

Fact Sheet: Immigrant Access to Emergency Shelter and Transitional Housing¹

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The Law: Immigrants are Legally Eligible for Transitional Housing

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)² explicitly declared that programs necessary to protect life and safety³ were to remain open to all person without regard to immigration status.⁴ In PRWORA, Congress granted the U.S. Attorney General the sole discretion to designate the programs necessary to protect life and safety that were to be open to all persons without regard to immigration or citizenship status or nationality.⁵ In order to fall within the life and safety exception, PRWORA stated that the programs needed to meet the following requirements:

- Deliver in-kind services at the community level, including through public or private nonprofit agencies or organizations;
- Do not condition the provisions of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and
- Are necessary for the protection of life or safety.⁶

PRWORA listed "short-term housing" explicitly in the statute as an example of a program necessary to protect life and safety.⁷ Pursuant to the authority granted by Congress in PRWORA, the Attorney General issued the Final Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation on January 16, 2001, stating that, when a program meets the PRWORA criteria, its services are available, *as a matter of federal law*, to all persons without regard to immigration status.⁸ Among the programs the Attorney General specified are to be open to all persons without regard to immigration status as necessary to protect life and safety are:

- "Crisis counseling and intervention programs; services and assistance relating to child protection, adult protective services, violence and abuse prevention, victims of domestic violence or other criminal activity... Short-term shelter or housing assistance for the homeless, for victims of domestic violence, or for runaway, abused, or abandoned children"⁹

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² Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (hereinafter "PRWORA"), Pub. L. 104-193, 110 Stat. 2105 (codified at 8 U.S.C. § 1611).

³ 8 U.S.C. § 1611(b)(1)(D).

⁴ 8 U.S.C. § 1621(b)(2).

⁵ 8 U.S.C. §§ 1611(b)(1)(D); 1621(b)(4).

⁶ *Id.*

⁷ 8 U.S.C. § 1611(b)(1)(D).

⁸ Final Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation (A.G. Order No. 2353-2001), 66 Fed. Reg. 3613 (Dep't of Justice Jan. 16, 2001)(Hereinafter "AG Order on Life and Safety Services") at 3616 *available at* <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-ProtectionLifeorSafetyAG-1.16.01.pdf>.

⁹ *Id.*

These programs read together and separately recognize the life and safety role played by programs designed to help victims of crime and abuse and programs that are designed to prevent homelessness.

The Law: HUD, HHS and DOJ Policies

U.S. Department of Housing and Urban Development and the 2016 Tri-Agency Letter

Following the issuance of the Attorney General’s order, the U.S. Department of Housing and Urban Development (HUD) issued two policy directives (2001 and 2016) defining which HUD funded programs fell within the category of “short-term shelter or housing assistance” that were to be available as a matter of law to all persons without regard to immigration status:

- In 2001 HUD stated that “Both emergency shelter and transitional housing programs are necessary for the protection of life and safety. Transitional housing is by nature short-term and intended to be a step in between emergency shelter and permanent housing.”¹⁰
- On August 5, 2016, HUD, the U.S. Department of Health and Human Services (HHS), and the U.S. Department of Justice (DOJ) issued a joint letter¹¹ restating that federal grant recipients may not deny immigrants access to emergency shelter, and other short-term housing programs that are necessary ***to protect life or safety***.¹² Pursuant to this policy, the following persons are legally eligible to access emergency shelter and transitional housing without regard to their immigration status, citizenships status, nationality or limited English language proficiency:¹³
 - Victims of:
 - Domestic violence¹⁴
 - Sexual assault¹⁵
 - Stalking¹⁶
 - Dating violence¹⁷
 - Human trafficking¹⁸
 - Child abuse¹⁹
 - Other abuse²⁰
 - Homeless²¹
 - Runaway or homeless youth²²
 - Abandoned children²³

¹⁰ Letter from the Secretary of the U.S. Dep’t of Housing and Urban Development (Jan. 19, 2001)(Hereinafter “HUD Letter 2001”) at 2, *available at* <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-MemoHUDTransitionalHousing-01.19.01.pdf>.

¹¹ HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016) (Hereinafter “HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services”), *available at* https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

¹² AG Order on Life and Safety Services at 3615; HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 1.

¹³ HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 3; *See also* Letter from the Secretary of the U.S. Dep’t of Housing and Urban Development (Jan. 19, 2001) (Hereinafter “HUD Letter 2001”), *available at* <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-MemoHUDTransitionalHousing-01.19.01.pdf>.

