

# **Enhancing Safety for Immigrant Survivors: Immigration Relief, Custody, Public Benefits and Family Law Protections**

Providence Rhode Island  
Rhode Island Coalition Against  
Domestic Violence  
June 22, 2017

# Learning Objectives

By the end of this training participants will be able to:

- Screen for immigration relief eligibility
- Build law enforcement –Victim advocacy collaborations that promote U visa certification
- Advocate for VAWA confidentiality protections for immigrant survivors
- Assist immigrant victims in custody and protection order cases
- Help immigrant victims access benefits and publicly funded assistance legally open to them



What are the issues you most  
want to learn about today?

What countries are you seeing  
immigrant survivors coming  
from?

# Rhode Island Demographics (2015)\*

- ❖ Total foreign born population – 142,324
- ❖ 13.5% of the state's 1.1 million people is foreign born
  - 54.4% naturalized citizens
  - ~25.2% legal permanent residents or temporary visa holders  
(<http://www.migrationpolicy.org/data/authorized-immigrant-population/state/KS>)
  - ~20.4% undocumented
- ❖ 19.3% rise in immigrant population from 2000 to 2015
- ❖ 25% of children in the state under age 18 have 1 or more immigrant parents
  - 88% of children with immigrant parents in the state are U.S. citizens

*\*Source: <http://www.migrationpolicy.org/data/state-profiles/state/demographics/KS>  
(June 2017)*

# Rhode Island – Countries/Regions of Origin and Limited English Proficiency (2015)\*

- ▶ Asia – 19.1%
  - ▶ China (5.4%)
  - ▶ India (3.6%)
  - ▶ Philippines (1.7%)
  - ▶ Other southeastern Asia (3.2%)
- ▶ Middle East – 1.9%
- ▶ Africa – 12.6%
  - ▶ Western Africa (9.6%)
- ▶ Europe – 21.9%
  - ▶ Portugal (12.4%)
  - ▶ UK and Ireland (2.6%)
  - ▶ Eastern Europe (2.4%)
- ▶ Canada 2.3%
- ▶ Latin America – 43.8%
  - ▶ El Salvador (1.7%)
  - ▶ Mexico (1.8%)
  - ▶ Guatemala and Other Central America (10.9%)
  - ▶ Caribbean (21.1%)
  - ▶ Colombia (3.8%)
  - ▶ Other South America (3.8%)

## Limited English Proficiency

(Speak English less than very well)

- ▶ Naturalized citizens 42.6%
- ▶ Non-citizens 53.1%

\*Source: <http://www.migrationinformation.org/datahub/state.cfm?ID=RI>  
(June 2017)

# **DYNAMICS OF DOMESTIC VIOLENCE EXPERIENCED BY BATTERED IMMIGRANTS**

# 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 survivors:
  - 72.3% never file immigration papers
  - The 27.7% who did file had a mean delay of **3.97 years.**
- 65% of immigrant survivors report some form of immigration related abuse (NIJ, 2003)

\*Edna Erez and Nawal Ammar, Violence Against Immigrant Women and Systemic Responses: An Exploratory Study (2003)

# 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



# Immigrant Survivors & Co-Occurrence of Child Abuse (Hass, Dutton, Orloff, Ammar 2004)

- Battered immigrant women who report abuse occurring in front of their children  $\approx 50\%$
- Domestic violence-child abuse co-occurrence= 40-44% (Similar to national statistics)
- Physical violence vs mother *and* vs child = 35%
- Co-occurrence among:
  - Abused Immigrant Help Seekers = 23%
  - Abused immigrants who did not seek help= 77%
- Children of help seekers 20% less likely to have abuser threaten them
  - 1/3 less likely to have abuser threaten to take children away from their mother

# 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

# Best Practice: Screen for Immigration Related 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

\*Mary Ann Dutton, Leslye Orloff, and Giselle Hass, Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications (Summer 2000)

# 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%

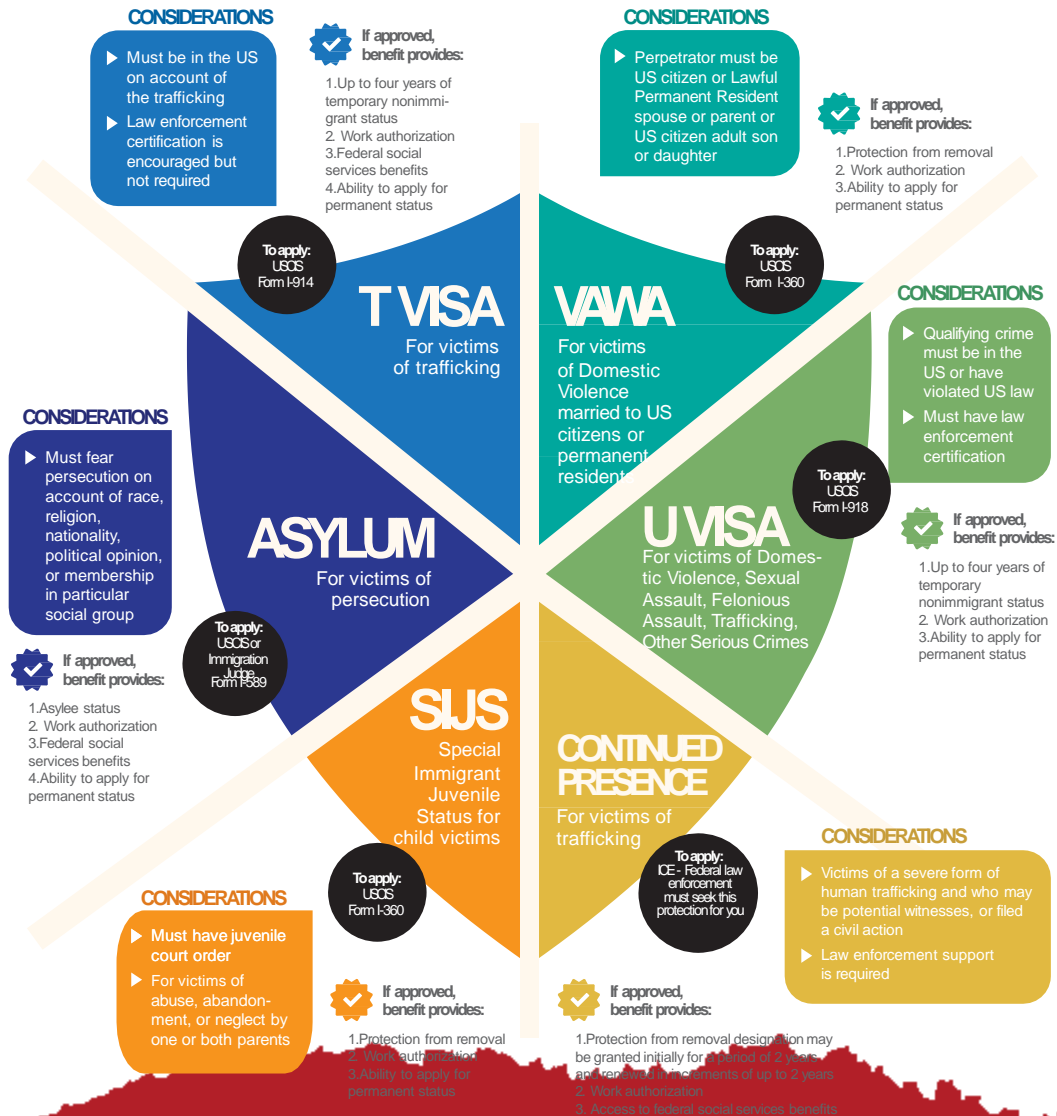
# Large Group Discussion:

How does attaining legal immigration status benefit survivors?

# Benefits for Survivors

- Protection from deportation
- Enhanced safety for survivors
- Financial independence from perpetrator
- Legal work authorization (7-28 months of filing)
- VAWA confidentiality
- Temporary legal immigration status
- Protections for family members
- Greater ability to gain/maintain custody of her children
- Better access to survivor services, health care, and benefits

# PROTECTIONS FOR IMMIGRANT VICTIMS



# Purpose

- Congress enacted VAWA self-petitioning (1994) and the U and T visas (2000) to:
  - Improve community policing and community relationships
  - Increase prosecution of perpetrators of crimes against immigrant victims
  - Allow victims to report crimes without fear of deportation
  - Enhance victim safety
  - Keep communities safe



# VAWA CONFIDENTIALITY

# 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

# VAWA Confidentiality Prongs

## Non- Disclosure

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

## Abuser-Provided Information Prohibition

Includes family members of abusers, crime perpetrators and their agents

Protects:

- \***All victims abused by as spouse or parent**
- \*All victims in the process of applying for U or T visas
- \*Abused spouses of visa holders with VAWA work authorization filed

## 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

# Immigration Options for Immigrant Crime Victims and Children

(Red = VAWA Confidentiality Protected Case)

- 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
- VAWA suspension of deportation
  - 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
- Abused Spouse of Visa Holders
  - Spouses battered or subjected to extreme cruelty by spouses with the following visas: A(diplomats), E(3)(Australian specialty occupation workers), G (foreign gov- Int'l orgs), H (work visas)
- 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

# Relying on Information Provided by: Abuser, Perpetrator, Trafficker

- The government cannot gather and/or use information provided solely by:
  - an abuser;
  - trafficker;
  - crime perpetrator or
  - People closely associated with the perpetrator (e.g. family members) (ICE 2007)
- To take an adverse action against a victim includes
  - Arrests for civil immigration violations
  - Placing the an immigrant in removal proceedings or detention
  - Seeking or using information provided by the perpetrator in the victim's immigration case

# DHS cannot rely on information *solely* provided by the perpetrator

- Information provided *solely* by prohibited sources **must** be independently corroborated by DHS
  - Adverse information about the victim from a prohibited source should be treated as “**inherently suspect**” (DHS Directive 11/1/2013):
    - Information can only be used if verified
    - Must complete required ICE form filed in the victim’s case documenting publicly verified information (ICE Policy 2007 and DHS Instruction 11/1/13)
  - “**If the officer believes there is any credible evidence that the alien may be eligible for VAWA benefits or T or U**” VAWA confidentiality applies (ICE 2007)

