

Transforming Lives: How the VAWA Self-petition and U Visa Change the Lives of Survivors and their Children After Employment Authorization and Legal Immigration Status

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June 8, 2021⁴

Abstract

Research on immigrant survivors of crime and abuse has focused on learning about their experiences, assessing how social services, healthcare, and justice systems serve immigrant communities, and creating the policy reforms needed to meet immigrant survivors' needs. Research has seldom focused on measuring and learning about how immigrant survivors' lives are transformed as they apply to the U.S. government for immigration relief under the Violence Against Women Act's (VAWA) VAWA and U visa programs. The National Immigrant Women's Advocacy Project (NIWAP), at American University's Washington College of Law, conducted a national survey, collecting data from attorneys, advocates and state government staff at 169 agencies in 42 states serving immigrant survivors of crime and abuse in the U.S. Study participant professionals reported on 11, 171 immigrant clients who applied for VAWA and U visa relief. Of those cases, 6,770 had been granted employment authorization and 2,845 obtained lawful permanent residence through the VAWA or U visa programs. This study sought to learn from professionals how their immigrant survivor clients' lives changed from filing for VAWA and U visa relief through eventually obtaining lawful permanent residence. In the study, participants answered both open and closed-ended questions describing how their VAWA and U visa clients' and their clients' children's lives changed as they moved through the immigration application process and obtained increasing levels of immigration protection. The study found that when immigrant survivors of crime and abuse no longer fear deportation, can legally work, and ultimately become permanent residents in the U.S., they, their families and communities thrive. The transformation from fear to immigration relief leads to better law enforcement, workplace conditions, academic performance, and health outcomes.

The study results show that some of the most significant changes for most survivors occur at the point when the VAWA and U visa applicants are granted employment authorization and deferred action, a form of protection from deportation. The changes consist of significant reductions in immigration-related threats and abuse, threats of child abduction, threats to gain sole custody of children, and workplace-based abuse. After receipt of employment authorization, there is a 114% increase in immigrant survivors'⁵ willingness to trust police and 30% of VAWA and U visa applicants who received employment authorization continued to make police reports regarding future crimes. These changes point to reduced fears and greater trust and faith in the law enforcement and justice systems of the U.S. As a result, survivors

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³ The authors wish to thank Maya Patel, American University, Washington College of Law, JD 2022 for her expert editorial help and assistance with the footnotes contained in this article.

⁴ Initial publication date April 12, 2021. For the full final report, executive summary, conclusions and recommendations see <https://niwaplibrary.wcl.american.edu/transforming-lives-study-21>.

⁵ This report uses the terms survivors and victims interchangeably in discussing immigrant clients pursuing VAWA and U visa immigration relief based on having suffered abuse and/or crime victimization.

are more effective participants and witnesses, allowing for greater access to justice, enabling law enforcement agencies to hold perpetrators accountable for their crimes,⁶ and generating greater safety for victims, law enforcement officers and communities across the country.

When survivors can legally work and no longer fear deportation, they end their isolation by reconnecting with friends, family, and the larger community, including their ethnic/cultural communities. There is a 6-fold increase in immigrant survivors' parental involvement in their children's schools, and a 24% increase in immigrant survivors reaching out to help other victims in their community. Finally, the study results found that with employment authorization, labor force participation, in at least minimum wage employment, increased by 300% among immigrant survivors. Forty three percent of immigrant survivors authorized to work were employed in jobs with healthcare, vacation, and maternity leave benefits. According to study results, after employment authorization, immigrant survivors' participation in English as a Second Language (ESL) classes increased 225%, with 35% obtaining GEDs and 38% pursuing either Associates or Bachelor's degrees, achievements which allow them and their families to make social and economic contributions to society.

Immigrant survivors' and their children's health, well-being and self-esteem also improved and continued to improve as they gained lawful permanent residence through the VAWA and U visa programs. This study demonstrates how and when in the process of gaining legal status, immigrant survivors become more resilient, resourceful, economically stable, socially active, and engaged in helping others in their communities. In particular, data showed that among the gains is an increased adjustment of the immigrant survivors and their children through acculturation and biculturalism, thereby becoming more active and integrated members of the larger U.S. society. The results of this study show that policy reforms that shorten the time from filing to employment authorization and protection from deportation will significantly benefit immigrant survivors and their communities and will promote access to justice. The results also clearly show that the ability of U.S. law enforcement and prosecution agencies to hold perpetrators accountable for their crimes is enhanced by expedited access to employment authorization and deportation protection for immigrant survivors.⁷

This study contributes to our understanding of how immigrant survivors' and their children's lives change at various stages of the immigration process. It provides important insights into immigrant survivors' experiences that can support ongoing and future public policy reforms. This evidence-based information supports improvements in federal, state and local policies and practices that in turn can speed access to employment authorization, protection from deportation, and the humanitarian VAWA and U visa relief Congress created for immigrant survivors. The results of this study can also improve training for state and federal judges, prosecutors, law enforcement officials, attorneys, and victim advocates who work with immigrant survivors across the country. This evidence-based study demonstrates how providing needed support to immigrant VAWA and U visa eligible survivors, including access to immigration relief, public benefits, family and criminal courts, and other government funded services, leads to greater inclusion and civic participation of immigrant survivors and their children who will be more capable of healing, succeeding and thriving.

I. Introduction

In 2016, the National Immigrant Women's Advocacy Project (NIWAP), American University,

⁶ Corrin Chow et al., Stories from the Field: The Crime Fighting Effectiveness of the U Visa, NIWAP (Aug. 27, 2020) <https://niwaplibrary.wcl.american.edu/pubs/u-visa-crime-fighting-stories>.

⁷ Id.

Washington College of Law collaborated with The University of Delaware's Ronald E. McNair Scholar Post Baccalaureate Achievement Program developed the *Changing Lives* research project. The study sought to learn from advocates and attorneys serving immigrant survivors of domestic violence, child abuse, and sexual assault how the lives of immigrant survivors and their children transform and heal as they go through the process of applying for and gaining legal immigration status through the Violence Against Women Act (VAWA) and the U Visa immigration relief programs.

Changing Lives, an IRB approved study, is retrospective study that asks victims' advocates, victims' attorneys and other professionals, including government agency staff, to report their observations about the impact of the immigration process of applying for and being granted relief under VAWA and U visa programs on the lives of immigrant survivors of domestic violence, sexual assault, child abuse and other crimes. The study asked respondents to recall and report on certain aspects of their immigrant victim clients' cases. The study results helped researchers to analyze and document how and at what stages of the immigration process VAWA and U visa forms of humanitarian immigration relief change survivors' and their children's lives. In a time when wait times for lifesaving humanitarian protections have increased substantially, this study sought to learn (1) when survivors begin to benefit from immigration protections offered to victims through the VAWA and U visa programs? (2) How the benefits of these immigration protections increase as survivors gain access to work authorization and lawful permanent residency?

It is essential to understand how the lives of immigrant survivors and their children change at various stages of the immigration process. This information can be used to support improvements in U.S. Department of Homeland Security's and immigration court's handling for VAWA and U visa immigration cases. Study results will also support access to justice for immigrant survivors and their children, promotion of U and T visa certification, and issuance of Special Immigrant Juvenile Status findings in cases of abused, abandoned and neglected immigrant children by state court judges. The data collected in this study will also be added to training curricula aimed at improving judges, prosecutors, police, attorneys, and advocates work with immigrant survivors across the country. Additionally, this information can provide valuable insight into immigrant survivors' experiences that will support public policy efforts to improve legal protections, social services, health care and access to the public benefits safety nets for immigrant crime survivors⁸ and their children at state and federal levels.

II. Historical Context

Congress created several forms of immigration relief to protect immigrant victims of domestic violence, sexual assault, child abuse, human trafficking and a range of other criminal activities.⁹ Congress sought to offer protection for victims, to promote victims' participation in the justice system in family, criminal and civil court cases involving their abusers, and to interfere with and limit the tools perpetrators use to intimidate and coercively control their victims. Then Senator Biden discussed the above-mentioned goals in the Violence Against Women Act of 2000¹⁰ as follows:

⁸ For purposes of this report the term "crime victims" includes all forms of domestic violence as defined by either state laws or U.S. immigration laws and includes extreme cruelty and coercive control.

⁹ Violence Against Women Act, 42 U.S.C. 13925 ; Violence Against Women Act, S. 11 103rd Cong. (1994) (enacted); Violence Against Women Act, S. 2787 106th Cong. (2000) (enacted); Violence Against Women Act and Department of Justice Reauthorization Act of 2005, H.R. 3402 109th Cong. (2006) (enacted); Katrina Castillo et al, *Legislative History of VAWA (94, 00, 05), T and U-Visas, Battered Spouse Waiver, and VAWA Confidentiality*, NIWAP (June 17, 2015), https://niwaplibrary.wcl.american.edu/pubs/vawa_leg-history_final-6-17-15-sji.

¹⁰ Violence Against Women Act, S. 2787 106th Cong. (2000) (enacted).