¹⁴ *See* HUD Letter 2001 at 2.

¹⁵ *See* HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 2.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* Furthermore, access to emergency shelter and transitional housing became available to victims of human trafficking in 2001 following passage of the Trafficking Victims Protection Act (TVPA) *See* TVPA 2000, 22 U.S.C. § 7105(b)(1)(A).

¹⁹ *See* HUD Letter 2001 at 2.

²⁰ *See* HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 2.

²¹ *See* HUD Letter 2001 at 2.

²² *See* HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 3.

²³ *Id.*

HUD Guidance implementing the Joint HUD, HHS and DOJ letter states that:

“Housing and service providers must not turn away immigrants experiencing homelessness, or victims of domestic violence, or human trafficking on the basis of their immigration status, from certain housing and services, necessary for life or safety – such as street outreach, emergency shelter and short-term housing assistance including transitional housing and rapid re-housing funded through the Emergency Solutions Grants (ESG) and Continuum of Care (CoC) Programs. This letter reiterates existing laws and policies and applies those policies to programs that were not in effect when the original Attorney General Order was signed in 2001.”²⁴

The HUD Office of Special Needs Assistance Programs issued a memo providing further detail as to which HUD funded programs funded through ESG and CoC are open to all with no immigrant restrictions.²⁵ HUD deemed the following programs based upon HUD statutes and regulations to meet all three prongs of the PRWORA test making them programs necessary to protect life and safety open to all persons without regard to immigration status. The programs are:²⁶

- Street Outreach Services
- Emergency Shelter
- Safe Haven
- Rapid Re-Housing

In addition, HUD stated that:

“**Transitional housing** meets the 3-part test and falls within the exception for life or safety, and therefore must be provided to persons without regard to immigration status, when the recipient or sub recipient owns or leases the building used to provide transitional housing. However, in transitional housing programs where the recipient or subrecipient provides rental assistance payments on behalf of program participants, this type of program does not fall within the life or safety exemption because the rental assistance provided is required by regulation to be based on the program participant’s income and, therefore, does not meet the 3-part test.”

U.S. Department of Justice Funded Transitional Housing, Emergency Shelter, Victim Services, and Victim Assistance

The U.S. Department of Justice, Office of Victims of Crime and Office on Violence Against Women both clarified that OVW²⁷ and OVC²⁸ funded services providers are not to:

²⁴ HUD Guidance, HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016), available at https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

²⁵ Office of Special Needs Assistance Programs, The Personal Responsibility and Work Opportunity Act of 1996 and HUD’s Homeless Assistance Programs (August 16, 2016) (Hereinafter “PRWORA and HUD’s Homeless Assistance Programs”), available at <http://niwaplibrary.wcl.american.edu/pubs/prwora-fact-sheet>.

²⁶ *Id.*

²⁷ Bea Hanson, Principle Deputy Director, Office on Violence Against Women “Tri-Agency Letter Issued About Providing Services to Immigrants” (August 12, 2016) (Hereinafter “Tri-Agency Letter Issued About Providing Services to Immigrants”), available at <http://library.niwap.org/wp-content/uploads/Cover-letter-from-OVW-OVC.pdf>.

²⁸ Joye E. Frost, Office of Victims of Crime and Bea Hanson, Office on Violence Against Women, “Guidance about Services to Immigrant Victims of Crime” (August 16, 2016) (Hereinafter “Guidance about Services to Immigrant Victims of Crime”), available at <http://library.niwap.org/wp-content/uploads/Office-for-Victims-of-Crime-Cover-Letter-8.12.16.pdf>.

“...turn away immigrant victims, on the basis of their immigration status, from certain services necessary for life or safety – services such as emergency shelter, short-term housing assistance (including transitional housing), crisis counseling, and intervention programs.”

They further stated that:

“The Office for Victims of Crime (OVC) and the Office on Violence Against Women (OVW) know that immigrant survivors of abuse need access to vital services and assistance so that they can successfully escape abuse, find safety, and start the healing process, as well as obtain assistance to pursue special immigration remedies that Congress enacted through the Violence Against Women Act and the Trafficking Victims Protection Act.”