# DHS VAWA Confidentiality Computer System

- Directs use of “red flag” “384” computer system to identify victim who have already filed for or have been granted victim-based immigration relief
- Reminds immigration officers, agents, attorneys about immigration law protections for
  - Victims of domestic violence
  - Crime victims
  - Human trafficking victims

# Locational Prohibitions

- Enforcement actions are not to be taken unless the action is certified in advance through a specific process aimed at protecting victims:
  - A shelter
  - Rape crisis center
  - Supervised visitation center
  - Family justice center
  - Victim services program or provider
  - Community based organization
  - Courthouse in connection with any
    - Protection order case, child custody case, civil or criminal case involving or related to domestic violence, sexual assault, trafficking, stalking





# Improving Immigrant Victim Safety Through Early Screening

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

# Small Group Discussion:

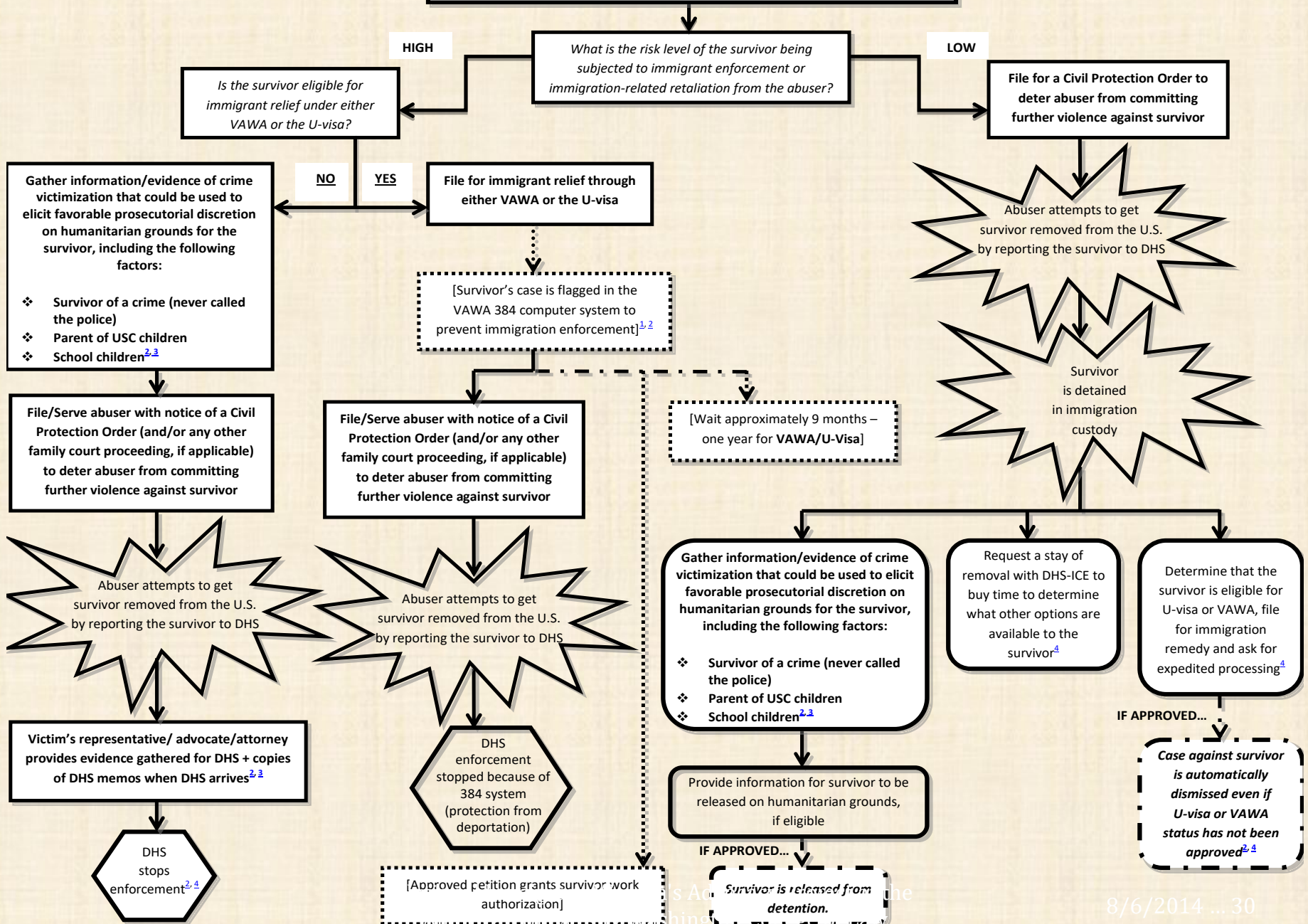
What are examples of useful documents for a victim to have on them or be able to access?

- Safety concerns that need to be addressed?

# Prevention & Safety = Filing Immigration Case Early

- Teach clients to memorize “A” numbers of their VAWA, T, and U visa cases
- Give clients letters from your agency
  - Explaining victimization and
  - In process of filing immigration case
- Immigrant victims carry
  - Prima facie determinations
  - U visa certifications

# IMMIGRANT SURVIVOR WALKS THROUGH THE DOOR OF YOUR AGENCY



## Prohibition on disclosure:

- **Information about the existence of the case**
- **Any information contained in the case**
- **Action taken on the case by DHS**



# Protecting Information About a Survivor's Immigration Case

- Prohibits disclosure of any information about
  - The existence of the case
  - Actions taken in the case
  - Information contained in the case file
- Disclosure prohibited to all persons, not just the perpetrator
- Protections apply from the time of filing permanently unless
  - Case denied on the merits
  - All appeal options have been completed

# Prohibitions on Release of Information Apply to Following Cases

- VAWA self-petition
  - VAWA self-petitioner
  - Battered spouse waivers
  - VAWA Cuban Adjustment Act
  - VAWA Haitian Refugee Immigration Fairness Act
  - VAWA Nicaraguan Adjustment & Central American Relief Act
- VAWA cancellation of removal
- VAWA suspension of deportation
- U visa applicants
- T visa applicants
- VAWA work authorization abused spouses of visa holder applicants

# Narrow Disclosure Exceptions

- Limited disclosure in narrow circumstances
  - Disclosure to law enforcement, national security officials, immigration case judicial review
    - Solely for a legitimate law enforcement or national security purpose; and
    - In a manner that “protects the confidentiality of such information”
  - Benefit granting or public benefits purposes
  - Congressional oversight and data collection
    - Omitting personally identifying information
  - Adult victim waived confidentiality protections



# When Does VAWA Confidentiality Protection End?

- Limitation to disclosure ends when application for relief is denied based on **substantive grounds** and all opportunities for appeals have been exhausted.

# VAWA Confidentiality Violations

- Each violation
  - Disciplinary action and/or
  - \$5,000 fine for the individual
- Violations also include making a false certifications in a Notice to Appear
- VAWA Confidentiality Enforcement Guidance CRCL (2008)



# VAWA Confidentiality Violations Effect on Immigration Court Proceedings

- Can result in dismissal of the immigration proceeding against the non-citizen (VAWA 2005 legislative history)



# When Violations Happen

- **Advocate on the spot! Provide -**
  - Proof of victimization,
  - Copy of the statute
  - DHS policy
  - DHS complaint system
  - DHS 384 system
- **Collect information about the violating officer**
  - Name
  - Agency
  - Badge Number



# When Violations Happen

- **Work it up the chain to a supervisor**
- **File a formal complaint-**
  - Penalties of up to \$5000 per incident against the violating officer individually
  - Also disciplinary actions
- **Advocate to mitigate harm for victim**

# What harms to victims could occur from VAWA confidentiality violations?

- Strategies for mitigating these harms

# Using VAWA Confidentiality's Non-Disclosure Protections in Family Court Proceedings

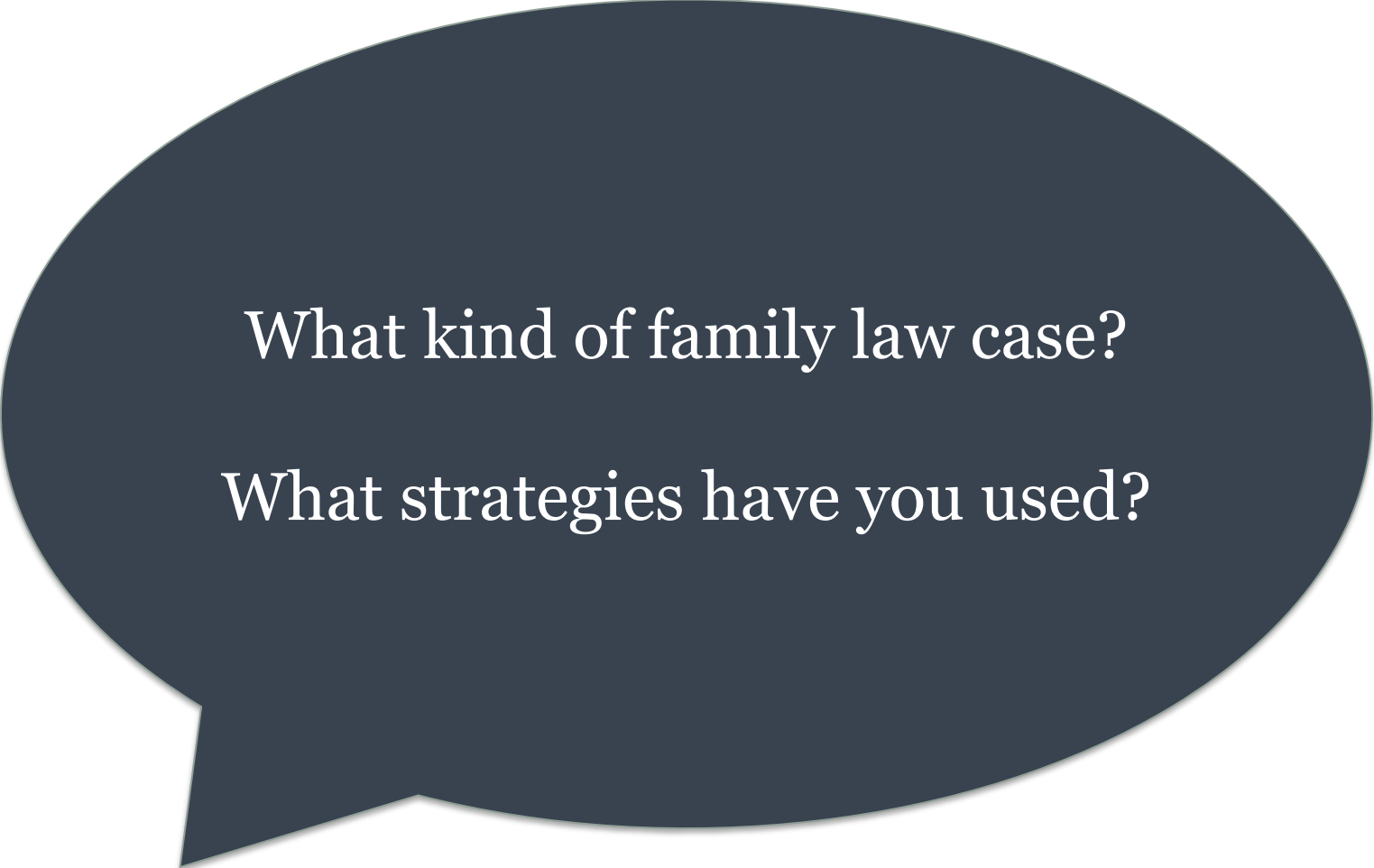
**Have you had a case in which a perpetrator sought information about a VAWA, T visa or U visa case in a state court proceeding?**



# Raise your hand if the perpetrator sought this information in a ---

- Criminal case
- Employment case
- Family law case





What kind of family law case?  
What strategies have you used?

