
    - Letter is written to comply with POMS RM 10211.600
  - PHA requests that SSA issue a non-work SSN to the applicant
  - Name and contact information of PHA staff making request

# Bring to SSA The Following

- Letter from the PHA
- Copy of the HUD social security number requirement
  - 24 C.F.R. § 5.216; 74 Fed. Reg. 68,924 (Dec. 29, 2009)
- Proof of age and identity of the survivor

# Family Breakups and Vouchers

- Housing authority can terminate Section 8 Housing Choice Voucher assistance to the abuser while preserving assistance to survivor
- Section 8 Housing Choice Vouchers
  - If a family breakup results from occurrence of abuse or violence, “the PHA **must** ensure that the victim retains assistance.” 24 C.F.R. 982.315(a)(2).
  - Survivors can request that vouchers be transferred to their names because of abuse.



# Lease Bifurcations

- Housing provider may bifurcate a lease to evict an abuser while allowing the survivor to stay.
- The landlord must follow federal, state, and local law in evicting the abuser.
- Lease bifurcations are available to tenants AND residents.



# Mixed Status Families

- If at least ONE member of the household has eligible immigration status, then the family can receive **prorated** assistance.
- A minor can be the eligible household member
- The non-eligible family member certifies that they do not wish to contend eligibility and can still live in the assisted unit.



# Proration Formula

- **Step 1.** Determine the amount of housing assistance the household would receive if all household members were eligible, using the income paid to all household members regardless of their immigration status.
- **Step 2.** Divide the number of household members who have established eligible immigration status by the total number of household members. The fraction looks like this:

$$\frac{\text{Eligible Household Members}}{\text{Total Number of Household Members}}$$

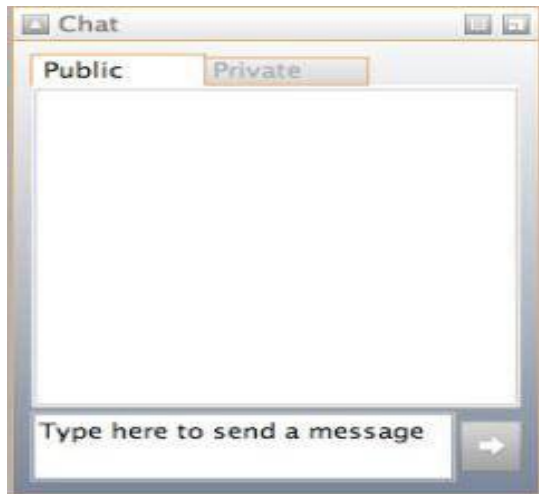
- **Step 3.** Multiply the amount in Step 1 by the fraction in Step 2. This amount is the "prorated housing assistance." The tenant household pays the rest of the contract rent plus utilities.



# Proration Example: The Lopez Family

- Juanita Lopez, who is a U visa holder, lives with her two daughters, who are both U.S. citizens.
  - For a 2 Bedroom Voucher, a PHA pays \$1300 in rental subsidy to a private landlord.
  - 2 eligible household members  
3 total household members
  - Subsidy =  $(2/3) \times \$1300 = \mathbf{\$867}$
  - 4. If the total rent for the unit is \$1300, then the family will have to pay:  $\$1300 - \$867 = \mathbf{\$433}$
- If Juanita was a VAWA self-petitioner or a trafficking victim the household would receive **\$1300**

Questions about public and  
assisted housing for  
immigrant victims





# Join Us With Your Questions

- Q and A session June 15, 2022
- 3:00 pm to 4:00 pm EST
- Registration is not required
- <https://nnev.zoom.us/j/99141771118>

# Technical Assistance and Materials

- Materials for this webinar and office hours series:
  - <https://niwaplibrary.wcl.american.edu/nnedv-niwap-th>
- 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)
- National Housing Law Project
  - Kate Walz, [kwalz@nhlp.org](mailto:kwalz@nhlp.org) -- 415-546-7000, ext. 3129

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# Evaluations

<https://www.surveymonkey.com/r/82ZQNFH>