

Addressing the Unique Needs of Immigrant and Limited English Proficient Survivors

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Immigrant and limited English proficient (LEP) survivors face unique challenges in addition to those faced by citizen survivors of domestic violence, sexual assault, stalking, and dating violence.¹ Perpetrators of family and sexual violence against immigrant and LEP survivors use techniques that can be incredibly effective in isolating and silencing victims in order to prevent them from seeking necessary help. In particular, immigrant survivors of violence are often locked into abusive homes and jobs because they fear possible immigration-related consequences of seeking assistance against their perpetrators, they are afraid of losing their children, and they feel they cannot seek help because of language barriers.²

Individuals working with immigrant and LEP survivors play a key role in helping immigrant and LEP survivors to heal and thrive by building victim and legal services providers' knowledge about the full range of services and legal options that immigrant and LEP survivors can access.³ As such, it is essential that individuals working with immigrant and LEP survivors employ a holistic approach designed to ensure that survivors and their children in the state have access to all of the assistance to which they are entitled under immigration law, family law, public benefits, legal services law, VOCA victim assistance and victim compensation,⁴ and language access. This article will outline some of the major barriers that immigrant and LEP survivors face and the important role that STOP administrators and their grantees can play for immigrant survivors armed with legally correct information and resources for more in-depth knowledge and guidance.⁵

Immigration related abuse

Perpetrators often use forms on immigration related abuse, power and control over a victim's immigration case and threats of deportation to trap survivors in abusive relationships. These actions are designed to evade prosecution, defeat protection orders, or win custody of children, or in retaliation. The Violence Against Women Act's (VAWA) immigration relief and VAWA confidentiality protections were designed as much needed protection, as Senator

¹ See generally Mary Ann Dutton, Leslye E. Orloff & Giselle Aguilar Hass, *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 2 GEO. J. POVERTY L. & POL'Y 245 (2000), <http://niwaplibrary.wcl.american.edu/pubs/characteristics-help-seeking-behaviors/>.

² See Jessica Mindlin, et al., *Dynamics of Sexual Assault and the Implications for Immigrant Women* in EMPOWERING SURVIVORS: LEGAL RIGHTS OF IMMIGRANT VICTIMS OF SEXUAL ASSAULT, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT & LEGAL MOMENTUM (July 1, 2014), <http://niwaplibrary.wcl.american.edu/pubs/ch1-dynamics-sexual-assault-implications/>; see also Leslye Orloff & Olivia Garcia, *Dynamics of Domestic Violence Experienced by Immigrant Victims* in BREAKING BARRIERS: A COMPLETE GUIDE TO LEGAL RIGHTS AND RESOURCES FOR BATTERED IMMIGRANTS, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT & LEGAL MOMENTUM (July 10, 2013), <http://niwaplibrary.wcl.american.edu/pubs/cult-man-ch1-1-dynamicsdomesticviolence2016/>.

³ Benish Anver and Leslye E. Orloff, *Protection Orders and Battered Immigrants: The Impact of Attorneys and Advocates* (June 20, 2014), <http://niwaplibrary.wcl.american.edu/pubs/battered-immigrants-cpo-advocacy/>.

⁴ Victim compensation is available without regard to immigration status in all states and U.S. jurisdictions except Alabama.

⁵ For more information, please see ALINA HUSAIN, LESLYE ORLOFF & MARY ELLEN GARCIA, *STOP Administrators' Role in Improving Access to Services that Meet the Unique Needs of Immigrant and Limited English Proficient Survivors*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Oct. 3, 2017).

Kennedy reminded Congress in 2005: “Many of us have heard horrific stories of violence in cases where the threat of deportation is used against spouses and children – if you leave me, I’ll report you to immigration authorities, and you will never see your children again.”⁶ The U.S. Department of Homeland Security has developed several useful tools for identifying immigrant crime victims eligible for immigration protections under VAWA and the Trafficking Victim’s Protection Act:

- DEP’T OF HOMELAND SECURITY, *Protections for Immigrant Victims* (Jan. 12, 2017), <http://niwaplibrary.wcl.american.edu/pubs/dhs-protections1-6-links-121516/>; see also DEP’T OF HOMELAND SECURITY, *Protecciones Para Las Víctimas Inmigrantes* (Mar. 1, 2017), <http://niwaplibrary.wcl.american.edu/pubs/dhs-protections-spanish-translation-2/>.
- U.S. CITIZENSHIP & IMMIGRATION SERVICES, IMMIGRATION OPTIONS FOR VICTIMS OF CRIMES: INFORMATION FOR LAW ENFORCEMENT, HEALTHCARE PROVIDERS, AND OTHERS (2011), <http://niwaplibrary.wcl.american.edu/pubs/imm-options-victims-of-crimes/>.
- DEP’T OF HOMELAND SECURITY, *Continued Presence: Temporary Immigration Status for Victims of Human Trafficking*, BLUE CAMPAIGN (July 2010), <http://niwaplibrary.wcl.american.edu/pubs/dhs-continued-presence-brochure/>.
- U.S. CITIZENSHIP & IMMIGRATION SERVICES, *Immigration Relief for Abused Children: Special Immigrant Juvenile Status* (April 2016), http://niwaplibrary.wcl.american.edu/pubs/uscis_sijs_brochure/.