# Federal Court Case Law on VAWA Confidentiality

# *Hawke v. Dep't of Homeland Security*

(N.D. CA, 2008) – VAWA Self-Petition Case

- VAWA self-petitioning case
- Protects cases:
  - Denials not based on the merits; and
  - Procedural denials or withdrawals of applications continue to receive full scope of VAWA confidentiality protections
- The exception to VAWA confidentiality for a “judicial review of a determination” applies only to immigration cases

# Hawke continued---

- 6<sup>th</sup> Amendment right to compulsory process does not permit access to absolutely privileged information
- *“Primary purposes of the VAWA confidentiality provision, namely to prohibit disclosure of confidential application materials to the accused batterer”*

## *Demaj v. Sakaj* (D. Conn, 2012) – U Visa Case

- *Although relevant to credibility & impeachment, discovery barred as contrary to the purpose of VAWA confidentiality which is to --*
- Prevent disclosure of documents & information in a protected case file from being used by alleged criminals
- Stop perpetrators' actions to interfere with & undermine a victim's immigration case:
  - Including claims that victim's application was fraudulent or
  - That DHS wrongly approved the victim's U visa case

## *Demaj v. Sakaj* (D. Conn, 2012) – U Visa Case

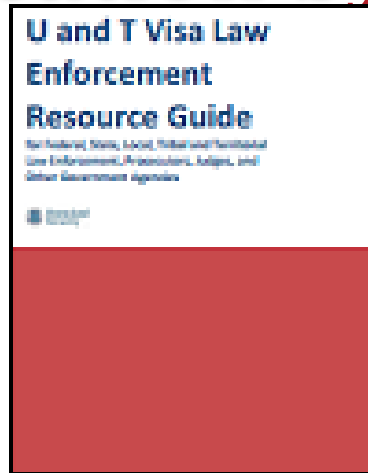
- Efforts to obtain information through the custody case constituted the kind of interference with the victim's immigration case that was barred by the federal statute
- VAWA confidentiality applies to protect the case file contents, including in cases when
  - the victim discloses in state court that DHS has approved her protected immigration case

# EEOC v Koch

- 5<sup>th</sup> Circuit remand because District Court failed to consider
  - How discovery of U visas might intimidate victims outside of the case before the court
  - Compromising the U visa programs and law enforcement investigations and prosecutions more broadly
  - Koch was an employment case where victims could maintain anonymity
    - Until liability phase of the case
  - That is not possible in a family court case



# Updates to DHS' "U Visa Certification Resource Guide" that Promote U Visa Certification by Judges



## Updates to DHS' "U Visa Law Enforcement Certification Resource Guide" Now Clarifies Judges' Role in the U Visa Certification Process

- “Helpful” means the victim has been, is being, or is likely to assist law enforcement, prosecutors, **judges**, or other government officials in the **detection**, investigation, prosecution, conviction, or **sentencing** of the qualifying criminal activity of which he or she is a victim. This includes providing assistance when reasonably requested.”

## Updates to “U Visa Law Enforcement Certification Resource Guide”

- “Law enforcement, prosecutors, **judges** or government officials can certify a U visa based on past, present, or the likelihood of future helpfulness of a victim. A current investigation, the filing of changes, a prosecution or conviction is not required to sign the law enforcement certification.”

# Updates to “U Visa Law Enforcement Certification Resource Guide”

“You may sign a certification regardless of the outcome of the qualifying criminal case, including in the following instances:

- the prosecutor decided not to prosecute;
- the grand jury did not issue an indictment;
- **the case was dismissed by the prosecutor or a judge;**
- a case brought by the EEOC or DOL resulted in a judgment, settlement, or dismissal;
- **a judge issued a protection order or custody ruling;**
- a child abuse case was settled;
- the defendant entered a plea, whether or not the plea was to an offense that is a qualifying criminal activity; and
- the defendant was found not guilty.”

# Benefits of filing the immigration case before the family court case:

- Prepared for retaliation by the perpetrator following service in a family court case
- Can decide to raise immigration status as part of victim's case
  - Immigration related abuse
  - Show victim on path to stability
    - Legal work authorization
    - Driver's license

# Family Court:

## Be Prepared to Make Your Record

- Decide if you want to raise survivor's immigration status as part of your case
- Use motion *in limine* to offensively prevent discovery or disclosure protected case
- If raised by perpetrator
  - object and make VAWA confidentiality arguments
- Make court aware of case law and memos and offer to brief the issue
- If not granted, create record for appeal ask for specific findings and conclusions of law

# Discovery Obligations in Criminal Court

Relevant and Material?

- Does it tend to prove or disprove any fact significant to the issue at hand?

*Brady or Giglio?*

- Is it evidence that exonerates the defendant or calls into question the victim's motives?

Is it in the State's Possession?

- Is it held by a Federal Agency "uninvolved in the state investigation or trial?"

Existence

v.

Content



# U Visa: Protect Confidential Content

Disclose

The fact that the victim applied

Completed Certification

Advise

Witnesses

Supporting documentation in the State's possession

Quash

Subpoena for DHS file

Subpoena to Immigration Attorney / Counselor

# Case Strategy: Steps

1. Object based on relevance
2. Argue that discovery is part of the pattern of immigration related abuse
3. Argue not discoverable under Hawke and Demaj, distinguish Koch
4. Consider motion in limine to keep out
  - Information about immigration status, VAWA or U visa case out of family court case
5. Judge conducts in camera review

# Preventative Strategies

- File skeletal immigration applications
- Give survivor copy of DHS receipt proving that a VAWA, T or U case was filed
- Object to discovery and cross examination
  - Asking
    - about the *existence of* VAWA/T/U case
    - for information contained in VAWA/T/U case
- Use DHS policies to advocate when violations happen
- Educate courts and agency personnel at prohibited locations

# **BASIC IMMIGRATION RELIEF:**

## **SCREENING FOR IMMIGRATION RELIEF AND UNDERSTANDING THE VARIOUS FORMS OF RELIEF AVAILABLE TO IMMIGRANT SURVIVORS**

What are all of the forms of  
immigration relief that  
immigrant survivors would  
qualify for?

# Potential Immigration Remedies

- Applications filed with DHS
  - VAWA self petition
  - Battered spouse waivers
  - Work authorization for abused spouses of work visa holders
  - U-visa (crime victims)
  - T-visa (victims of trafficking)
  - Special Immigrant Juvenile Status
  - Deferred Action for Childhood Arrivals (DACA)
- Forms of relief from removal- granted by Immigration Judge
  - VAWA cancellation of removal
  - VAWA suspension of deportation

# Battered Spouse Waivers

- For survivors with a 2 year conditional residency card
- Waives the joint filing requirement and two year wait for full lawful permanent residency
- Requires proof of
  - Good faith marriage to U.S. citizen or permanent resident *and*
  - Battered or subjected to extreme cruelty
    - To spouse, child, step-child

# General VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
  - spouse;
  - parent; or
  - adult son/daughter (over 21)
- With Whom Self-Petitioner Resided
  - No time period required
- Good Moral Character
- Good Faith Marriage



# HOW MIGHT YOU DEFINE “EXTREME CRUELTY”?

# Forms of Extreme Cruelty

- Emotional Abuse
- Economic Abuse
- Sexual Abuse
- Coercion
- Deportation threats
- Immigration related abuse
- Intimidation
- Social Isolation
- Degradation
- Possessiveness
- Harming pets

# Factors that can constitute extreme cruelty

- Correlate strongly with physical & sexual abuse
  - Isolation
  - Intimidation
  - Economic abuse
  - Employment related abuse
  - Immigration related abuse
- Threats to kill or cause bodily harm
- Threats to harm children or family members
- Threats to take away children
- Threats to take away money

WHAT KINDS OF EVIDENCE COULD A  
VICTIM SUBMIT TO PROVE –  
BATTERING?  
EXTREME CRUELTY?