“[A] comprehensive effort to reduce violence against women and lessen the harm it causes must do more than just arrest, convict and imprison abusers – we must also help the victims of violence. This legislation proposed to assist these crime victims in three fundamental ways: [p]roviding a means for immediate protections from their abusers, such as through access to shelters; easier access to the courts and to the legal assistance necessary to keep their abusers away from them; and removing the ‘catch-22s’ that sometimes literally compel women to stay with their abusers . . . ‘Catch-22’ affects immigrant women who are sometimes faced with a similar insidious ‘choice.’ In 1994, we worked out provisions so battered immigrant women – whose ability to stay in the country was dependent on their husbands – would not have to choose between staying in this country and continuing to be beaten, or leaving their abusers, but in doing so have to also leave our country (perhaps even without their children). This bill fixes aspects of this problem that leave an abused woman with a horrible, unfair and immoral choice.”¹¹

Although the legislative history of VAWA talks largely about protecting women from domestic and sexual violence, like each of the other forms of immigration relief including those created by VAWA, the U visa is gender-neutral and offers protection to all persons without regard to gender.¹² Section 1513 of VAWA 2000 described Congressional purpose in creating the U visa:

“[T]hat will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault trafficking . . . and other crimes . . . committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.”¹³

This study focuses on the immigration process needed to access the two primary forms of immigrant victim relief created by Congress for immigrant survivors. The goal is to learn how the lives of immigrant survivors of crime and abuse and their children's lives change as survivors gain legal immigration status, protection from deportation, and access to work authorization under VAWA and U visa immigration relief programs. In the U.S., most immigrant survivors of domestic violence, child abuse, sexual assault, stalking, human trafficking, and other U visa listed criminal activities will qualify for VAWA or U visa immigration relief. Described below are each of the forms of immigration relief¹⁴ that study participants' abused immigrant clients applied for:

- **VAWA Self-Petition:**¹⁵ The VAWA self-petition allows spouses, former spouses, children, and stepchildren who were battered or subjected to extreme cruelty by their U.S. citizen and lawful

¹¹ 145 CONG. REC. S445 (daily ed. Jan. 19, 1999) (statement of Sen. Joseph Biden).

¹² Giselle Hass et al., *Barriers and Successes in U Visas for Immigrant Victims: The Experiences of Legal Assistance for Victims Grantees*, 1 ARTS & SOC. SCI. J. 5 (2014).

¹³ Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 26 (2000). The Immigration and Nationality Act statute uses the word “aliens” to describe foreign born persons who are not U.S. citizens. This article uses the term immigrant to describe foreign born individuals and undocumented immigrants when referring to immigrants who have not attained legal immigration status in the United States.

¹⁴ The U.S. Department of Homeland Security (DHS) developed a very helpful screening tool DHS Interactive Infographic on Protections for Immigrant Victims (2017) <https://niwaplibrary.wcl.american.edu/pubs/infographic-on-protections-for-immigrant-victims>.

¹⁵ Immigration and Nationality Act, 8 U.S.C. §1154(a)(1)(A)–(B) (2018). For a detailed description of the VAWA self-petition see Moira Fisher Preda et al., *Preparing the VAWA Self-Petition and Applying for Residence*, in *BREAKING BARRIERS: A COMPLETE GUIDE TO LEGAL RIGHTS AND RESOURCES FOR BATTERED IMMIGRANTS* 3.3 (Kathleen Sullivan & Leslye Orloff eds., 2013), <https://niwaplibrary.wcl.american.edu/breaking-barriers-manual>; Katelyn

permanent resident spouses, parents, or stepparents to file their immigration cases without their abusers' knowledge, help, or assistance. The self-petition offers similar protection to immigrant parents who were battered or subjected to extreme cruelty by their U.S. citizen children that are over 21 years old. Undocumented parents whose children or stepchildren are abused can also file a VAWA self-petition, including when the abused child is a U.S. citizen.¹⁶

- **VAWA Cancellation of Removal¹⁷ and VAWA Suspension of Deportation:¹⁸** These are the forms of immigration relief that an immigrant survivor of a spouse or child abuse can file in immigration court if the survivor has been placed in removal or deportation proceedings. When an immigrant, their child or stepchild, has been battered or subjected to extreme cruelty by their U.S. citizen or lawful permanent resident spouse or parent and the immigrant has been in the U.S. for at least three years, an immigration judge can grant them VAWA cancellation of removal or VAWA suspension of deportation and they receive lawful permanent residency.
- **U Visa:¹⁹** The U visa offers immigration relief to immigrant survivors of criminal activities perpetrated against them in the United States who have come forward and were helpful or likely to help the detection, investigation, prosecution, conviction or sentencing of the offender who perpetrated the criminal activity against them. Survivors of domestic violence, sexual assault, child abuse, and human trafficking make up approximately 76.3% of the U visa cases filed nationally.²⁰ The U visa helps survivors whose abusers are their spouses, boyfriends, family members, or strangers without regard to the immigration status of the perpetrator.

Deibler & Leslye Orloff, *VAWA Self-Petition Timeline with Background Checks*, NIWAP (March 29, 2019), <https://niwaplibrary.wcl.american.edu/pubs/3f-vawa-timeline-3-29-19> (VAWA self-petitioners whose abusers are U.S. citizens receive work authorization as early as 3 months after filing. VAWA self-petitions are adjudicated and approved generally within 18 months of filing which is the point at which abused spouses and children of lawful permanent residents receive work authorization.).

¹⁶ Abused immigrant spouses of U.S. citizens may also be eligible for the battered spouse waiver if their abusive spouse filed immigration papers the abused immigrant spouse. Survey participants did not report on battered spouse waiver cases, so these cases are not included in this study. The battered spouse waiver helps immigrant spouses and their children who were battered or subjected to extreme cruelty by their U.S. citizen or lawful permanent resident spouse or parent. These are cases where the abusive citizen or legal permanent resident spouse filed as a sponsor an immigration case. The abused immigrant spouse or spouse and child were granted conditional permanent residency. This conditional residency status required the immigrant spouse and child to remain in the marriage for two years. At the end of the two years, they should make a joint filing with the sponsoring spouse demonstrating the marriage validity so that the immigrant spouse and child could receive full lawful permanent residency. By filing a battered spouse waiver, immigrant spouses and children who suffered battering or extreme cruelty in the marriage could attain legal permanent residency without the abusive spouse's joint signature and without being required to remain in the abusive home for two years. Immigration and Nationality Act, § 1186a(c)(4)(C); Moira Fisher Preda et al., *Preparing the VAWA Self-Petition and Applying for Residence*, in *Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants* 3.3 (Kathleen Sullivan & Leslye Orloff eds., 2013), <https://niwaplibrary.wcl.american.edu/breaking-barriers-manual>; Kavel Joseph et al., *Moving Battered Spouse Waivers Adjudications to the VAWA Unit: A Call for Consistency and Safety National Survey Findings Highlights*, NIWAP (Feb. 6, 2017), <https://niwaplibrary.wcl.american.edu/pubs/battered-spouse-waiver-report-2-6-2017>. (Battered spouse waivers are not adjudicated centrally and the results can vary widely depending on the area of the country in which the victim resides with 42.8% of the cases taking 12-21 months or longer to adjudicate).

¹⁷ Immigration and Nationality Act, § 1229b(b)(2); Rebecca Story et al., *VAWA Cancellation of Removal*, in *BREAKING BARRIERS: A COMPLETE GUIDE TO LEGAL RIGHTS AND RESOURCES FOR BATTERED IMMIGRANTS* 3.4 (Kathleen Sullivan & Leslye Orloff eds., 2013), <https://niwaplibrary.wcl.american.edu/breaking-barriers-manual>.

¹⁸ See Immigration and Nationality Act, § 1254(a)(3) (as in effect on March 31, 1996); Immigration and Nationality Act § 1254, *repealed by* Pub. L. No. 104-208, Div. C, Title III, § 308(b)(7), 110 Stat. 3009-615 (1996) (amending and renumbering INA §244, 8 U.S.C. 1254a) (Although suspension of deportation was repealed in 1996, VAWA suspension of deportation continues to be a form of relief available to battered immigrants. Each VAWA reauthorization has continued to make amendments offering new legal protections for VAWA suspension of deportation eligible victims.).

¹⁹ Immigration and Nationality Act, § 1101(a)(15)(U). See generally Leslye Orloff et al., *U-Visas: Victims of Criminal Activity*, in *EMPOWERING SURVIVORS: LEGAL RIGHTS OF IMMIGRANT VICTIMS OF SEXUAL ASSAULT* 10 (Leslye Orloff ed., 2013), <https://niwaplibrary.wcl.american.edu/empowering-survivors-contents>; Katelyn Deibler & Leslye E. Orloff, *U Visa Timeline with Background Checks*, NIWAP (April 9, 2019) <https://niwaplibrary.wcl.american.edu/pubs/u-visa-timeline> (U visa applicants receive work authorization and deferred action which provides formal protection from deportation when they receive wait list approval approximately 5 years after filing their U visa application. It currently takes at least 10 years on the wait list to receive a U visa and 3 years in U visa status to qualify to apply for lawful permanent residency.).