These letters collectively clarify that emergency shelter, transitional housing and other victim services funded by the following programs have no immigrant restrictions:

- Office on Violence Against Women – all grants and sub grants
- Office of Victims of Crime -- all grants and sub grants
- Victims of Crime Act -- all VOCA grants and sub grants funding victim assistance and victim compensation²⁹

U.S. Department of Health and Human Services Funded Emergency Shelter, Transitional Housing, and Victim Services

The U.S. Department of Health and Human Services,³⁰ following the issuance of the Tri-Agency letter, confirmed that there could be no immigrant restrictions imposed on programs and services funded by the Family Violence Prevention and Services Act (FVPSA). The FVPSA Office stated that:

“Immigration status is not a bar to providing certain services necessary to protect life or safety, such as emergency shelter, or short-term housing assistance including transitional housing, crisis counseling and intervention programs... Clearly victims of domestic violence who are immigrants need access to services and other protections to successfully escape abuse and break the cycle of violence. However, some service providers erroneously turn away immigrant victims from services necessary for life or safety, such as domestic violence shelters or transitional housing programs, on the basis of their immigration status. Other service providers are uncertain whether they can serve undocumented immigrant survivors. Over the years, the Family and Youth Services Bureau’s Family Violence Prevention and Services Program (FVPSA Program) has received requests for further guidance on this subject... These programs must be made available to eligible persons without regard to citizenship, nationality or immigration status.”

The Law: Anti-Discrimination Dispositions in the Law

²⁹ Joye E. Frost, Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission (July 2, 2010) (“on May 12, 2010, concluded that neither compensation nor assistance funded by VOCA Victim Compensation or Victim Assistance grants are “Federal public benefits” within the meaning of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and therefore should not be denied to an individual on the ground of status as an unqualified alien under that Act.”) (Hereinafter “Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission”), available at <http://niwaplibrary.wcl.american.edu/pubs/ojp-ovc-letter-on-access-to-voca-victim-compensation-7-2-2010/>.

³⁰ MaryLouise Kelley, Division of Family Violence Prevention, Family and Youth Services Bureau, HHS, Letter to Family Violence Prevention and Services Act Grantees (August 2016) (Hereinafter “FYSB Letter to Family Violence Prevention and Services Act Grantees”), available at <http://library.niwap.org/wp-content/uploads/Dear-FVPSA-Grantee-Letter.pdf>.

Access to emergency housing and transitional housing should not be restricted based on immigration status, such restrictions may amount to discrimination under these laws or any other applicable nondiscrimination law. ³¹ “Denying an individual a public benefit or treating an individual differently because of that individual's race or national origin would violate one or more of these statutes.”³²

- Title VI of the Civil Rights Act of 1964 (Title VI),³³ requires that organizations or agencies that receive federal funding must not discriminate against individuals on the basis of race, color, or national origin under any program or activity receiving Federal financial assistance. Title VI protections against national origin discrimination includes ensuring that recipients of federal financial assistance take reasonable steps to provide meaningful access to services for persons with limited English proficiency.³⁴
- The Fair Housing Act,³⁵ prohibits discrimination in housing because of race, color, national origin, religion, sex, familial status, and disability.
- The Violence Against Women Act (VAWA),³⁶ prohibits discrimination based on actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability under any program receiving VAWA funding. VAWA also prioritized ensuring that victims from diverse communities benefitted from VAWA protections. VAWA’s underserved population definitions include victims underserved due to: geographic isolation; religion; sexual orientation; gender identity; ethnicity; race; language barriers; disabilities; alienage status; or age.³⁷
- The Family Violence Prevention and Service Act,³⁸ states that programs and activities funded in whole or in part with funds made available under the Family Prevention and Services Act are considered to be programs and activities receiving federal financial assistance for the purposes of applying prohibitions against discrimination on the basis of race, color, or national origin under Title VI of the Civil Rights Act.
- Section 109 of Title I of the Housing and Community Development Act of 1974,³⁹ prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development Block Grant Program.

Advocacy Strategies to Help Immigrant Victims’ Access Transitional Housing Programs

Both survivors and immigrants are commonly turned away from transitional housing programs. Survivors turned away include victims of domestic violence, sexual assault, dating violence, stalking, and human trafficking.

Preparing to advocate for survivors’ acceptance to transitional housing programs

- **Web Research:** Look at the website of the transitional housing program to see how they define and measure success.

³¹ See HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 4.

³² *Id.*

³³ 42 U.S.C. § 2000d.