Small group discussion

# Proof of Extreme Cruelty or Battery

- Self-petitioner's declaration
- Others' declarations (family, neighbors, friends, faith communities, workplace, school)
- Domestic abuse service providers (shelters, crisis lines, support groups)
- Protection orders
- Criminal court records
- E-mails, notes, letters, voicemails
- Photos: injuries, broken windows, furniture
- Medical records (injuries, scars, PTSD, migraines, insomnia)
- Vet records
- Counselors (marriage, religious, mental health)
- Police reports

# VAWA self-petitioning available

- If case filed within 2 years of marriage termination
- Bigamy + unknowing immigrant “spouse”
- Child abuse up to age of 25 to file
- Step children up until divorce
- Credible evidence standard of proof (police report, protection order, medical records NOT required)

# VAWA self-petitioners get:

- Deportation: Protection from deportation soon after filing.
- Immigration Benefits for Children:
  - VAWA self-petitioner's children receive immigration benefits
  - VAWA cancellation parole into US visa process required
- Public Benefits: As qualified immigrants ( $\approx$  2 months)
- Employment authorization:
  - Citizen abuser ( $\approx$  4 months);
  - Lawful permanent resident abuser ( $\approx$  7 months).
- VAWA confidentiality: protections against the release of information and reliance on abuser provided information
- Lawful permanent residency
  - Citizen perpetrator apply upon approval (1 year)
  - Lawful permanent resident perpetrator ( $\approx$  3+ years)

# Crime Victim (“U”) Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful
- 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



# Criminal activities covered by the U-visa?

- Rape
- Torture
- Trafficking
- Incest
- Domestic violence
- Sexual assault
- Stalking
- Prostitution
- Female Genital Mutilation
- Blackmail
- Extortion
- Manslaughter
- Murder
- Felonious assault
- Witness tampering
- Involuntary servitude
- Slave trade
- Being held hostage
- Kidnapping
- Abduction
- Peonage
- False Imprisonment
- Fraud in Foreign Labor Contracting
- Obstruction of justice
- Perjury
- Attempt, conspiracy or solicitation to commit any of these crimes
- Any similar activity

# U-visa Facts and Benefits

- Only 10,000 U-visas can be granted annually
  - Waitlist approval backlog 62,000 visas
- The U-visa grants a temporary 4 year stay
- Work authorization ( ≈ 28 months)
- Benefits limited to: what undocumented persons receive & what is offered under state law
- Lawful permanent residency after 3 years if
  - Cooperation or not unreasonably refuse to cooperate
  - + humanitarian need, family unity or public interest
- U.S. citizenship after 5 years of lawful permanent residency+ proof of good moral character

# Large group discussion

- How do VAWA self petitions and U visas differ in
  - Key application requirements?
  - How they benefit victims?

# Comparison: VAWA vs. U-visa

## VAWA Self-Petition

- Abuser: spouse, former spouse, parent, 21+ USC child
- Abuser USC or LPR
- Children included
- No cooperation with law enforcement required
- No proof of harm
- Criminal involvement can cut off access to relief
- Qualified immigrant = public benefits
- 3-7 month wait for work authorization
- Green card after approval if abuser is a citizen, or 3+ years wait if abuser is LPR

## U-visa

- Abuser: anyone
- Any status
- Children included
- Cooperation in detection, investigation or prosecution required
- Substantial physical or emotional abuse
- Crimes can be waived
- Lawfully present at 28 months & less benefits access
- Two year wait for work authorization
- Wait list for visa
- If in immigration proceedings, case expedited
- Green card after 3 years if can show cooperation + either humanitarian need, public interest or family unity

# Special Immigrant Juvenile Status (SIJS)

- Immigration relief for unmarried children under the age of majority under state law who have been
  - Victims of abuse, abandonment, neglect
  - By at least **one parent**
- State Court Findings Required As Evidence requires
  - State court with jurisdiction over care, custody, dependency or placement of the child
  - has issued a court order, finding, or declaration on three statutorily required issues
- The state court order does **not** award SIJS
  - **ONLY DHS can provide legal immigration status**

# State Court Findings Needed for SIJS

## \*State Law Applies To Each\*

1. The court issued regarding the child care, custody, dependency or placement of an immigrant child with
  - An individual (e.g. non-abusive parent, grandparent, kinship care, guardian, next friend) OR
  - State agency, private agency, including foster care system
2. Reunification of the child is not viable with a parent due to the parent's abuse, abandonment, or neglect
3. It is not in the child's best interest to return to their home country
  - Best caregiver identification/often not necessary to compare countries

# State Courts Regularly Make Custody & Care Determinations

- Who will be the custodian/guardian of the minor
- Who the minor will live with
- Who will receive child support for the child living with them
- Whether the minor will be committed to the custody of the state or private agency for care, treatment, or rehabilitation
- Issue orders directing the child's care
  - Child support, health care, applying for benefits or services for the child

# All of the Following are Potentially Eligible for SIJS

- A minor who is:
  - Abused, abandoned or neglected
    - In the U.S.
    - In the home country
  - Living with their
    - Non-abusive parent
    - Guardian
    - Adopted parent
    - State foster care
    - Federal foster care (ORR)
- Children included in their mother's U visa case and also file for SIJS



# Types of Proceedings With Jurisdiction To Make SIJS Findings:

- Dependency
- Delinquency
- Termination of parental rights
- Guardianship
- Protection orders
- Paternity
- Child support
- Custody
- Divorce
- Legal Separation
- Adoption
- Motions for a declaratory judgment

Courts with jurisdiction under state law to make judicial determinations regarding the custody, placement, care of children = *juvenile courts* for SIJS immigration purposes

# What Children with SIJ Status Receive

- While case is pending:
  - Protection from deportation and removal
  - As lawfully present children – health care exchanges (no subsidies)
  - Programs and services necessary to protect life and safety

# What Children with SIJ Status Receive

- At approval:
  - Lawful Permanent Residency (separate but usually concurrent filing)
  - Legal work authorization
    - Brings access to state issued driver's licenses and identification cards
  - Eligible for citizenship after 5 years
  - Post secondary educational grants and loans, public and assisted housing
  - Food stamps (only until the immigrant child turns age 19)

**SIJS' may NEVER file family petition for either of the child's natural parents**

# U Visa vs. SIJS

## U Visa

- Suffered substantial physical or mental abuse as a result of the victimization
- No findings regarding viability of reunification
- Less family law implications
- Benefits: Very Limited only health care at 28 months

## SIJS

- Cannot file for immigration relief for abusive parent
- Abuse, abandonment, neglect by family court
  - Can include extreme cruelty
- Requires finding that reunification not viable
- Greater family law implications
- Benefits: Same as lawful permanent resident

# Continued Presence

- Temporary lawful immigration status
  - For victims of severe forms of human trafficking
  - Victim of human trafficking who is a potential witness in investigation or prosecution of a trafficker
- Requested by federal law enforcement
  - Can be on behalf of state and local LEAs
  - One year, can be renewed
  - Can have family members join them

# Severe Forms of Human Trafficking

- Labor trafficking -
  - Recruitment, harboring, provision or obtaining
  - A person for labor or services
  - Through force, fraud or coercion
  - For the purpose of involuntary servitude, peonage, debt bondage or slavery
- Sex trafficking
  - Commercial sex act induced by
    - Induced by force, fraud or coercion
    - Performed by a minor under age 18

# Continued Presence - Benefits

- Temporary legal status in the U.S.
- Work authorization
- Access to public benefits – like refugees
  - State and federal
- Family members can join
- Can travel within the U.S.
- Does not lead directly to permanent legal status

# T Visa Requirements

- Survivors of human trafficking who
- (1) Is or has been a victim of a severe form of human trafficking
  - End: trafficker obtains sex or labor
  - Adult victims must prove force, fraud or coercion
- (2) Are physically present in the United States on account of the trafficking,
- (3) Comply with any reasonable request for assistance with an investigation or prosecution, and
- (3) Would suffer extreme hardship involving unusual and severe harm upon removal from the United States



# T Visa Benefits

- While Case is Pending
  - Protection from deportation and removal
  - VAWA Confidentiality
  - Programs and services necessary to protect life and safety
- Upon receiving a bona fide determination or continued presence
  - All federal and state public benefits
  - Health Care Exchanges
  - Receives work authorization
  - Drivers licenses
- Upon Approval
  - Immigration benefits for children (and unmarried siblings if applicant is under age 21)
  - Eligible for lawful permanent residence after 3 years

# Benefits Access Comparison

## U visa

- 28 month wait for:
  - Health care exchange access
    - Subsidies in HI
  - Work authorization
  - Driver's license
  - All other benefits not available until 5 years after lawful permanent residency
- Get services necessary to protect life and safety

## T visa

- 4 months wait for:
  - Health care subsidized
  - Work authorization
  - Drivers license
  - TANF
  - Food stamps
  - FAFSA
  - Public and assisted housing

# Temporary protections for immigrants who entered the U.S. as children (DACA)

- Came to the U.S. under the age of sixteen;
- Has resided in the U.S. for a least five years, since June 15, 2007, up to the present time;
- Is **physically present in the U.S. on June 12, 2012**;
- Is currently in school, has graduated from high school or GED, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the U.S.;
- Has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- Is not above the age of thirty-one (31) as of June 12, 2012

# Screening for Red Flags

- Alcohol abuse
- **Drug trafficking**
- Drug abuse or addiction
- Illegal gambling
- **False testimony for immigration purposes**
- Penal confinement
- Genocide, torture, killings, violations of religious freedom
- **Child Protective Services intervention**
- Communicable disease
- Physical or mental disorder
- **Any criminal convictions**
- Unlawful voting
- Prostitution
- Human trafficking
- Money laundering
- **Terrorist activities**
- Espionage
- Communist
- Immigration violation
- Misrepresentation for immigration purposes
- Stowaway
- **“Alien smuggling”**
- Draft evasion
- **Previously deported**
- International child abduction
- Polygamy

# Small Group Activity

Hypothetical Case  
Immigration Relief

Maura is 17 years old and from Mexico. She came to the U.S. at age 5, crossing the border with her mother; her father abandoned Maura when she was 3 months old. When Maura was 15 years old, her mother married Jose, a lawful permanent resident abuser.

After enduring 5 years in the abusive household and sexual advances from her step-father, Maura left home and moved in with her boyfriend Juan, who started battering Maura when she became pregnant with their child.

During an incident of abuse, the neighbors heard Maura screaming and called the police. When they arrived, Maura described the incident to the police officer, but fearing that she would get deported, she did not appear at the hearing on the domestic violence charge. The charge was amended to misdemeanor battery. Juan pled no contest and was convicted of battery.

**For what forms of immigration relief is Maura eligible to receive?**

# Large Group Report Back

- What form of relief did you determine Maura is eligible to receive?
- What factor affect which form of immigration relief would be most beneficial for Maura and why?