²⁰ Leslye E. Orloff & Paige E. Feldman, *National Survey on Types of Criminal Activities Experienced by U-Visa Recipients*, NIWAP (Nov. 29, 2011), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-criminal-activities-survey>. The full range of criminal activities for which immigrant victims may be U visa eligible include: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, stalking, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, fraud in foreign labor

The historical timeline for the development of humanitarian immigration relief for immigrants who had been victims of domestic violence, child abuse, sexual assault, stalking, human trafficking and many other crimes committed against immigrant in the United States is summarized briefly here. The first form of immigration relief created by Congress to help abused immigrant spouses was the 1990 Battered Spouse Waiver.²¹ The VAWA self-petition and VAWA suspension of deportation were created by the Violence Against Women Act of 1994.²² The implementing regulations for the VAWA self-petition were issued on March 26, 1996.²³ Immigration courts began adjudicating VAWA suspension of deportation cases in 1995.²⁴ VAWA cancellation of removal was created in 1996.²⁵ The U visa was created in 2000²⁶ and U visa implementing regulations were issued in 2007²⁷ allowing U visas to be awarded to survivors. Over 331,000²⁸ immigrant survivors of domestic violence, child abuse, sexual

contracting, solicitation to commit any of the above-mentioned criminal activity, or any similar activity in violation of federal, state, or local criminal law and solicitation, attempts, or conspiracy to commit any such criminal activity. *Id.* The term any similar activity accounts for the wide variety of state and federal criminal laws, which may be named differently than the enumerated criminal activity in the statute but are comparable in nature and elements to the U visa listed criminal activity. Leslye E. Orloff et al., *U Visa Quick Reference for Judges*, NIWAP (Oct. 14, 2020), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-quick-reference-guide-for-judges>.

²¹ INA § 216(c)(4)(C), 8 U.S.C. § 1186a(c)(4)(C). Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 (codified as amended in scattered sections of 8 U.S.C.). Abused immigrant spouses of U.S. citizens may also be eligible for the battered spouse waiver if their abusive spouse filed immigration papers the abused immigrant spouse. Survey participants did not report on battered spouse waiver case so these cases are not included in this study. The battered spouse waiver helps immigrant spouses and their children who were battered or subjected to extreme cruelty by their U.S. citizen or lawful permanent resident spouse or parent. These are cases where the abusive citizen or legal permanent resident spouse filed as a sponsor an immigration case. The abused immigrant spouse or spouse and child were granted conditional permanent residency. This conditional residency status required the immigrant spouse and child to remain in the marriage for two years. At the end of the two years, make a joint filing with the sponsoring spouse demonstrating the marriage validity so that the immigrant spouse and child could receive full lawful permanent residency. By filing a battered spouse waiver, immigrant spouses and children who suffered battering or extreme cruelty in the marriage could attain legal permanent residency without the abusive spouse's joint signature and without being required to remain in the abusive home for two years. Cecilia Olavarria & Moira Fisher Preda, *Additional Remedies Under VAWA: Battered Spouse Waiver*, in *BREAKING BARRIERS: A COMPLETE GUIDE TO LEGAL RIGHTS AND RESOURCES FOR BATTERED IMMIGRANTS* 3.5 (Kathleen Sullivan & Leslye Orloff eds., 2013), <https://niwaplibrary.wcl.american.edu/breaking-barriers-maunal>; Kavel Joseph et al., *Moving Battered Spouse Waivers Adjudications to the VAWA Unit: A Call for Consistency and Safety National Survey Findings Highlights*, NIWAP (Feb. 6, 2017), <https://niwaplibrary.wcl.american.edu/pubs/battered-spouse-waiver-report-2-6-2017> (Battered spouse waivers are not adjudicated centrally and the results can vary widely depending on the area of the country in which the victim resides with 42.8% of the cases taking 12-21 months or longer to adjudicate).

²² Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, §§ 40701, 40703, 108 Stat. 1796 (1994) (Subtitle G § 40701 is the VAWA self-petition and § 40703 is the VAWA suspension of deportation of the Violence Against Women Act of 1994).

²³ Self-Petitioning for Certain Battered or Abused Spouses and Children, 61 Fed. Reg. 13,067 (Mar. 29, 1996) (to be codified at 8 C.F.R. pts. 103, 204, 205, and 216).

²⁴ The first Board of Immigration Appeals case decision was issued on June 17, 1996, In the Matter of G.R., in an appeal of a victim denied VAWA suspension of deportation on June 5, 1995.

²⁵ VAWA cancellation of removal was created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 (1996) (replacing “VAWA suspension of deportation” relief with “VAWA cancellation of removal,” which is similar to suspension but has stricter eligibility requirements). VAWA suspension of deportation still exists in law and applies to cases of immigrant spouse and child abuse victims who had immigration cases filed in the immigration courts before April 1, 1997. All VAWA immigration cases filed after that date are VAWA cancellation of removal cases. For a comparison of VAWA cancellation of removal and VAWA suspension of deportation and a discussion of other VAWA immigration remedies see the charts at *VAWA Self-Petitioners Comparison Charts & Interlineated Statutes: VAWA NACARA (Nicaraguan and Central American Relief Act)*, *VAWA HRIFA (Haitian Refugee Immigration Fairness Act)*, and *VAWA CAA (Cuban Adjustment Act)*, NIWAP (Apr 22, 2020), <https://niwaplibrary.wcl.american.edu/vawa-comparison-interlineated-statutes-ncara-hrifa-caa>.

²⁶ Battered Immigrant Women Protection Act of 2000 (BIWPA). See Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106–386, § 1513, 114 Stat. 1464, 1533–37 (2000).

²⁷ New Classification for Victims of Criminal Activity; Eligibility for “U” Nonimmigrant Status, 72 Fed. Reg. 53,014 (Sep. 17, 2007) (to be codified in 8 C.F.R. pts. 103, 212, 214, 248, 274a, 299).

²⁸ Since USCIS does not collect data on the numbers of children included in VAWA self-petitions, this total number of approved cases includes only primary VAWA self-petitioners, primary U visa applicants, and the children and family members included in U visa applications. If data were available on VAWA self-petitioner children, the number of immigrant survivors that benefited from the VAWA and U visa programs through the end of fiscal year 2020 would be closer to 450,000. By September 30, 2016, 102,593 VAWA self-petitions had been approved. As of September 30, 2020 approved VAWA self-petitions were 126,039. By September 30, 2016, the number of U visas approved for primary U visa applicants was 134,924 and by September 30, 2020 205,559 U visas had been granted to primary applicants and the children or other family members victims included in their applications. *U Visa Adjudication Data DHS 2009-2020 Fiscal Years*, U.S. CITIZENSHIP & IMMIGR. SERVS. (2020), https://niwaplibrary.wcl.american.edu/pubs/i918u_visastatistics_fy2020_qtr4; *VAWA Self-Petition I-360 Adjudication Data 1997-2005*, IMMIGR. & NATURALIZATION SERV., <https://niwaplibrary.wcl.american.edu/pubs/i-360-data-1997-2005-ins-dhs> (last visited Mar. 22, 2021); *VAWA Self-Petition I-360 Statistics 1996-2008*, IMMIGR. & NATURALIZATION SERV., <https://niwaplibrary.wcl.american.edu/pubs/vawa-sp-stats-1996-2008-ins-dhs> (last visited Mar. 22, 2021); *I-360 VAWA Self-Petition Data DHS 2010-2020*, U.S. CITIZENSHIP & IMMIGR. SERVS. (2020) https://niwaplibrary.wcl.american.edu/pubs/i360_vawa_self-petition-data-2010-2020; Leslye E. Orloff, *VAWA T, U Case Processing Data 1997-2020 FY DHS and INS*, NIWAP (Feb. 10, 2021) <https://niwaplibrary.wcl.american.edu/pubs/vawa-t-u-data-1997-2020>.

assault, and other criminal activities have received protections from these special forms of immigration relief that were created and improved through the Violence Against Women Act in the past more than two decades.

III. The Respondents, The Survey, The Participants and Demographics

Study Approach

When this study was conducted in 2016 and 2019, significant numbers of immigrant survivors of abuse and crime victimization had obtained immigration benefits through one of the forms of immigration relief created or amended by the Violence Against Women Act (VAWA). This exploratory research was designed knowing that there were many attorneys, victim advocates and government agency staff who by 2016 and 2019 would have served significant numbers of immigrant survivors who had applied for and completed the full immigration process and had been granted immigration relief including lawful permanent residency. This design enabled the study to gather information on how survivors fared during the immigration process. This study is intended to be a first step towards building an evidence-based understanding of how, when in the immigration process, and the extent to which immigrant survivors, our justice system, and our communities benefit from VAWA and U visa humanitarian immigration relief programs.