³⁴ *Id.* also see e.g., Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 11, 2000), Federal Agency Limited English Proficiency (LEP) Guidance for Recipients (Hereinafter “LEP Guidance”) at 50121, available at <https://www.lep.gov/13166/colep.pdf>.

³⁵ 42 U.S.C. §§ 3601-3619.

³⁶ 42 U.S.C. § 13925(b)(13).

³⁷ 42 U.S.C. § 13925(a)(39).

³⁸ 42 U.S.C. § 10406(c)(2); see also 42 U.S.C. § 10406(c)(2)(B) (prohibiting discrimination on the basis of sex or religion).

³⁹ 42 U.S.C. § 5309.

- **Victim Centered Strategies:** Develop a strategy for demonstrating creative ways that your client can succeed in the transitional housing program
 - What client defined outcomes can the survivor achieve while participating in the transitional housing program?
 - What role will the survivor’s pursuit of a U visa or VAWA immigration relief play in promoting the survivors’ stability?

Accompanying the Victim Applying for Transitional Housing

- **Research the Transitional Housing Program’s Funders:** Advocates and attorneys should accompany immigrant victims applying for transitional housing and should look up on the organizations website and identify who funds the transitional housing program that your immigrant victim client is applying for.
- **Know the Law and Bring it With You When Applying for Transitional Housing:** Bring the following government documents:
 - Joint Letter from the DOJ, HHS and HUD;⁴⁰
 - The letter from the funding agencies from which the transitional housing program receives its funding. The funding programs listed below include both direct grants from the federal funding agency and block grants to the states that are distributed by state government agencies (including e.g., STOP/VOCA/FVPSA grant administrators, housing authorities)
 - HUD Guidance, HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016)⁴¹
 - HUD Office of Special Needs Assistance Programs, The Personal Responsibility and Work Opportunity Act of 1998 and HUD’s Homeless Assistance Programs (August 16, 2016)⁴²
 - OVW: Bea Hanson, Principle Deputy Director, Office on Violence Against Women “Tri-Agency Letter Issued About Providing Services To Immigrants” (August 12, 2016) ⁴³
 - OVC: Joye E. Frost, Office of Victims of Crime and Bea Hanson, Office on Violence Against Women, “Guidance about Services to Immigrant Victims of Crime” (August 16, 2016)⁴⁴

⁴⁰ HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016) (Hereinafter “HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services”), available at https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

⁴¹ HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016) (Hereinafter “HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services”), available at https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

⁴² Office of Special Needs Assistance Programs, The Personal Responsibility and Work Opportunity Act of 1996 and HUD’s Homeless Assistance Programs (August 16, 2016) (Hereinafter “PRWORA and HUD’s Homeless Assistance Programs”), available at <http://niwaplibrary.wcl.american.edu/pubs/prwora-fact-sheet>.

⁴³ Bea Hanson, Principle Deputy Director, Office on Violence Against Women “Tri-Agency Letter Issued About Providing Services to Immigrants” (August 12, 2016) (Hereinafter “Tri-Agency Letter Issued About Providing Services to Immigrants”), available at <http://library.niwap.org/wp-content/uploads/Cover-letter-from-OVW-OVC.pdf>.

⁴⁴ Joye E. Frost, Office of Victims of Crime and Bea Hanson, Office on Violence Against Women, “Guidance about Services to Immigrant Victims of Crime” (August 16, 2016) (Hereinafter “Guidance about Services to Immigrant Victims of Crime”), available at <http://library.niwap.org/wp-content/uploads/Office-for-Victims-of-Crime-Cover-Letter-8.12.16.pdf>.