# U Visas as a Crime Fighting Tool

Improving the reporting,  
investigation, and prosecution of  
violent crime & keeping everyone  
safer



# Benefits



Increase reporting

Improve investigations

Enhance participation

Increase safety

# DHS Video Part 1.mpg

# U Visa Basics

- Law enforcement certification is just one part of the overall process it does not = Citizenship
- Meant to promote reporting of crime
- Targets offenders who prey on most vulnerable victims
- Offender may be citizen or non-citizen
- Can be “revoked”
- Increases immigrant victim participation in criminal justice system

# 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

# U Visa Criminal Activities (11/2011 data)

- Domestic violence **45.9%**
- Rape, sexual assault, incest, trafficking **30.4%**
- Felonious assault, murder, manslaughter **9.9%**
- Kidnapping, being held hostage, unlawful criminal restraint, torture **8.47%**
- Blackmail, extortion, perjury, obstruction of justice, attempts, conspiracy, solicitation **5.3%**

# Qualifying Criminal Activity

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

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

# Who can apply?

- Victims of qualifying criminal activity
- Parents and guardians can apply as an “indirect victim” if:
  - the victim is a child under 21 years of age and/or
  - is incompetent, incapacitated, or deceased due to murder or manslaughter
- Bystanders victimization – very limited
- For child victims a “next friend” can provide helpfulness

# Who Can Certify?

*“law enforcement” & “law enforcement agencies” =*

- Federal, state, and local
  - Police, sheriffs, FBI, HSI, ATF...
  - Prosecutors
  - Judges, Magistrates, Commissioners
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and Elder Abuse investigators and agencies
- Other government agencies



# U Visa Certification Considerations

- What criminal activity occurred?
- Identify the victim or indirect victim
  - Note injuries observed, if any
- Determine helpfulness of the victim
- Determine if any family members were implicated in the crime

# Questions

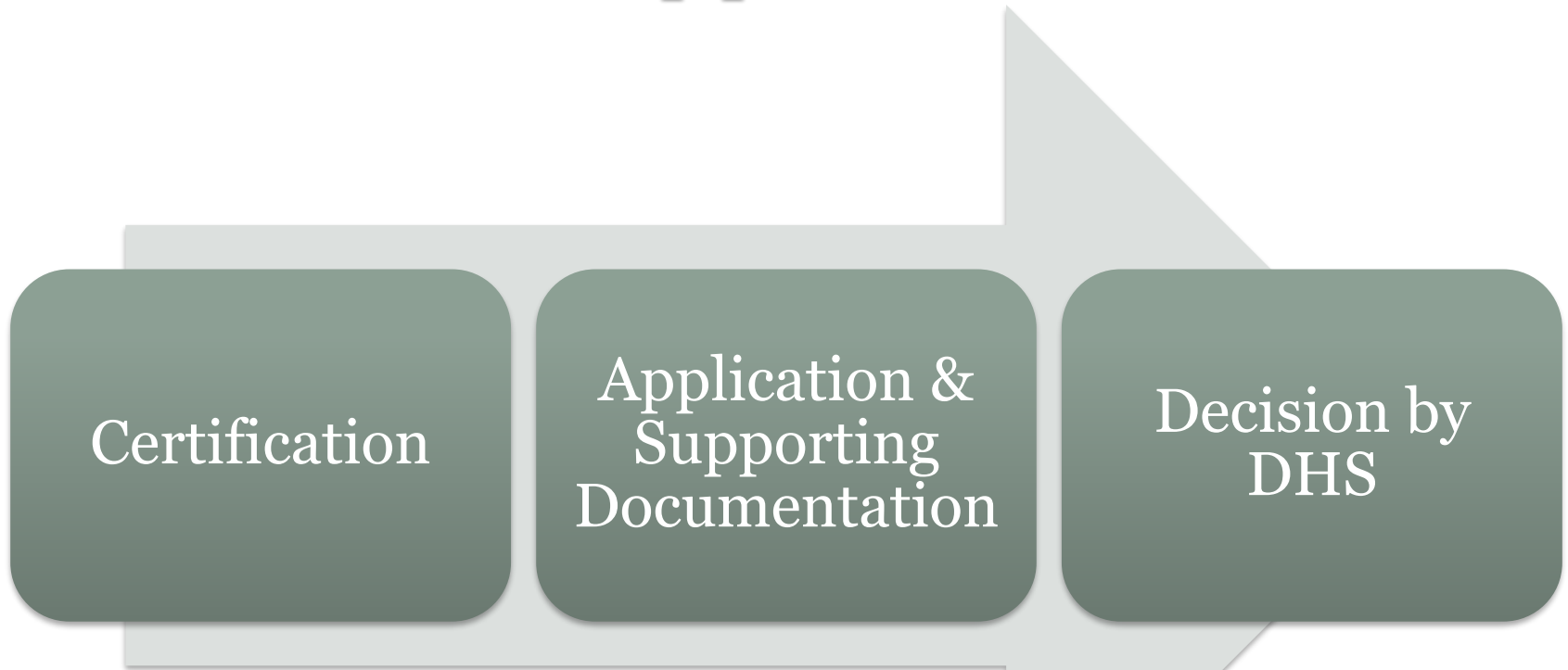
## Ask

- Do I believe this person was a victim of a qualifying crime?
- Did the person assist or is willing to assist in the detection, investigation, conviction, prosecution and/or sentencing?

## Do not ask

- Can we prosecute?
- Can I arrest the offender?
- Do I have proof beyond a reasonable doubt?
- Will the prosecutor's office file charges?
- Is this within the statute of limitations?
- Did we get a conviction?

# The U Visa Application Process



Typical length of process = 28 months

# Helpfulness

**By the end of this segment, you will be able to:**

- Understand the scope of the helpfulness standard
- Apply the helpfulness standard to U visa certifications



# Hypotheticals

## Small Group Activity

- Is this person eligible for a U Visa certification?
- *Stories* handout



# Helpfulness in the Regulations

- Statute and DHS Regulations: has been helpful, is being helpful or is likely to be helpful in the
  - Detection, or Investigation, or
  - Prosecution, or Conviction or
  - Sentencing
- There is no degree of helpfulness required
- Law enforcement may complete U visa certification once they assess victim's helpfulness
- The investigation or prosecution can still be ongoing

# Helpfulness can be satisfied even if:

- Victim reports a crime where there's no further investigation
- Report is of past crime that the victim did not report at the time
- Perpetrator absconds or is subject to immigration removal
- The perpetrator is being prosecuted for a different crime
- Victim is not needed as a witness
- Victim is dead (indirect victim qualifies)
- Perpetrator is dead
- Victim has a criminal history or is subject to immigration enforcement
- Victim fully discloses story after better understanding rights, the U-visa and meaningful language access

# Ongoing obligation to provide helpfulness/assistance reasonably requested

- Evaluating Whether Victim's Refusal to Provide Assistance/Cooperation was "Unreasonable"
- Considerations:
  - totality of the circumstances, including the nature of the victimization
  - victim's fear or the abuser
  - trauma suffered
  - force, fraud or coercion



# Research Findings: Benefits of Collaboration

- Collaborations between law enforcement and community based victim advocates improves
  - Language access
  - U visa certification
  - Law enforcement advocacy with ICE on cases of immigrant victims
- Collaborations on
  - Cases (81.3%); Trainings (71.9%); Community Education (69.2%); SART (58.8%); CCR (57.9%); immigrant community outreach (51.5%)

\*Natalia Lee, Daniel J. Quinones, Nawal Ammar & Leslye E. Orloff, National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access (April 16,2013)

## Best Practices:

### Characteristics of Effective Partnerships

- Involves advocates from the community
  - Authentic, develop from living realities of the community
  - Have/gain women's trust
  - Help others step forward
- Real relationships with systems personnel
  - Work together on cases/systems reforms
  - On first name basis
  - Communicate with each other regularly

# Collaboration Roadmap

- Strategies for collaboration with law enforcement
- How collaboration protects immigrant victims
- Collaboration is key



# Road Map for a Safer Community

- Know each other's roles
- Come to the table and have open communication
- Make committees which develop realistic goals and that will achieve these goals
- Committee should have a representative from each group/multidisciplinary
- Develop new policy
- Communicate the small problems before its too late

# Resources

- **U-Visa Legal Advocacy: Overview of Effective Policies and Practices**  
(December 12, 2013)
  - LAV grantee lessons learned successful collaborations with law enforcement

# A Starting Principle for Analysis

- A person's immigration or citizenship status per se
- Is irrelevant to the determination of
  - Family law rights including
    - Divorce
    - Custody
    - Protection orders
    - Child support

# Knowledge of immigration issues is important in family matters

- ▶ Addressing immigration status issues early can
  - ▶ Improve outcomes in family court cases
  - ▶ Prevent or delay family court orders that cut a party and their children off from immigration relief
- ▶ Family court actions can assist with
  - ▶ Helpful evidence for an immigration case
  - ▶ Obtaining from family court judges
    - ▶ Court SIJS findings for abused immigrant children
    - ▶ Certifications immigrant crime victim's U visa case
  - ▶ Creative protection order remedies

# U Visa Certification By Family Court Judge

- Generally issued after the court has ruled in a protection order or custody case involving domestic violence
- Ex-parte motion for certification
- Judge signs certification, attaches court order and
- Evidence of helpfulness



# Minnesota Judicial Ethics Opinion U Visa Certification (June 26, 2015)

- Judge may sign certifications when
  - “adequate basis for the averments made in the certification”
- Certification after the criminal or civil case is completed does not raise impartiality issues
  - In open cases should disclose certification to the parties
- Certification describes immigrant victim’s past/present helpfulness -- Does not vouch for character
- In civil and criminal cases whether to sign a U visa certification is a an issue of law that does not implicate judicial ethics codes

Full Opinion Available at: <http://www.bjs.state.mn.us/file/advisory-opinions/opinion-2015-2-final.pdf>  
Hon. Pendleton also published a training update based on the opinion at <http://pendletonupdates.com/>

# PROTECTION ORDERS



# 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

# Essential Remedies

- Address remedies needed to
  - Stop abuse
  - Address housing
  - Custody of children and visitation
- 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

# CREATIVE REMEDIES: SMALL GROUP ACTIVITY

What creative protection order remedies might help an immigrant victim?