A goal of the study was to document the experiences of immigrant survivors in a manner that would not re-traumatize survivors to have to relate their traumatic experiences more than they have had to do in seeking immigration relief and through their participation in criminal and family court systems. By anonymously surveying an informed third party, lawyers, victim advocates, and government agency victim witness staff who work with immigrant survivors of abuse and crime. These professionals who know immigrant survivors best, are often involved in helping survivors access a range of benefits, services, and supports that go beyond the immigration case itself. Victim advocates and attorneys also play a central role in immigrant survivors' access to criminal and family justice systems.

This study sought to obtain initial data using an evidence-based approach that would begin the process of furthering our understanding of the impact that the VAWA and U visa programs are having on victims and our communities. The information gathered from this survey would provide important information documenting immigrant survivors' experience that could be used as support for continued improvements in laws, regulations, policies, and practices that benefits immigrant survivors and their children. The information collected would also be helpful in training judges, police, prosecutors, victim advocates, attorneys and federal government agency staff who adjudicate VAWA and U visa cases and other government officials who encounter immigrant survivors. From a research standpoint, this study sought to begin to address a gap in the literature on experiences of immigrant survivors of abuse and crime and contribute to our growing understanding of immigrant survivors' experiences and needs.

The Respondents and the Survey

Victim advocates, attorneys and government agency staff were recruited to participate in the survey from a NIWAP developed listserv of providers in the field. The respondents had attended in person and virtual NIWAP trainings, sought technical assistance on cases of immigrant victims, were users of NIWAP's web-library signed up for NIWAP's outreach list to receive publications, training

materials, and information about updated government policies, regulations, law and practices that affect immigrant victims.

The survey collected data at two different points in time with two survey rollouts. NIWAP recruited the first group of survey participants in 2016, and then NIWAP conducted a second outreach effort in 2019. In 2016, NIWAP's listserv reached 6,399 service providers. In 2019, the listserv reached 11,173 organizations. Organizations were asked to participate in the survey themselves and were asked to share the survey opportunity with other professionals serving immigrant crime victims with whom they worked or were connected to by networks across the country. A total of 169 organizations volunteered to participate in this survey who reported on a total of 11,171 clients who had filed VAWA or U visa immigration cases that they had worked with over the years.

In response to NIWAP's outreach, attorneys, victim advocates, social workers, and government agency staff completed an on-line survey. The survey asked for responses to open and close-ended questions reporting on their observations of how the lives of their immigrant clients and their children were impacted as they went through the process of pursuing immigration relief through the VAWA self-petition, VAWA cancellation/suspension, and U visa programs. The numbers of agencies responded varied from question to question, based on information that each agency had about their clients. Many of the questions in the survey asked participants to recall and reply by recording the numbers of their VAWA and U visa clients that had the particular experience asked about in the question.²⁹ The study used this approach for questions about the types and frequency of abuse victims suffered in the United States, demographic information about their survivor clients including country of origin, survivors' numbers of children, survivors' incomes, nature of victim-perpetrator relationships, perpetrator's immigration or citizenship status, and numbers of clients agencies worked with who had received work authorization, lawful permanent residency or been subject to immigration enforcement.

The process of filing VAWA and U visa applications is a multi-year process that requires that victims' advocates and attorneys remain in contact with immigrant survivor over a course of years. The work that victim advocates and attorneys do to help survivors of abuse and crime victimization complete VAWA and U visa applications requires that survivors retell and record the details of the victimization survivors experienced. Best practices involve using a trauma informed approach to collect the needed information to develop the survivor's affidavit. Attorneys and victim advocates who go through this process with survivors bear witness to survivors' stories and guide survivors through what can be a very painful and triggering process for many survivors. As a result of this process survivors develop trusting ongoing relationships with their advocates and attorneys who, because they too have been through these story telling experiences with their immigrant survivor clients, are well placed to recall and provide the detailed information about their clients called for in this survey.

The study uniquely set out to measure survivors' and their children's well-being, economic security, employment, interactions with the justice system in criminal and family cases, the healthcare, education, social services, and public benefits survivors sought and received, their social and community

²⁹ For this reason, that each figure in the report indicates in the title of the figure the number of clients about whom survey participants provided information in response to that question. Although in the survey 169 agencies reported about a total of 11,171 clients, since not all agencies answered every question and since agency staff did not have the answers to each specific question regarding all of their VAWA and U visa applicant clients, the numbers of clients that survey participants were able to provide information on for each question varied. Despite these variations the answers provided give the researchers and readers in most instances useful information about the common trends regarding the experiences of the immigrant survivor clients and the children of immigrant survivor clients that agencies participating in the survey worked with.

engagement, survivor acculturation, and adjustment to life in the United States. The survey questions asked participations to recall and, in some cases, approximate at which point in their immigrant victim clients' immigration case process certain changes occur –between filing and work authorization, after receipt of work authorization, or after receiving lawful permanent residency.

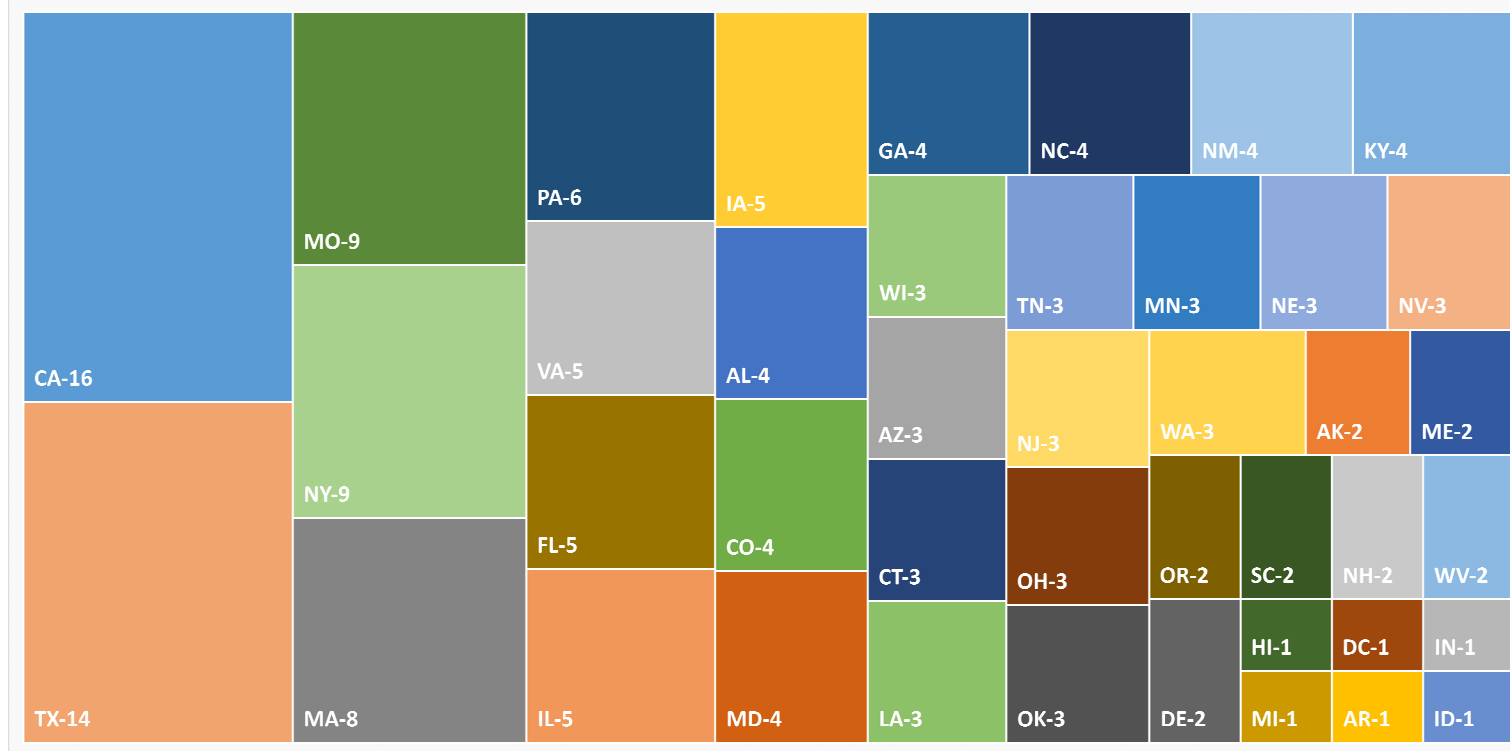
The survey asked agency staff to answer questions regarding transformations and changes they witnessed over time working with their VAWA and U visa clients. For these questions agency staff were asked to recall, think about, and provided responses in the survey based on their experiences, knowledge they gained and observations individually and collectively with all the VAWA and U visa clients they worked with. The survey questions asked agencies to choose one of five Likert scale options in reporting on whether looking at the experiences of all the VAWA or U visa clients they worked with, whether clients– never, rarely, sometimes, often, or almost always took the particular action or had the particular experience asked about in the survey question. For these questions the data reports on the percentage of the agencies with expertise over the years working with VAWA and U visa clients who reported that their clients collectively – never, rarely sometimes, often or almost always -- had the experience the survey asked about. The agencies participating in the survey had an average of 77 VAWA and U visa clients' experiences upon which to base their answers. Some agencies worked with more clients, some agencies worked with less. The numbers of agencies responding to each of these types of questions also differed from question to question. Each of the figures in the survey records the numbers of agencies that provided information in response to that question. For these questions agencies were being asked to report answers based on their knowledge, observations, and their experience of having work with the number of VAWA and U visa clients whom they represented over the course of their careers in working with immigrant survivors.³⁰

States and Regions of the Where Participants Worked

Out of 169 organizations, 166 organizations reported that they worked in 42 states and the District of Columbia. See Figure 1, (n=166). Participating organizations came from a diverse array of states with 10 states that had five (5) or more organizations participating in the study. The greatest number of participating organizations are from the following states: California (n=16); Texas (n=14); Missouri (n=9); New York (n=9); Massachusetts (n=8); Pennsylvania (n=6); Florida (n=5); Illinois (n=5); Iowa (n=5) and Virginia (n=5). See Figure 1.