Useful tools for screening victims for eligibility for immigration relief and For more information on how to deal with immigrant survivors who are hesitant to seek assistance from domestic, sexual, or dating violence due to potential immigration consequences, please see:

- *Introduction to Immigration Relief for Immigrant Victims of Sexual Violence and Glossary of Terms* in EMPOWERING SURVIVORS: LEGAL RIGHTS OF IMMIGRANT VICTIMS OF SEXUAL ASSAULT, NAT’L IMMIGRANT WOMEN’S ADVOCACY PROJECT & LEGAL MOMENTUM (July 1, 2014), <http://niwaplibrary.wcl.american.edu/pubs/ch6-intro-imm-relief-victims-glosary/> and <http://niwaplibrary.wcl.american.edu/pubs/ch3-1-imm-relief-victims-domestic-violence/> (domestic violence version)
- *The Central Role of Victim Advocacy for Victim Safety While Victims’ Immigration Cases are Pending*, Nat’l Immigrant Women’s Advocacy Project (June 18, 2014), <http://niwaplibrary.wcl.american.edu/pubs/imm-qref-safetyplanning/>.
- *An Advocate’s Guide to Immigrant Survivor’s Rights and Protections* (February 23, 2015), <http://niwaplibrary.wcl.american.edu/pubs/advocates-guide-rights-protections/>
- Blue Card: Screening Tool for Victims Who Qualify for Immigration Protective Relief (December 2, 2014), <http://niwaplibrary.wcl.american.edu/pubs/screening-tool-victims-qualify/>
- VAWA Confidentiality and Protections for Immigrant Victims of Domestic Violence (Webinar and Training Materials), <http://niwaplibrary.wcl.american.edu/oct2017vawaconfidentialitywebinar/>

Fear of losing children and economic support options

⁶ Congressional Record Senate S13753 December 16, 2005 (Statement of Senator Kennedy)

Immigrant survivors often remain in abusive homes because they are afraid of losing their children. Perpetrators fuel this fear by convincing immigrant survivors that due to their immigration status they cannot access the courts for help and if they do go to court the perpetrator will win custody of their children.⁷ Additionally, many immigrant survivors stay with their perpetrators until after they file for immigration protection and often until after they receive work authorization because they fear they cannot survive economically without their perpetrator's financial support.⁸ With legal assistance and advocacy immigrant victims can win custody of their children in protection order and in custody and divorce proceedings. Immigrant victims are eligible for Legal Assistance for Victims, STOP and Legal Services Corporation funded legal representation. Additionally, immigrant victims can access a number of services and publicly funded assistance open to all persons without regard to immigration status and as they apply for victim based immigration relief, their access to state and federal public benefits grows. For more information on the kinds of services available to immigrant survivors of violence and their children, please see:

Custody and Civil Protection Orders

- *Family Court Bench Card on Issues That Arise in Custody Cases Involving Immigrant Parents, Children and Crime Victims*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Oct. 13, 2013), <http://niwaplibrary.wcl.american.edu/pubs/benchcard-issues-arise-custody-cases/>.
- *Battered Immigrants and Civil Protection Orders, and Countering Abuser's Attempts to Raise Immigration Status of the Victim in Custody Cases* in BREAKING BARRIERS: A COMPLETE GUIDE TO LEGAL RIGHTS AND RESOURCES FOR BATTERED IMMIGRANTS, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT & LEGAL MOMENTUM (July 10, 2013), <http://niwaplibrary.wcl.american.edu/pubs/ch5-1-imm-civil-protection-orders/> and <http://niwaplibrary.wcl.american.edu/pubs/ch6-1-counterabuserraisingimmstatus/>.
- *Creative Methods in Protecting Battered Immigrants*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (June 20, 2014), <http://niwaplibrary.wcl.american.edu/pubs/creative-cpo-batimms/>.
- *Protection Orders for Immigrant Victims of Sexual Assault*, in EMPOWERING SURVIVORS: LEGAL RIGHTS OF IMMIGRANT VICTIMS OF SEXUAL ASSAULT, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT & LEGAL MOMENTUM (July 1, 2014), <http://niwaplibrary.wcl.american.edu/pubs/ch14-protectionorders-sa/>.