# 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 care of child
- Deter parental kidnapping
- Child/Spousal support
  - Affidavit of support
- Health insurance



# Victims Who Stay: Full Contact Protection Orders

- No state's protection order statute requires separation of the parties
- In virtually every state victims cannot violate their own protection orders
  - Contrary to statutory intentions; and
  - Against public policy to prosecute abused women for complicity in violating their own orders.
- Provisions
  - No abuse
  - Counseling

# A protection order or discovery can help a victim obtain needed evidence:

- Marriage certificate
- Wedding/family pictures
- Birth certificates
- Love letters
- Copies of joint leases/utility bills
- Police, medical, court documents about the relationship,
- Copy of abuser's green card or passport

# Protection order or discovery continued

- School records
- Medical records
- Employment records
- Social security number information
- Health insurance
- Children's birth certificates
- Letters and other mail addressed to the victim and to the abuser at the same address
- Copy of I-130 petition

# Catch-all Provisions Preventing Immigration Related Abuse

- Defendant must obtain prior court approval before contacting any government agency (immigration officials, CPS, IRS, Welfare etc.) concerning the petitioner except
  - Police emergency
  - Subpoena
- Cooperate in and not withdraw any case he has filed for petitioner with immigration authorities (e.g. work visa holders, I-130s)

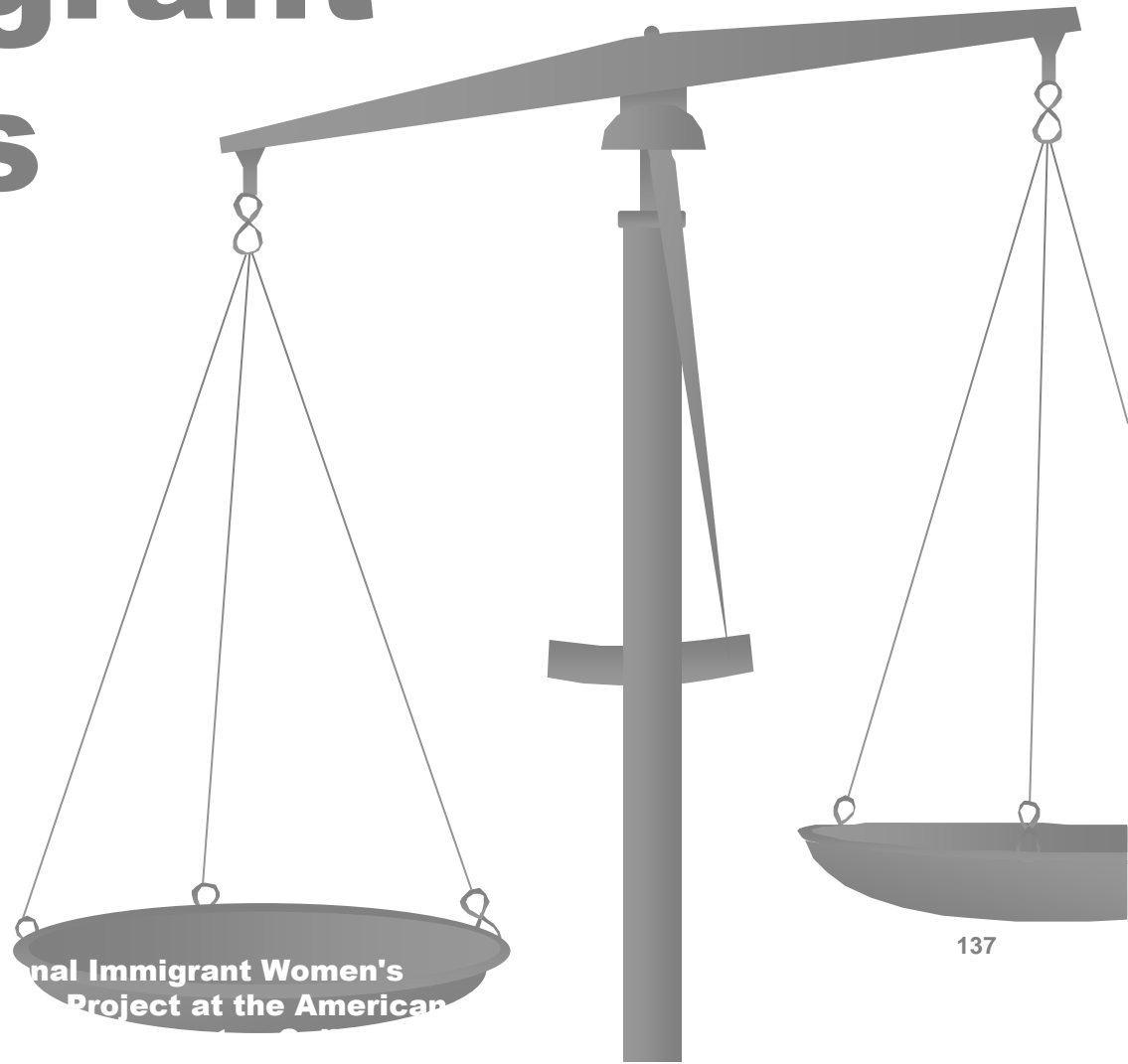
# Provisions that Deter Parental Kidnapping

- Not remove the children from the court's jurisdiction
- Turn over passports of parties and/or children
- Sign statement that no visa or passport should be issued to children absent court order.
- Supervised visitation
- Bond

# Important Economic Provisions

- Maintain medical, car, house insurance, mortgage, rent, utility and/or debt payments
- Child support and spousal support
- Injunctions against third party institutions not to respond to acts by the abuser that would harm her (banks, retirement funds, utility companies)
- Taxes
  - Turn over income tax statements
  - Victim named trustee for receipt of tax return funds, respondent ordered to sign check
  - Victim awarded exclusive right to claim children as tax exemptions
  - Respondent pays victim 1/2 of return

# Custody of Children in Immigrant Families



What are the primary issues with regard to custody you are seeing in cases of immigrant victims?



# Custody

- Factors courts consider:
  - Status quo
  - Primary caregiver
  - Division of labor within the household
  - Stability
  - Ability
  - Domestic violence

# Best Interests and Immigration

- No state family code lists immigration status or English language competency as a factor
- All states have provisions that encourage courts not to award custody to batterers
- As a general rule immigration status is NOT relevant to:
  - Core primary caretaker determination
  - Evaluation of parenting skills

# When Immigration Status is raised in Custody Proceedings

- Parent raises the other parent's undocumented or temporary immigration status
  - to prejudice the decision maker
- Courts should not rely on immigration status as a stand-alone factor
- Courts must decide child's best interests:
  - Who has been primary caretaker? What has been status quo?
  - Who has been primarily responsible for child's education and health care?
  - History of abuse (or sexual assault) perpetrated by 1 parent against the other

# 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



# ABA Center on Children & The Law (1991)

- “Parties should not be able to raise, and courts should not consider, immigration status of domestic violence victims and their children in civil protection order, custody, divorce or child support proceedings...”
- “Batterers whose victims are immigrant parents use threats of deportation to avoid criminal prosecution for battering and to shift the focus of family court proceedings away from their violent acts...”

# ABA Center on Children & The Law (1991)

- “When the judicial system condones these tactics, children suffer”
- “This ... will ensure that children of immigrant domestic violence victims will benefit from ...laws (like presumptions against awarding custody or unsupervised visitation to batterers) in the same manner as all other children”

# 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 crime victims
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.

# Immigrant Parents and Child Custody

In re Interest of Angelica L., 277 Neb. 984 (2009)

- Parents have a Constitutional right to custody (absent unfitness)
- Applies to all families without regard to:
  - Undocumented immigration status
  - Immigration detention
  - Deportation
- Overriding presumption that:
  - Parent-child relationship is constitutionally protected
  - In children's best interest to stay with/be reunited with their parent(s)
- Child's best interests is most important
  - A comparison of natural vs. adoptive parent's cultures, countries or financial means is not to be made



# Parental Interest Directive Aug 2013

- If parents are detained:
  - Placement near children and family court
  - Bring parents to family court to participate in cases involving children
  - Facilitate visitation
  - Help children travel with deported parent – obtain passports for children
  - Bring deported parents back to the US for custody and parental rights cases

# Divorce and Economic Relief

# Timing: Divorce can result in

- Immigrant spouse or child's
  - Loss of legal immigration status
  - Access to lawful permanent residency
- Inability to obtain legal immigration status through a pending application
- Start the clock running on timing for filing immigration relief
- End step-parent child relationships that matter in immigration law

# Annulment Instead of Divorce

- Pursued in an effort to cut off an immigrant spouse from immigration relief
- 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

# Importance of Child & Spousal Support for Immigrants

- Spousal control over immigration case filing affects:
  - Work authorization
  - Driver's licenses
  - Access to health care exchanges
- Many immigration visas do not allow work authorization for spouses/children
  - Employment, student, diplomatic, international organization and investor visas
  - Exception abused spouses of A (foreign gov't), E (investor), G (int'l org & gov't employees, H (work visas)

# Work Authorization for Spouses of Immigrant Visa Holders (3/8/16)

- **A-1, A-2, and A-3**: Foreign government *diplomats* and *officials* + immediate family members, attendants, servants, personal employees;
- **E-3**: *Australian specialty occupation* workers;
- **G-1, G-2, G-3, G-4, G-5**: *Employees of foreign governments and international organizations* officials + immediate family members, attendants, servants, personal employees
- **H-1B, H-1B1, H-2A, H-2B, H-3, H-4**: *Specialty occupation workers*, Free Trade Agreement professionals from Chile and Singapore, temporary agricultural and non-agricultural workers, trainees and special education exchange visitors, and immediate family members of specialty occupation workers

# To File

- Applicant is on an A, E, G or H visas
- One of the following required
  - Marriage to spouse with A, E, G, H visa OR
  - Death of visa holder w/in 2 years
  - Dissolution of marriage or abusive spouse lose of status w/in 2 years +
    - Connection to the abuse
- Battering or extreme cruelty by A, E, G, or H visa holder of the immigrant spouse or the immigrant spouse's child/step-child
  - Abuse only proven on initial application

# Affidavits of Support

- Under provisions introduced in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 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)



# Affidavits of Support

- Enforced as contract or used as evidence of ability to pay support
- These affidavits are of increasing importance in resolving support issues in immigrant families, sometimes decades after the act of immigration is complete.

# Evidence in Affidavit of Support

- 3 years of tax returns
- Evidence of employment including self-employment
- Proof of income sufficient to sustain the immigrant at 125% of poverty

# Immigration Issues Arising in Child Support Cases

- Payment of child support through the court provides a non-citizen parent with a history of child support payments that will be helpful evidence of good moral character for immigration cases
  - Cancellation of removal
  - Naturalization
  - Relief in immigration court can be used to show hardship to family members

# Immigration Issues Arising in Child Support Cases

- Criminal convictions for willful failure to pay child support can be deportable theft/fraud related crimes of moral turpitude
- Lack of legal work authorization is not a valid defense to non-payment of child support
- Employers who willfully violate wage withholding orders have been held liable to the custodial parent for court ordered child support not withheld.