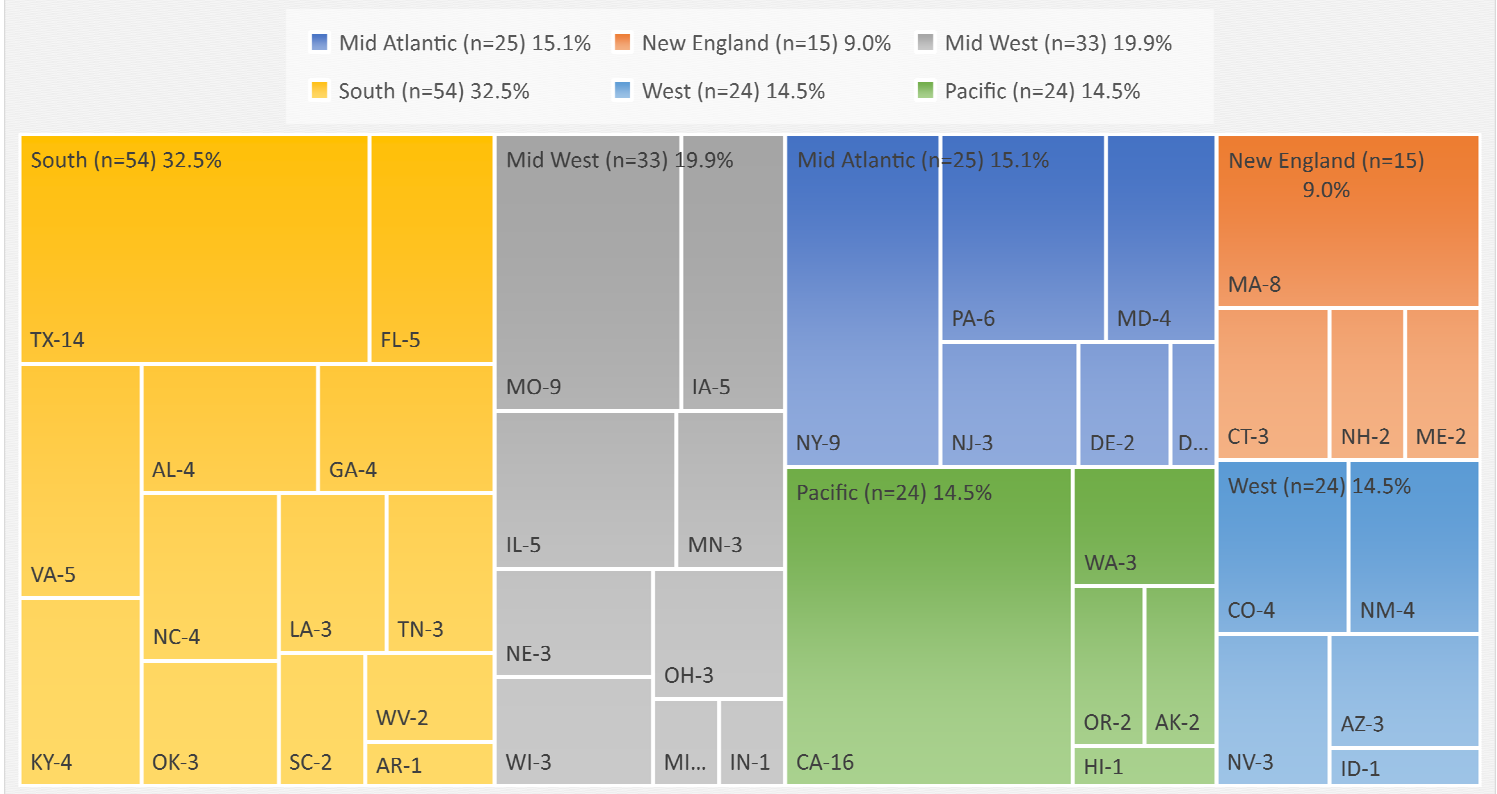
³⁰ Figure 7 reports on the numbers of VAWA and U visa clients whom survey participants worked with over the course of their careers in working with immigrant survivors that agencies reported on for this survey. Agencies worked with an average of 77 immigrant survivor clients of which 55 applied for U visas and 22 filed VAWA immigration cases (VAWA self-petitions, VAWA suspension of deportation, or VAWA cancellation of removal).

Figure 1: States in Which Survey Participants Worked (n=166 Agencies)



Although states in the west, the Mid-Atlantic and New England made up three of the top six states with participating organizations, the largest numbers of organizations participating were programs that served immigrant survivors in Southern and Mid-Western states. Below, Figure 2 shows the percentage of participants in each region of the United States. The highest percentage of respondents (33%, n=54) were in the Southern part of the United States, and the second largest group of organizations participating were from the Mid-West (20% (n=33). *See Figure 2.*

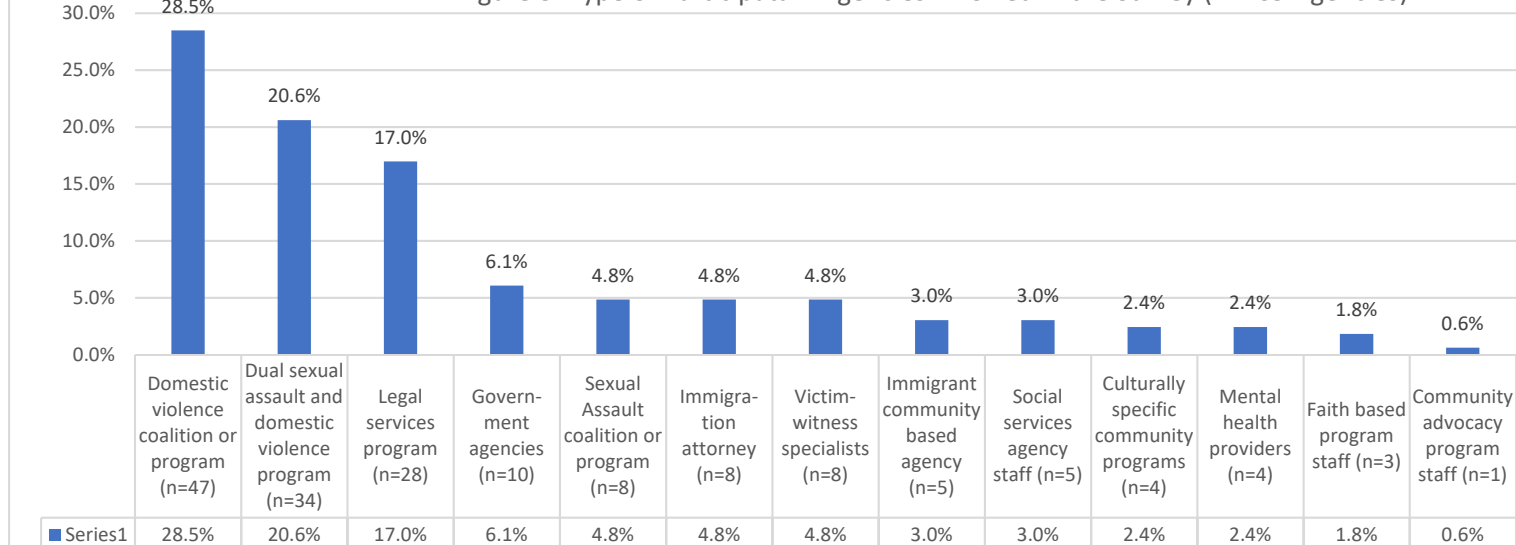
Figure 2: Regional Location of Survey Participants (n=166 Agencies)