- VOCA: Joye E. Frost, Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission (July 2, 2010)⁴⁵
 - FVPSA/HHS: MaryLouise Kelley, Division of Family Violence Prevention, Family and Youth Services Bureau, HHS, Letter to Family Violence Prevention and Services Act Grantees (August 2016)⁴⁶
- DOJ's Final Specification of Community Programs Necessary for Protection of Life or Safety;⁴⁷ and
- HUD letter explaining immigrant eligibility.⁴⁸
- **Proof of Crime Victim Eligibility:** Evidence of eligibility for transitional housing as a victim of domestic violence, sexual assault, stalking, dating violence, human trafficking, child abuse, other abuser, homeless, runaway or homeless youth, abandoned children. This may include but is not limited to:
 - A protection order
 - A referral from a victim advocacy agency, police officer, prosecutor, counselor, social worker, teacher, faith based program, or community based program that has been providing assistance and support to the victim
 - A custody or divorce order with findings of domestic violence or child abuse
 - A prima facie determination in a VAWA self-petitioning case
 - An approval or wait-list approval of a VAWA self-petition, U visa, T visa, or Special Immigrant Juvenile Status (SIJS) immigration case
 - HHS certification of a trafficking victim
 - Evidence of receipt of VOCA funded crime victim assistance or compensation
 - A statement from a victim advocate who has been working with the victim
 - A statement from the victim regarding the abuse they suffered
 - Evidence of the abuse: photographs, medical records, witness statements
- **Advocate That Victim Meets OVW's Admission Criteria:** Be prepared to advocate for admission of to the transitional housing programs because your client meets the U.S. Department of Justice, Office on Violence Against Women's victim centered transitional housing eligibility criteria.⁴⁹ The applicant must be:
 - A survivor of domestic violence, sexual assault, stalking and/or dating violence who is actively fleeing and abusive relationship. In cases of non-intimate partner stalking or sexual assault this can include taking other steps to protect themselves from ongoing abuse:
 - Actively working to leave an abusive employment situation
 - Victims of campus sexual assault seeking interim measures

⁴⁵ Joye E. Frost, Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission (July 2, 2010) ("on May 12, 2010, concluded that neither compensation nor assistance funded by VOCA Victim Compensation or Victim Assistance grants are "Federal public benefits" within the meaning of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and therefore should not be denied to an individual on the ground of status as an unqualified alien under that Act.") (Hereinafter "Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission"), available at <http://niwaplibrary.wcl.american.edu/pubs/ojp-ovc-letter-on-access-to-voca-victim-compensation-7-2-2010/>.

⁴⁶ <http://library.niwap.org/wp-content/uploads/Dear-FVPSA-Grantee-Letter.pdf>.

⁴⁷ Final Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation (A.G. Order No. 2353-2001), 66 Fed. Reg. 3613 (Dep't of Justice Jan. 16, 2001)(Hereinafter "AG Order on Life and Safety Services"), available at <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-ProtectionLifeorSafetyAG-1.16.01.pdf>.

⁴⁸ Letter from the Secretary of the U.S. Dep't of Housing and Urban Development (Jan. 19, 2001)(Hereinafter "HUD Letter 2001"), available at <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-MemoHUDTransitionalHousing-01.19.01.pdf>.

⁴⁹ Best Practices for Setting Eligibility Criteria in Transitional housing Programs, National Network to End Domestic Violence (NNEDV), available at: http://nnedv.org/downloads/Thousing/BestPractices_SettingEligibilityCriteria.pdf.

- Victims of stranger, acquaintance, or landlord perpetrated sexual assault that occurred in their home are actively seeking new housing
 - Actively on a path to finding permanent housing in another location unknown to the perpetrator
 - The survivor is 18 years old or older or is a legally emancipated minor
 - In need of housing due to fleeing, without sufficient emergency or transitional housing available;
 - Willing and desiring to participate in the transitional housing programs and meet with staff on a mutually-determined schedule
 - Willing to create an individualized safety plan with the assistance of the transitional housing program staff or their victim advocate working at another organization
 - Able to safely live independently, without access to staff or support 24-hours per day, 7 days per week.
- **Obtain Specific Information About Alleged Funder Imposed Requirements:** If the transitional housing program is imposing admission requirements other than these ask the following questions:
 - Who are the transitional housing program’s funders?
 - What, if any, requirements regarding who can be admitted to the transitional housing programs do any of their funders impose?
 - For each specific funder the program believes imposes admission limitations or requirements ask for the specific program that they believe imposes that requirement.
 - For example: If the programs states that the admission requirement is imposed by HUD, ask which funding programs within HUD requires that admission limitations be imposed.
 - If the transitional housing program tells you that the transitional housing admission restriction they are imposing in your client victim’s case is required by a federal funder, ask of a copy of their federal grant award and their federal grant award number that they believe imposes this requirement.
 - Once you receive this information contact NIWAP⁵⁰ or NNEDV⁵¹ for technical assistance in determining whether the admission criteria being imposed are being imposed as a matter of law by the federal funder. In many cases the restrictions may be imposed by the transitional housing program and writing into their federal funding application but are not required by the federal funder.