# Proof of Non-Custodial Immigrant Parent's Income

- Undocumented workers can be ordered to pay child support based on Child Support Guidelines and
  - Actual earnings
  - Employer's statements
  - Evidence of earning capacity
  - Attributed income (e.g. minimum wage)
- Undocumented workers can pay state and federal taxes on income earned using an IRS issued Tax ID number

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



# Immigrants and Benefits: True or False

1. Undocumented victims and children can access transitional housing programs
2. Federally funded health care is available for undocumented immigrants
3. DHS requires universities to ask about immigration status of applicant or enrolling students

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

# 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

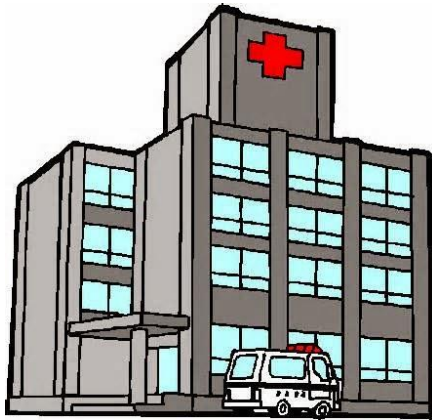


# Federally Qualified Health Centers

- Primary care
- Diagnostic, laboratory and radiological services
- Prenatal care
- Post-assault health care
- Cancer and other disease screening
- Child wellness services
- Emergency medical and dental services
- Immunizations
- Blood test screening
- Eye, ear and dental screenings for children
- Family planning services
- Preventative dental services
- Pharmaceutical services
- Mental health treatment
- Substance abuse services

# Emergency Medicaid

- Available only in cases where the person needs treatment for medical conditions with acute symptoms that could:
  - place the patient's health in serious jeopardy;
  - result in serious impairment of bodily functions; or
  - cause dysfunction of any bodily organ or part



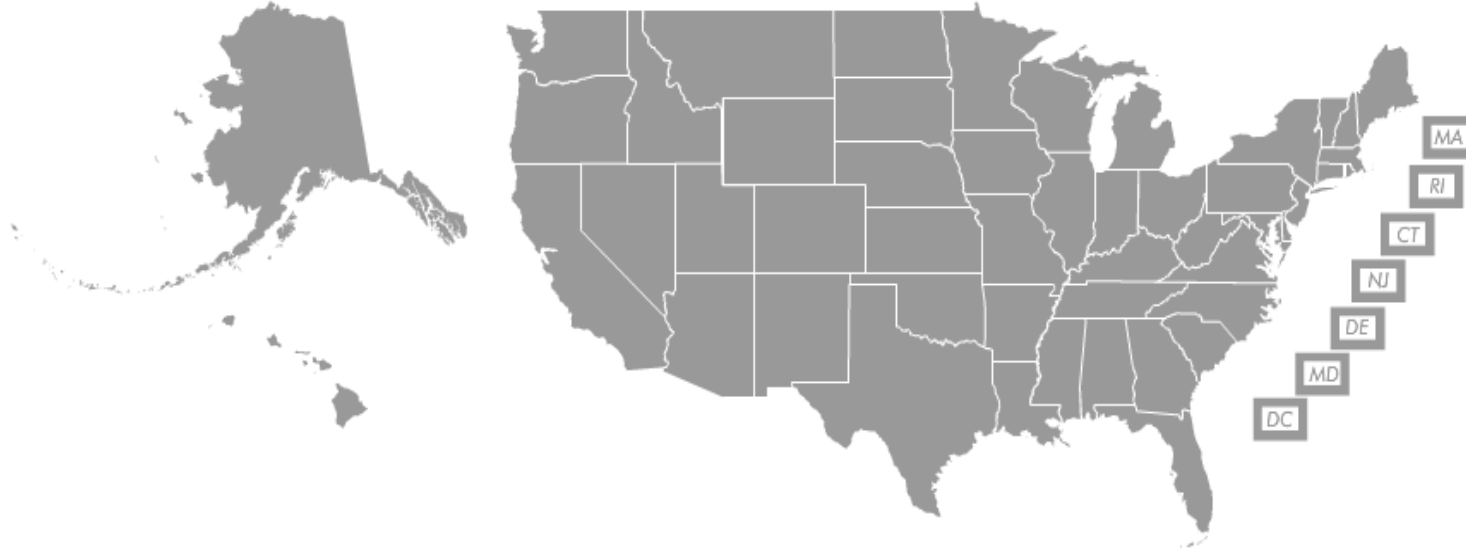


# Resources:

## Healthcare for Immigrant Victims

- State by state charts
  - Post assault health care
  - Emergency Medicare
  - Forensic Exams
  - Prenatal Care

# 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.*

# Undocumented Immigrant Survivors Have a Legal Right to Access Shelter and Transitional Housing



# Raise your hand if you have worked with an immigrant victim turned away from a transitional housing program...

- Immigrant victims of
  - Domestic violence
  - Sexual assault
  - Human trafficking

# NIWAP Research: Immigrant Victim Transitional Housing Acceptance Rates

Type of Crime	% Accepted	# Accepted	% Denied	# Denied
Domestic Violence	47.1%	1759	52.9%	1979
Sexual Assault	5.8%	29	94.2%	466
Human Trafficking	78.5%	146	21.5%	40
Abused/Abandoned /Run Away Children	80.8%	51	19.2%	12

# Large Group Discussion

- What criteria do transitional housing programs in your state/community require for admission?

# Reasons turned away:

- Program wanted to see
  - Immigration status documentation
  - Documentation of legal work authorization
  - Drivers license
  - Government issued ID
  - Documentation victim did not have
- Victim was undocumented
- Evidence of self-sufficiency insufficient

# NNEDV/OVW Admission Criteria

- Survivor actively fleeing abusive relationship or situation (e.g., employment, housing where rape occurred)
- 18 or older or legally emancipated
- Willing and desiring to participate in transitional housing program and meet with staff on mutually determined schedule
- Willing to create individualized safety plan with help of victim advocate
- Able to live 24/7 independently



# Common Criteria

- Residence in the city/county
- Homelessness/at risk of homelessness
- Employment/self-sufficiency criteria
- Cannot be an active substance abuser
- No sex offender criminal record
- Brochure

# No Immigrant Status Requirements

- Undocumented immigrant survivors have a legal right to access shelter and transitional housing
- Open to all persons without regard to:
  - Immigrant status
  - Citizenship
  - Nationality
  - English language abilities

# Benefits Available to all Immigrants Include:

- Short-term shelter or housing assistance, victim services counseling, and intervention for:
  - Victims of:
    - Domestic violence
    - Sexual assault
    - Stalking
    - Dating violence
    - Human trafficking
    - Child abuse
    - Other abuse
  - Homeless
  - Runaway or homeless youth
  - Abandoned children

# 2001/2016: HUD/DOJ/HHS Letter

- HUD, DOJ, and HHS confirmed in a joint letter that federally funded housing providers must not turn away individuals based on their immigration status from programs, services, or assistance necessary to protect life or safety
- Examples of such programs and services:
  - Short-term shelter or housing assistance
  - Crisis counseling or intervention programs
  - Medical and public health services necessary to protect life or safety

# Applies to Government Funded Programs

- Federally funded under
  - Violence Against Women Act
  - Family Violence Prevention and Services Act
  - Victims of Crime Act
  - HUD-funded
    - Emergency Solutions
    - Continuum of Care Programs

# 2016 HUD SNAPS Notice

- These Emergency Solutions Grant (ESG) and Continuum of Care (CoC) funded programs have **no** immigrant restrictions
  - Street Outreach Services
  - Emergency Shelter
  - Safe Haven
  - Rapid Re-Housing
- Transitional housing that meets the in-kind, community level, and life or safety tests
  - No immigration restrictions
  - **Exception:** When there are rental assistance payments made for participant *because regulations require income test*; immigration restrictions

# 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

# Anti-Discrimination Protections

- No discrimination based on:
  - Title VI/FVPSA- race, color, and national origin
  - Fair Housing Act-race, color, national origin, religion, sex, familial status, and disability
  - VAWA- race, color religion, national origin, sex, gender identity, sexual orientation, and disability
  - HUD Section 109- race, color, national origin, sex, and religion



# Battered Immigrant Access to Public and Assisted Housing

# Housing Act Section 214 Quiz

- Which is the following programs does **NOT** have immigrant access restrictions under Section 214 of the Housing and Community Development Act ?
  - Public housing
  - Section 8 vouchers
  - Project-based Section 8
  - Low Income Housing Tax Credit
  - Section 514 and 516 Farm Labor Housing programs

# “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 and 516 Farm Labor Housing programs
- Section 502 home loan program
- Section 504 rehabilitation loan and grant program
- Section 521 Rental Assistance Program
- RD Voucher Program

# Which of the following is **NOT** is Eligible for Section 214 Housing?

- Legal permanent residents
- Bona fide T visas
- U visa applicants/recipients
- VAWA self-petitioners
- Asylum 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

# VAWA Self-Petitioners

- VAWA self-petitioners were made eligible to receive “federal public benefits” as part of the Immigration Reform & Immigrant Responsibility Act of 1996.
- HUD confirms that: VAWA self-petitioners have “satisfactory immigrant status”
- New HUD/DHS application verification process for Section 214 housing.
  - Housing providers must verify immigrant status by using the SAVE system including secondary verification
  - Documents to verify VAWA self-petitioner’s status uploaded
  - All VAWA protections apply to VAWA self-petitioners
- HUD PIH issued notice for public housing authorities on VAWA self-petitioner verification procedures.