Types of Organizations in Which Study Participants Worked

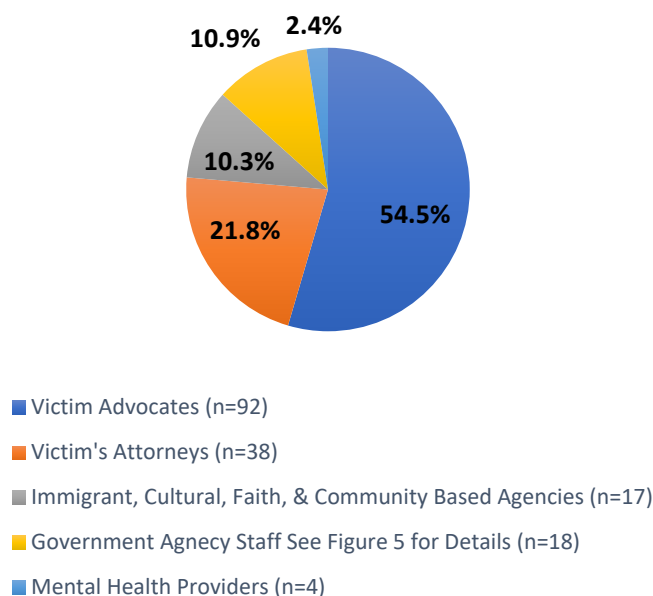
Of the 169 organizations participating in the study, 98% (n=165) described their type of organization. *Figure 3* represents the type of participating agencies involved in the study. Almost half (49%, n=81) of the participants fell into two types of organization: (1) domestic violence coalitions or programs and, (2) dual domestic violence and sexual assault programs. The third largest group of participants were victims' attorneys who worked for legal services organizations (17%, n=28). Another 11% (n=18) of study participants were from government agencies. *See Figure 4*. Government participants included victim witness specialists working for law enforcement and prosecution agencies (5%, n=8) and professionals working at a range of other government agencies (6%, n=10) that will be identified in greater detail in *Figure 5*.

Figure 3: Type of Participatain Agencies Involved in the Survey (n=169 Agencies)



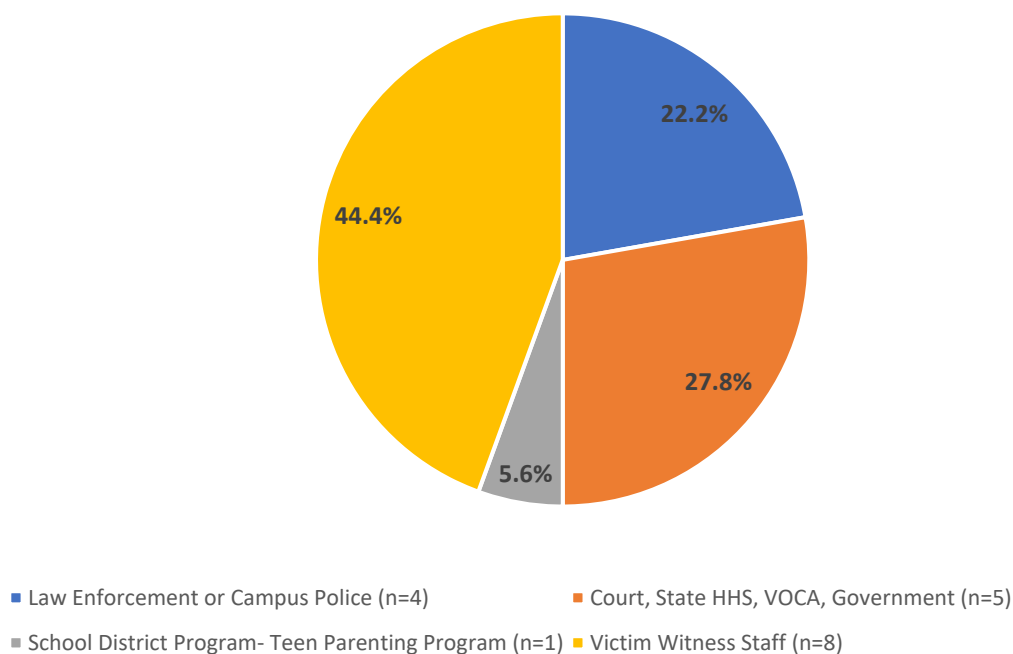
To better understand the professions who responded to the survey, the study grouped the survey participants by profession. From this grouping, the study found that 65% (n=107) of survey participants were victim advocates working in domestic violence or sexual assault programs or coalitions (55%, n=90). Another 10% (n=17) were victim advocates working for immigrant community based or faith-based organizations. Legal services, immigration, and family law attorneys who provide legal assistance to immigrant survivors made up the next largest group of survey participants (22%, n=38). Law school clinics that represent immigrant survivors were included in this category. Government agency staff accounted for 11% (n=18) of survey participants, and a small number of survey participants (2%, n=4) were mental health professionals treating immigrant survivors.

Figure 4: Participants' Professions (n=169 Agencies)



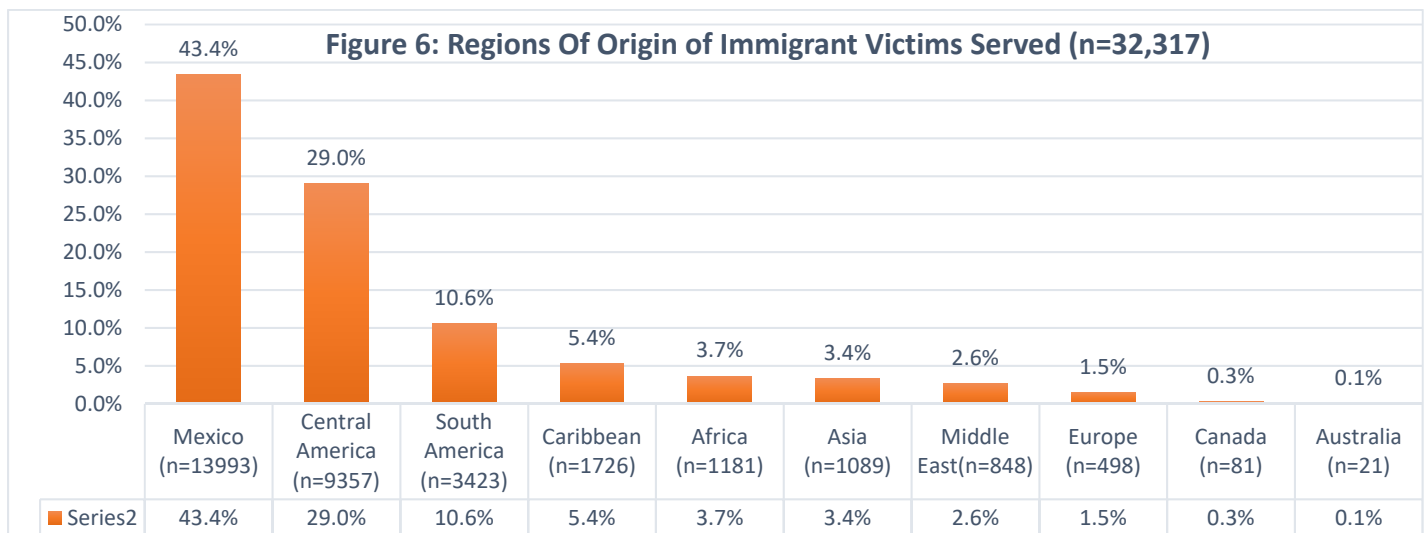
Out of 18 government agencies whose staff participated in this study, 11 reported their job position. *See* Figure 5. Witness staffs became the largest type of professional participating in the study (44%, n=8). These staff worked at law enforcement and prosecution agencies discussed above. The next largest group (28%, n=5) were state government agency staff, including Victims of Crime Act staff, social workers working for state child welfare agencies, and staff working with immigrant survivors at state courts. Law enforcement officers, District Attorneys, and campus police (22%, n=4), and a school district teen parenting program (6%, n=1) made up the remaining government agencies participating in the study.

Figure 5: Participating Government Agencies (n=11 Agencies)



World Regions of Origin of Immigrant Survivor Clients Served by Participating Agencies

Altogether, participants reported that they had worked with 32,317 immigrant survivor clients for whom they provided information about their regions of origin. *See* Figure 6. Immigrant survivor clients came from a diverse range of countries/regions from six different continents. In answering questions about countries and regions of origin, the largest number of immigrant survivor clients came from Mexico (43%, n=13,993). The remaining survivors are grouped into nine regions of origin with Central America (29%, n=9,357) as the largest, followed by South America, (10.6%, n= 3,423). The next largest regions that immigrant survivors represented by study participants came from were Caribbean, (5%, n=1,726), Africa (4%, n=1,181), Asia (3%, n=1,089), and the Middle East (3%, n=848). The agencies participating in the study also reported working with smaller numbers of immigrant survivors from Europe (2%, n=498), Canada, (< 1%, n=81) and Australia (< 1%, n=21).



Study participants reported working with a significantly higher proportion of Mexican, Central American and South American immigrants than immigrants from these countries represent as a percentage of all immigrants in the U.S. in 2018.²³ The Migration Policy Institute’s Data Hub²⁴ reports that Mexican immigrants account for 25% of the foreign-born population, compared to 44.% of immigrant survivors served by the participating agencies in this study. Although nationally immigrants from Central America account for 8% of the U.S. foreign-born population, Central Americans made up 29% of participating agency’s clients. Similarly, South Americans are 7% of the U.S. foreign-born population, but were 11% of the immigrant survivors that surveyed agencies served.