Economic Relief

- *Ensuring Economic Relief for Immigrant Victims Through Family Law Proceeding: Child Support and Spousal Support* in BREAKING BARRIERS: A COMPLETE GUIDE TO LEGAL RIGHTS AND RESOURCES FOR BATTERED IMMIGRANTS, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT & LEGAL MOMENTUM (July 10, 2013), <http://niwaplibrary.wcl.american.edu/pubs/ch6-4-ensuring-econ-relief/>

⁷ Custody of Children in Mixed Status Families: Preventing the Misunderstanding and Misuse of Immigration Status in State-Court Custody Proceedings <http://niwaplibrary.wcl.american.edu/pubs/mixed-status-fams-child-custody>

⁸ Krisztina E. Szabo & Leslye E. Orloff, *The Central Role of Victim Advocacy for Victim Safety While Victims' Immigration Cases are Pending*, Nat'l Immigrant Women's Advocacy Project (June 18, 2014), <http://niwaplibrary.wcl.american.edu/pubs/imm-qref-safetyplanning/>

- Programs Open to Immigrant Victims and All Immigrants Without Regard to Immigration Status <http://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants/>
- Access To Programs And Services That Can Help Victims of Sexual Assault <http://niwaplibrary.wcl.american.edu/pubs/ch16-programaccessforsexassaultdvvictims/>
- State-by-State Demographics and Public Benefits Access Map <http://www.niwap.org/benefitsmap/>
Family Court Bench Card on Immigrant Crime Victim Access to Public Benefits and Services <http://niwaplibrary.wcl.american.edu/pubs/pb-bchcrd-pubbenefits/>

Legal Services for Immigrant Victims

- *Legal Services Access for All: Implementing the Violence Against Women Act of 2005*, (April 1, 2015) http://niwaplibrary.wcl.american.edu/pubs/anti-abuse-lsc-reg-articles-cornerstone_jan-apr-2015/
- Nat'l Immigrant Women's Advocacy Project, *LSC Regulations* (June 1, 2016), <http://library.niwap.org/wp-content/uploads/LSC-Newsletter-FINAL-June-2016-Update.pdf>.

Know Your Rights: for Immigrant Survivors and their Advocates & Attorneys

- Multilingual Materials for Victims and Advocates <http://niwaplibrary.wcl.american.edu/topic/multilingual-materials-language/>

Language Barriers

Language barriers pose an additional challenge for LEP survivors to access victim services programs, shelters, legal services, law enforcement services, or the judicial system. Perpetrators of violence against LEP survivors who speak English will often attempt to maintain their coercive control by denying the survivor access to information, providing misinformation, or hampering the justice system by acting as the victim's "interpreter." Improving language access to victim service and justice system assistance is of the utmost importance for immigrant and LEP survivors. For more information on language access for immigrant and LEP survivors, please see:

- Asian Pacific Institute on Gender-Based Violence, *Language Access, Interpretation and Translation* <https://www.api-gbv.org/advocacy-and-prevention/language-access/>
- *Ensuring Language Access to Immigrant Victims of Sexual Assault*, in EMPOWERING SURVIVORS: LEGAL RIGHTS OF IMMIGRANT VICTIMS OF SEXUAL ASSAULT, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT & LEGAL MOMENTUM (July 1, 2014), <http://niwaplibrary.wcl.american.edu/pubs/ch2-victims-language-access/>.
- Why Using an Interpreter is Beneficial to Law Enforcement (August 21, 2016) <http://niwaplibrary.wcl.american.edu/pubs/law-enforcement-benefits-of-qualified-interpreters/>
- Nat'l Center for State Courts, *Language Access* (last visited Dec. 1, 2017), <http://www.ncsc.org/languageaccess>.

Tips for STOP administrators working with immigrant and LEP survivors

STOP administrators play a crucial role in providing meaningful access to life saving services, legal representation and support for immigrant and LEP survivors of violence through their leadership and grantees. STOP administrators can raise awareness among grantees through training, technical assistance and informed grant making that includes ensuring that programs with expertise serving immigrant and LEP victims are at the table and part of the grant making process together with mainstream victim advocacy programs that inform the STOP grant process. Taking a leadership role, particularly through hosting and helping grantees attend trainings and connecting grantees with resource libraries (<http://niwaplibrary.wcl.american.edu/>) on immigrant victims legal rights will help grantees gain access to legally correct information about all of the help available to immigrant survivors. Below are some tips for STOP administrators that will help improve access for immigrant and LEP survivors your state:

- Develop statewide planning processes that include accessibility within the process
- Ensure that all grantees have language access plans, especially by the end of the grant
- Require that grant applications ask whether agencies have language access plans
- Assist agencies in developing steps to provide language access, including encouraging grantees to attend trainings
- Mandate budgets to include specific line items for interpretation and translation services
- Support grantees by offering technical assistance at a local and national level, facilitating training initiatives, and bringing in resources to support grantees
- Build relationships between various programs in order to create a holistic approach to assisting immigrant and LEP survivors of violence
- Monitor subgrantee compliance through site visits, quarterly progress reports, and check-ins with funded staff

More information for STOP Administrators is available through these resources:

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