Preparation to Addressing Documentary Evidence Requirements Imposed by Transitional Housing Programs

Research Findings

In 2014 NIWAP conducted a nationwide survey⁵² in which 655 agencies working with immigrant victims of domestic and sexual violence participated from 53 U.S. jurisdictions reporting on 9,277 cases

⁵⁰ National Immigrant Women’s Advocacy Project, *available at* <http://www.niwap.org/>.

⁵¹ National Network to End Domestic Violence, *available at* <http://nnedv.org/>.

⁵² Meaghan Fitzpatrick, Benish Anver, David Stauffer, Krisztina Szabo, & Leslye Orloff, *Access to Emergency Shelters and Transitional Housing for Battered Immigrants and Immigrant Victims of Crime* (June 3, 2014), *available at* <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Tkit-TransitionalHousingReport-06.03.14.pdf>.

of immigrant victims who needed transitional housing. Of these respondents, 66% have been in emergency shelters. The survey found that when battered immigrant women sought transitional housing their success rates were as follows: ⁵³

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

When immigrant victims were turned away, 85.9% were told by the transitional housing program why their application for transitional housing was denied. To prepare to advocate effectively to help immigrant survivors gain acceptance into transitional housing programs it is helpful to understand the reasons they are commonly denied access. For each of the reasons victims were denied access to transitional housing identified in the NIWAP survey listed below, advocates and attorneys can use the Tri-agency letter issued by HUD, DOJ and HHS and the government agency policies cited in the letter to advocate for acceptance of immigrant survivors of domestic violence and sexual assault into transitional housing programs.

⁵³ *Id.* at 16.

Primary Reasons Immigrant Domestic and Sexual Violence Victims Were Turned Away from Transitional Housing		
	Domestic Violence	Sexual Assault
Immigrant victim lacked the required documentation of immigration status	34.4%	99.4%
When documentation was required the program sought evidence of one of the following:		
Documentation related immigration status	84.1%	99.4%
Documentation of current employment or ability to work	56.0%	98.9%
An employment authorization document as proof of legal work authorization	52.9%	98.9%
Did not have a driver's license*	45.0%	98.8%
Program required documentation that the victim did not have	33.2%	87.0%
Immigrant applicant was undocumented	25.6%	90.0%
Immigrant victim did not meet the formal income requirements	23.7%	85.8%
The battered immigrant applicant failed to present government issued I.D.	18.3%	86.1%
They were told that the evidence presented of being self-sufficient was insufficient	9.0%	85.7%
They were not a victim of domestic violence	n/a	85.6%
They did not speak English	2.9%	3.1%

* Driver's License Documentation Requirements by State Chart available at <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Chart-DocsDriversLicense.pdf> (California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maryland, New Mexico, Nevada, Puerto Rico, Utah, Vermont and Washington provide access to driver's licenses regardless of immigration status; for additional information regarding the specific laws of these states, see National Immigration Law Center, State Laws Providing Access to Driver's Licenses or Cards, Regardless of Immigration Status (June 2016) available at <https://www.nilc.org/wp-content/uploads/2015/11/drivers-license-access-table.pdf>).

Preparing to Accompany Immigrant Victims Applying for Transitional Housing

Advocates and attorneys can play an important role in advocating for successful admission of immigrant victim clients into transitional housing programs by preparing in advance to address the admission requirements research has found are commonly imposed when immigrant victims are applying for transitional housing. First, identify the agencies funders, bring government policies when applying for transitional housing, and provide proof that your client meets the OVW eligibility criteria listed above. If the program is imposing other admission requirements work with the immigrant victim to prove eligibility under those criteria as well. Since many immigrant victim applicants for transitional housing will be able to meet other admission criteria additionally imposed by the program, come prepared to prove the immigrant victim client meets those criteria, including in creative non-traditional ways.

- **Helping Victims Prepare to Meet Program Imposed Application Requirements:** In many cases immigrant survivors will be able to meet many of the transitional housing admission criteria that programs typically impose but may need to prove eligibility in non-traditional ways. In advocating for an immigrant victim of domestic violence, sexual assault, dating

violence, stalking or human trafficking's admission to transitional housing the following is a list of ways victims can meet other eligibility criteria used by transitional housing programs. When accompanying immigrant victims in applying for transitional housing pay special attention to looking for evidence in the application process of criteria that may be imposed only on immigrant, limited English proficient, or foreign born applicants. Under state and federal laws transitional housing programs may not discriminate against applicants based on their national origin or English language abilities.⁵⁴

Common selection criteria imposed by programs fall into two categories – factors that make applicants not acceptable and factors that are required or preferred among acceptable applicants.⁵⁵ A national study on transitional housing conducted by the Urban Institute found use if the following acceptance criteria.