There are several reasons that contribute to the greater share of Mexican, Central and South American clients served by participating agencies than in the general immigrant population in the US. Women make up a large share of immigrants arriving from the region and that immigrant women are particularly vulnerable to victimization once they arrive in the United States. Newly arrived immigrant women and girls are particularly vulnerable to experiencing family violence, sexual assault, and human trafficking in the United States and many of the agencies who participated in the study specialize in serving immigrant survivors of domestic violence, sexual assault, stalking and human trafficking and have government funding that particularly supports that important work. Additionally, outreach materials and information that inform immigrants about abuse and crime victim related forms of immigration relief are commonly translated into Spanish making it easier for Spanish speaking survivors to learn about help available than survivors who speak other languages. This is one of the reasons that under U.S. language access laws know your rights informational brochures are considered vital documents that need to be translated into the languages commonly spoken in program’s service area.³¹

Demographic data document that two of the top ten largest sending countries for female immigrants are Mexico and El Salvador.³² By 2018, women and girls accounted for more than half

³¹ Benish Anver et al., *Translation Requirements for Vital Documents, Intake and Notice of LEP Assistance for DOJ and HHS Grantees Serving Immigrant Crime Victims*, NIWAP (Mar. 9, 2014), <https://niwaplibrary.wcl.american.edu/pubs/translation-vital-docs>.

³² *Spotlight on Immigrant Women: Employment and Earnings Data*, STATUS OF WOMEN IN THE STATES, <https://statusofwomendata.org/immigrant-women/spotlight-on-immigrant-women-employment-and-earnings-data/> (last visited Mar. 22, 2021) (looking at the chart titled “Distribution of Immigrant Women and Men by Country of Birth, 2013”).

(52%) of the foreign-born population living in the United States.³³ Mexico (26%), Central America (7%) and South America (7%) account for a total of 40% of all immigrant women in the United States³⁴ and 47% of undocumented immigrants.³⁵ Additionally, the numbers of immigrant women crossing the U.S.-Mexico border with children and other family members has risen significantly in recent year with women accounting for 35% of border crossers in 2019 compared to 14% in 2012.³⁶ Greater numbers of women and children come to the U.S. seeking asylum to escape domestic violence, sexual assault, incest, child abuse, gender-based violence, and death in Central America.³⁷

Immigrant women are more likely than immigrant men to immigrate to reunify with family³⁸ and are more likely to be married than U.S. born women.³⁹ Immigrant men are more likely to come to the U.S. as migrant workers,⁴⁰ and are 3.1 times more likely to enter the U.S. as work visa holders compared to immigrant women.⁴¹ Immigrant women are significantly more likely than immigrant men to enter the U.S. as dependent spouses of work visa holders.⁴² When immigrant women's immigration status is dependent on male family members, the likelihood of domestic and sexual violence escalates as does immigration related abuse.⁴³ When one partner has legal status and the other does not, there can be an imbalance in power that too often results in or escalates the likelihood of abuse.

Immigrant women often work in janitorial, farmworker, food processing, restaurants, childcare, housecleaning, personal care, and other service jobs where they are highly vulnerable to sexual exploitation, abuse and other crime victimization.⁴⁴ Workplace participation among immigrant women is 57%, with 31% of employed immigrant women working in service occupations.⁴⁵ Limited English

³³ Jeanne Batalova, *Immigrant Women and Girls in the United States*, MIGRATION POL'Y INST. (Mar. 4, 2020), <https://www.migrationpolicy.org/article/immigrant-women-and-girls-united-states-2018>.

³⁴ *Spotlight on Immigrant Women: Employment and Earnings Data*, STATUS OF WOMEN IN THE STATES, <https://statusofwomendata.org/immigrant-women/spotlight-on-immigrant-women-employment-and-earnings-data/> (last visited Mar. 22, 2021) (looking at the chart titled "Distribution of Immigrant Women and Men by Country of Birth, 2013").

³⁵ Jeanne Batalova, *Immigrant Women and Girls in the United States*, MIGRATION POL'Y INST. (Mar. 4, 2020), <https://www.migrationpolicy.org/article/immigrant-women-and-girls-united-states-2018>.

³⁶ *Id.*

³⁷ Karen Musalo, *El Salvador--A Peace Worse Than War: Violence, Gender and a Failed Legal Response*, 30 YALE J.L. & FEMINISM 3 (2018); Héctor Ruiz, *No Justice for Guatemalan Women: An Update Twenty Years After Guatemala's First Violence Against Women Law*, 29 HASTINGS WOMEN'S L.J. 101 (2018); Sarah Bott et al., *Violence Against Women in Latin America and the Caribbean*:

A Comparative Analysis of Population-Based Data from 12 Countries, PAN AM. HEALTH ORG. (2012), <https://www.paho.org/hq/dmdocuments/2014/Violence1.24-WEB-25-febrero-2014.pdf>; Meaghan Fitzpatrick & Leslye E. Orloff, *Abused, Abandoned, or Neglected: Legal Options for Recent Immigrant Women and Girls*, 4 PENN STATE J.L. & INT'L AFF. 614 (2016).

³⁸ Jeanne Batalova, *Immigrant Women and Girls in the United States*, MIGRATION POL'Y INST. (Mar. 4, 2020), <https://www.migrationpolicy.org/article/immigrant-women-and-girls-united-states-2018>.

³⁹ *Id.* (Approximately 58% married for immigrant women compared to 43% for U.S. born women).

⁴⁰ *Id.*

⁴¹ Kelly Jeffreys, *Characteristics of Family-Sponsored Legal Permanent Residents: 2004*, DEP'T OF HOMELAND SEC. (Oct. 2005), <https://www.dhs.gov/sites/default/files/publications/FamilySponsored%20LPR%202004.pdf> (looking at "Table 1: Demographic Characteristics of All LPRs and Family-Sponsored Principal LPRs").

⁴² Jeanne Batalova, *Immigrant Women and Girls in the United States*, MIGRATION POL'Y INST. (Mar. 4, 2020), <https://www.migrationpolicy.org/article/immigrant-women-and-girls-united-states-2018> (92% of dependent spouses of work visa holders receiving H-4 visas in 2019 were immigrant women); Kelly Jeffreys, *Characteristics of Family-Sponsored Legal Permanent Residents: 2004*, DEP'T OF HOMELAND SEC. (Oct. 2005), <https://www.dhs.gov/sites/default/files/publications/FamilySponsored%20LPR%202004.pdf> (Immigrant women were 1.6 times more likely to enter the U.S. as dependent spouses of work visa holders).

⁴³ When foreign born women are dependent upon their citizen husbands to attain legal immigration status the domestic abuse rate for these women reaches 59.5%. Giselle Aguilar et al., *Battered Immigrants and U.S. Citizen Spouses*, NIWAP (Apr. 24, 2006), <https://niwaplibrary.wcl.american.edu/pubs/battered-immigrants-u-s-citizen-spouses>.

⁴⁴ Seventy-seven percent of Latina immigrant workers report that sexual harassment is a major problem at work. William R. Tamayo, *The Evolving Definition of the Immigrant Worker: The Intersection Between Employment, Labor, and Human Rights Law*, 44 U.S.F.L. REV. 253 (2009).

⁴⁵ Jeanne Batalova, *Immigrant Women and Girls in the United States*, MIGRATION POL'Y INST. (Mar. 4, 2020), <https://www.migrationpolicy.org/article/immigrant-women-and-girls-united-states-2018>.

proficiency (LEP) among immigrant women is 48%.⁴⁶ Working age immigrant women from Mexico, El Salvador and Guatemala are the most likely to have less than a high school education in comparison to immigrant women from the other top 10 countries of origin.⁴⁷

Immigrant women and girls, particularly recent immigrants to the U.S., are vulnerable to suffering family violence, child abuse, incest, sexual assault, and human trafficking.⁴⁸ This is due to several factors including dependency on a spouse, parent, stepparent or employer for immigration status; perpetrators who target immigrant victims and use immigration related abuse and threats to keep victims from seeking help; limited English proficiency; lack of knowledge that the abuse they have suffered are crimes in the U.S.; and, lack of information about immigrant crime victims' legal rights.

Study Participant Professionals' Depth of Experience with VAWA and U Visa Cases

Organizations participating in the study (n=145) reported having significant experience working with VAWA and U visa applicants. Participants reported collectively working with approximately 11,171 immigrant survivors who filed VAWA and U visa cases. The data showed that study participants had worked with and was reporting on in the survey an average of seventy-seven (77) VAWA or U visa clients.⁴⁹ Separating this data by case types, the study found that the average number of cases each participating organization reported working on was 55 Uvisa cases and 22 VAWA cases (VAWA self-petitions, VAWA cancellation of removal, VAWA suspension of deportation).