# HUD List of VAWA Self-Petitioners

- Victims with VAWA self-petition I-360 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



# SAVE Program

- The SAVE Program provides immigration status information to authorized agencies providing federally funded benefits
- VAWA confidentiality: DHS does not place victims into SAVE until they receive work authorization
  - VAWA cases require housing provider to “Institute Additional Verification”
  - DHS conducts this additional verification in a VAWA confidentiality compliant manner
  - VAWA confidentiality protections apply to VAWA, Battered Spouse Waiver, T, and U visa, and abused Visa Holder Spouse work authorization applications

# 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

# Directions for the SAVE Program

- The DHS response
  - 3-5 business days; and
  - No longer than a month
- DHS confirmation of VAWA self-petitioning status then the victim is --
  - *“Immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected”*

# Steps When DHS Verifies 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)

# 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

# What To Bring With You to Advocate

- 8 U.S.C. 1641(c)
- 2003 Budget Bill Report Language
- Letter from DHS to HUD 2007



# **Immigrant Survivors' Legal Rights to Access Federal and State Funded Benefits**

# 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” or
  - “federal means-tested public benefits”

# Only considered a Federal Public Benefit if:

- Payment made or assistance provided 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

# Immigrant Benefits Classifications

- Citizens
- “Qualified Immigrants”
  - Entering U.S. before Aug. 22, 1996
  - Entering U.S. on or after Aug. 22, 1996 subject to 5 year bar on federal means tested public benefits (e.g. TANF, Medicaid, Child Care, SSI, Food Stamps)
  - Can access federal public benefits that are not means tested (e.g. public and assisted housing, FAFSA student grants/loans)
- Lawfully Present
  - Health care access is provided and states can opt to offer certain federal or state funded benefits to lawfully residing immigrants (most often prenatal and child health care)
- PRUCOL (Permanently Residing Under Color of Law)
- Undocumented Immigrants

# 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

# How do *immigrant survivors* prove that they are “qualified immigrants”?

- Family-based immigration cases
  - Prima facie determination in VAWA self-petition or cancellation
  - Approved VAWA self-petition or VAWA suspension/cancellation
  - Approved visa petition filed by an abusive spouse or parent
- Trafficking victims
  - Bona fide determination in a T visa case
  - Approved T visa
  - Continued Presence
- Special Immigrant Juvenile Status
  - Upon receipt of lawful permanent residency status through SIJS

# Additional requirements for a battered immigrant spouse or child to be a “qualified immigrant”:

- The child’s immigrant parent must not have actively participated in the battery or cruelty
- There must be a “substantial connection” between the battery or extreme cruelty and the need for the public benefit sought
- The battered immigrant or child no longer resides in the same household as the abuser.



# “Substantial Connection” Exists When

- Access to benefits helps ensure the safety of the survivors, their children or a parent
- A survivor had to leave her job for safety reasons
- The survivor loses a dwelling or a source of income following separation
- The survivor needs medical attention or mental health counseling or has become disabled
- The survivor’s fear of the abuser jeopardizes the survivor’s ability to take care of her children

# “Substantial Connection” Exists When Public Benefits Are Needed...

- To alleviate nutritional risk or need resulting from the abuse or following separation
- When the survivor has lost her job or earns less because
  - of the battery or cruelty or
  - because of involvement in legal proceedings
- To provide medical care during a pregnancy resulting from the relationship with the abuser
- To replace medical coverage or health care services lost following separation.

# Survivors of Human Trafficking

- To be eligible for benefits, survivors of trafficking:
  - Must receive certification from the Office of Refugee Resettlement (ORR) that they are eligible for benefits as victims of trafficking; *Or*
  - Have received bona fide determinations in their T visa case making them qualified immigrants
- Benefits agencies must accept ORR certification letter in place of typical Immigration documentation
- Also eligible for refugee programs

# 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

# 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 & loans

- Battered immigrant self-petitioners, T visa bona fide, 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/T case is denied
- Children who receive SIJS/lawful permanent residency also qualify

# Post –Secondary State Funded Education – Rhode Island

- In-state tuition for immigrants who are not citizens or lawful permanent residents
  - Lawfully present (status that allows domicile) + 1 year in RI; OR
  - Attended RI high school 3+ years & continues RI residence & Graduated/earned GED in RI, and
  - Affidavit stating that that the person has filed or will file as soon as possible after they become eligible an an application to legalize immigration status, and
  - Not a non-immigrant under 101(a)(15)
  - NOTE – excludes U and T visa victims

# Federal Means-Tested Public Programs Have Most Limited Immigrant Access:

- **TANF**
  - 5 yr. bar if entered the U.S. after August 22, 1996
- **SSI**
  - Lawful permanent residents only if 40 quarters or work credit + “qualified immigrant” status and 5 year bar if entered the U.S. after August 22, 1996
  - Refugee
  - Trafficking victim
  - Veteran and “qualified immigrant” spouses, children
- **Food Stamps**
  - “Qualified Immigrants” 5 year bar post August 22, 1996 and children
- **Medicaid and Child Health Insurance Program**
  - Health Care reform opened up access to immigrants who are “lawfully present”



# The Five Year Bar

- Due to 1996 welfare reform, qualified immigrants, including battered immigrant women, that enter the United States after August 22, 1996 are ineligible for “federal means-tested public benefits” for the first five years of holding qualified status.
- Certain immigrants are not subject to the five year bar including:
  - Refugees,
  - Asylees
  - Amerasian immigrants
  - Cuban/Haitian entrants,
  - Immigrants granted withholding of deportation
  - Victims of severe forms of human trafficking

# State Option

- States have the option to provide state funded benefits to immigrants
- Rhode Island has opted to do this for several benefits programs

# TANF – Rhode Island

- State Funded TANF – During 5 year bar for “Qualified abused immigrants”
  - VAWA self-petitioners
    - Applicants and their children
  - SIJS children when they receive lawful permanent residency status
  - Battered spouse waiver applicants
    - No Deeming
- Federal TANF
  - Bona fide T Visas and Continued Presence
  - Qualified immigrants after 5 year bar

# Child Care: Immigrant Restrictions Depend on Funding source CCDF vs. TANF

## Child Care Development Fund

- Only the citizenship/immigration status of the child considered (child is the primary beneficiary of the child care benefit)
- Open to “qualified immigrants” and victims of trafficking and their children
- CCDF child care open to all without immigration restrictions if
  - Subject to public educational or Head Start standards, or
  - Eligibility determined by a non-profit organization
- CCDF parents have the right to choose their child care provider, (e.g. relative, a family child care home, or child care center)
- Provider may be required to have an SSN
- State agencies *cannot require* an SSN from persons seeking CCDF-funded child care and cannot deny the benefit to families that do not provide an SSN (even if TANF funds included in CCDF)

# Federal TANF Funded Child Care

- “Qualified immigrants” who entered the U.S. before Aug. 22, 1996.
- 5 year bar applied to all other qualified immigrants
- Refugees and asylees
- Persons granted withholding of removal
- Amerasian immigrants
- Cuban/Haitian entrants
- Survivors of trafficking and their children
- Veterans and active duty military personnel, their spouses, un-remarried surviving spouses, and children, who are “qualified” immigrants

# TANF Child Care – Rhode Island

- Child Care Development Fund
  - Open to all immigrants
- TANF funded child care
  - Qualified immigrants who
    - Entered before 8/22/96 or
    - Are receiving state funded TANF
    - VAWA self-petitioners and SIJS lawful permanent residents
  - T bona fide
  - Continued presence

# Federal Food Stamps

## No Rhode Island Program

- Qualified immigrant children under 18 regardless of date of entry
  - Children included in VAWA self-petitions
  - T visa bona fide
  - SIJS children with lawful permanent residency
- Qualified immigrants who receive a disability benefit, regardless of date of entry
- Qualified immigrants living in the US for five years
- Trafficking victims adults and children
  - With HHS certification
  - T bona fide and Continued Presence

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- Qualified immigrant children under 18 regardless of date of entry
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- Qualified immigrants living in the US for five years
- Trafficking victims adults and children
  - With HHS certification
  - T bona fide and Continued Presence



# Federal -SSI

- Persons already receiving SSI before 8/22/96 or whose SSI apps were pending
- Persons who are blind or have disabilities who were lawfully residing in the U.S. on 8/22/96 and are now “qualified”
- LPRs with 40 quarters of work
- LPRs who entered after 8/22/96 have the additional burden of being “qualified” for 5 years

# Immigrants and Health Care Reform

- Naturalized citizens same as U.S. Born Citizens
- Legal Immigrants
  - Subject to individual mandate and tax penalties (unless low income)
- Lawfully present immigrants (VAWA, U visa wait list, SIJS applicants, trafficking victims with HHS certification)
  - May purchase from state insurance exchanges (no wait)
  - Eligible for tax credits & cost-sharing reductions (no wait)
  - Eligible for state's temporary high risk pools and basic health plans
  - 5 year bar to Medicaid for qualified immigrants
    - Rhode Island state option

# Rhode Island – Medical Assistance

- Lawfully residing children
  - VAWA self-petitioners
  - Trafficking victims (CP and T bona fide)
  - SIJS applicant children
  - U visa wait list approvals
- Prenatal care for all pregnant women
- Pre 8/22/96 who were RI residents on 7/1/9

# Driver's Licenses – Rhode Island

- Upon receipt of work authorization
  - VAWA approved cases with deferred action
  - U wait list approvals
  - T vis bona fide
  - Continued presence
  - DACA
  - SIJS when granted lawful permanent residence

# LIHEAP and DOE Weatherization

- LIHEAP – Heating, Cooling & Crisis Assistance and Single Family LIHEAP DOE Weatherization
  - VAWA self-petitioners
  - T Visa bona fide
  - Continued Presence
  - SJIS upon receipt of lawful permanent residence
- LIHEAP & DOE Weatherization Assistance
  - Multi-Unit Dwellings – no immigration restrictions

# Disaster Relief and Immigrants

- FEMA Individual Family Grant Program and Disaster Unemployment Assistance – 1 family member is a --
  - Citizen, or
  - Qualified immigrant
    - Prima facie/approved VAWAs
    - T bona fide
    - Continued presence
    - Lawful permanent residents
    - Refugees/asylees
- Emergency Food Stamps
  - Continued presence and T bona fide
  - Otherwise very limited

# Short Term, Non-Cash, In-Kind Emergency Disaster Assistance

- No immigrant restrictions
  - Search and rescue
  - Emergency medical care, mass care and shelter
  - Clearance of roads, temporary bridges
  - Public health/safety and further risk information
  - Essential needs: food, water, medicine
  - Reductions of immediate threats to life, safety, property, public health

# Technical Assistance and Materials

- Power Point presentations and materials for this conference at <http://niwap.org/go/RI2017>
- **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)



# Questions



**Thank You!**