- Acceptance Criteria include:
 - Residence in the city/county where the program is located
 - Homelessness/risk of homelessness/domestic or sexual violence
 - Employment/Self-sufficiency criteria
 - Defined as working, being ready to work, having income or the expectation of having income.⁵⁶ This results in acceptance of both applicants with:
 - Some work history (100% of programs acceptable)
 - No work history (96% of programs acceptable)
 - Applicants may be accepted when they
 - Have severe and persistent mental illness (70% of programs acceptable)
 - Have HIV/AIDS (98% of programs acceptable)
 - Felony criminal record (89% of programs acceptable)
 - Clean and sober upon entry (100% of programs acceptable)
 - Physical disabilities requiring accommodation (89% of programs acceptable)
 - Not Acceptable Criteria include:
 - Active substance abuser (11% of programs acceptable)
 - Sex offender criminal record (28% of programs acceptable)
- **Evidence to Meet Typical Additional Admission Criteria Imposed:** Determine how your client can best provide evidence of the following and bring this evidence with you when applying for transitional housing if your client has this evidence.
 - *Residence in the city/county where the program is located may include:*
 - Victim's statement
 - Lease with the victim or with the victim's name listed as a resident
 - Post-marked mail victim received at a location in the jurisdiction

⁵⁴ HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016) (Hereinafter "HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services"), available at https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

⁵⁵ Martha R. Burt, "Characteristics of Transitional Housing for Homeless Families" (The Urban Institute; September 7, 2006) at 17, available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411369-Characteristics-of-Transitional-Housing-for-Homeless-Families.PDF>.

⁵⁶ *Id.*

- Affidavit of neighbors, friends, family members
- Copies of school, health care or court records listing an address for the victim in the jurisdiction
- *Evidence of domestic violence, sexual assault, stalking, dating violence, human trafficking, child abuse or abandonment, homeless, risk of homelessness, or need for safe housing may include*
 - Victim's statement
 - Witness statements
 - Court records (protection order, custody, child abuse, criminal case, evictions)
 - Medical records reflecting injuries
 - Photographs
 - Evidence of poor rental history or evictions
- *Evidence that the victim meets criteria for employment or self-sufficiency may include:*
 - Evidence that the victim is working could include:
 - Victim's statement about employment with their current and former employers
 - Letter from employer
 - Evidence of self-employment
 - Documentation of income from employment
 - Pay checks
 - Evidence of bank deposits or money order purchases
 - Copies of cash receive as payment with the serial numbers circled to show the case reflects different payments
 - Completed financial statement (these are used to seek fee waivers in state court and immigration cases and used to document income and expenses for child support cases)
 - Evidence that the victim has income from other sources
 - Child support orders
 - Spousal support orders
 - Other court orders
 - Support from family members
 - Receives funds their citizen, lawful permanent resident, or qualified immigrant children are eligible to receive including TANF, child care, food stamps
 - Evidence that the victim is taking steps to prepare to work or is taking steps to improve their ability to obtain employment
 - School records reflecting courses the victim is taking
 - English as a second language classes
 - Training and certification the victim is pursuing
 - Participation in a victim support group
 - Participation in mental health counseling to heal after victimization
 - The victim is pursuing VAWA, T or U visa immigrant relief that will once approved or wait-list approved provide the victim legal work authorization
- *Evidence that the victim does or does not have any certain conditions and/or issues*

- For each of the factors listed below provide evidence that the victim's case and/or history does not include the factor or be prepared to discuss how that factor should not affect their acceptance into transitional housing:
 - Severe and persistent mental illness (if present, could explain that it is controlled by medication)
 - HIV/AIDs
 - Felony criminal record
 - Substance abuse (if the victim has a history of substance or alcohol abuse explain the steps the victim has taken to address this and provide evidence that they are now clean/sober)
 - Physical disabilities requiring accommodation (should not result in being denied transitional housing)
 - Sex offender criminal record