Numbers of Immigrant Survivors Served With Each Victim Based Immigration Case Type

Over the years, participating organizations reported working on a total of 11,171 immigration cases for immigrant survivors, with 71% (n=7,951) U visa cases and 26% (n=2,937) VAWA self-petitions.⁵⁰ See Figure 7. The other two case types that participating agency attorneys represented were immigrant survivors in VAWA cancellation of removal cases (2%, n=199) and VAWA suspension of deportation cases (1%, n=84).⁵¹

⁴⁶ *Id.*

⁴⁷ *Id.* (India, Philippines, Korea, China, Vietnam, Cuba, and the Dominican Republic).

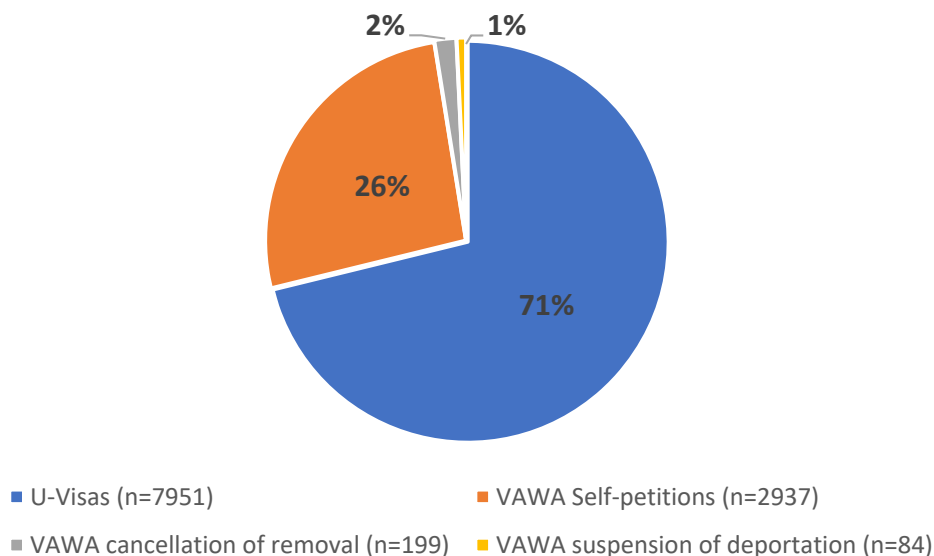
⁴⁸ Meaghan Fitzpatrick & Leslye E. Orloff, *Abused, Abandoned, or Neglected: Legal Options for Recent Immigrant Women and Girls*, 4 PA. STATE J.L. & INT'L AFFAIRS 614, 617 (2016).

⁴⁹ The survey asked agencies to report on VAWA and U visa clients they had worked with either presently or in the past. All VAWA self-petitions cases that agencies reported on will have been cases filed since between 1997 and the date on which the agency participated in the survey either 2016 or 2019. All U visa cases reported on will have been filed between 2007 and the date that the agency responded to the survey.

⁵⁰ It is important to note that there are a small number of domestic violence victims who may have filed for both forms of immigration relief. U.S. immigration laws that protect immigrant victims allow victims to file multiple applications for different forms of relief and specifically allow victims to switch from one victim based case type to another. The form of immigration relief the victim is ultimately granted will be the immigration case type that first leads the victim to lawful permanent residency.

⁵¹ All VAWA suspension of deportation cases will be victims who received a notice to appear in immigration court that was issued prior before April 1, 1997. Victims who are eligible for VAWA and the U visa can file motions to reopen these older immigration cases and this explains the lower number of these cases in the survey.

Figure 7: Immigration Case Types of Immigrant Victims Served
(n=11,171)



VAWA self-petitioning immigration laws offer immigration relief to abused spouses and children who are battered or subject to extreme cruelty by their U.S. citizen or lawful permanent resident spouses, parents, or stepparents. VAWA self-petitions are also available to immigrant parents who are battered or subjected to extreme cruelty by their over 21 year old U.S. citizen children. The study found that clients of participating agencies filed 60% (n=10,540) of U visa applications in family violence cases that involved domestic violence (46%, n=7,943) or child abuse (11%, n=1,954) or both (4%, n=643) occurring in the same family. *See Figure 20.* Of the 2,937 self-petitioners that participating agencies represented or worked with, 9% (n=252) were child abuse victims and 92% (n=2,705) were spouse abuse victims. Child self-petitioners must be under 21 when the abuse occurred, but children have up to age 25 to file their VAWA self-petitions if they can demonstrate that the abuse contributed to the delay in filing.

Extent to Which Participating Agencies' VAWA and U Visa Clients Had Attained Work Authorization

One of the study's key goals is learning about how the lives of immigrant crime survivors and their children changed at various stages of the immigration process. To determine this, the survey asked respondents to approximate the numbers of their organization's immigrant survivor clients whose immigration cases had proceeded to the point at which the survivor received work authorization. There is not standardized time frame for receiving work authorization. Receipt of work authorization is importantly the point at which VAWA and U visa applicants receive a form of formal protection from deportation – deferred action status. The point at which immigrant crime survivors receive work authorization varies by immigration case type and is summarized below:⁵²

⁵² Katelyn Deibler & Leslye Orloff, *VAWA Self-Petition Timeline with Background Checks*, NIWAP (Mar. 29, 2019), <https://niwaplibrary.wcl.american.edu/pubs/3f-vawa-timeline-3-29-19>; Katelyn Deibler & Leslye E. Orloff, *U Visa Timeline with Background Checks*, NIWAP (Apr. 9, 2019) <https://niwaplibrary.wcl.american.edu/pubs/u-visa-timeline>.

- VAWA self-petitioners whose abusers are U.S. citizens receive work authorization based on having a pending lawful permanent residency application filed together with their VAWA self-petition (3-4 months).
- VAWA self-petitioners whose abusers are lawful permanent residents receive work authorization when their VAWA self-petition is approved (15-18 months).
- U visa applicants receive work authorization based on approval of their U visa application or wait-list approval (5 years).⁵³
- VAWA cancellation of removal and suspension of deportation applicants receive work authorization from the immigration judge at the early stages of their immigration case (6 to 8 months).

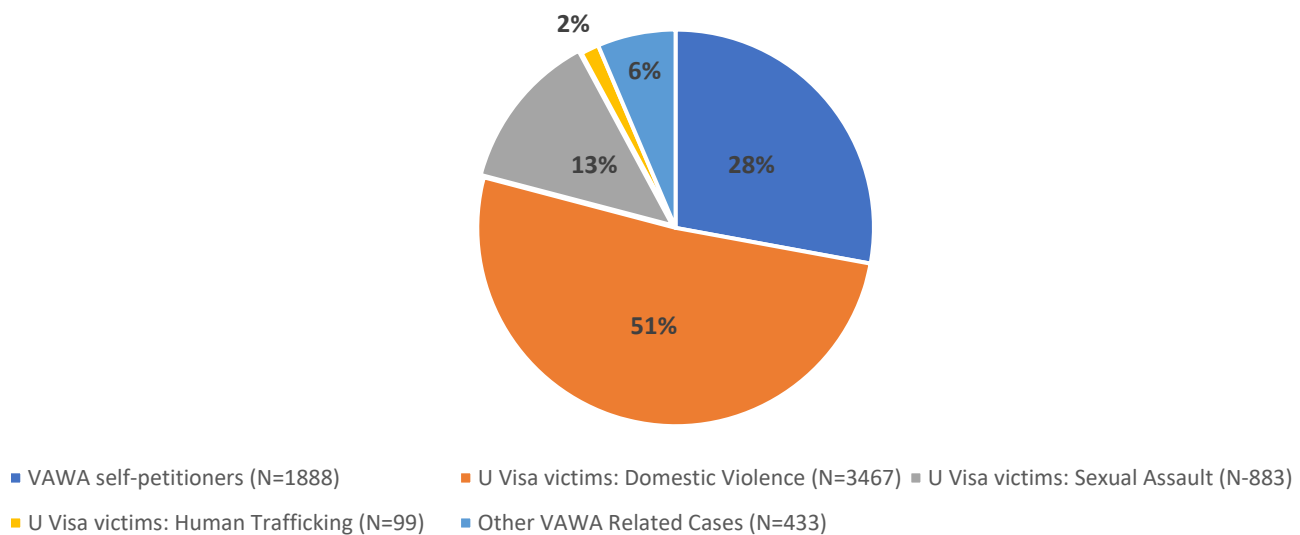
Participating agencies in the study (n=124) reported working with 6,770 immigrant survivor clients who received work authorization, with an average of 55 work authorized clients per agency. As reported in Figure 8, 66% (n=4,449) of the agency's immigrant survivor clients received work authorization based on their U visa case, and 34% (n=2,321) of battered immigrant and immigrant victims of child abuse gained legal work authorization based on their VAWA related immigration case.

Of all the work authorized survivors, 51% (n=3,467) received work authorization as survivors who received waitlist approval of U visa cases filed based on domestic violence. Further, 13% (n=883) U visa cases involving survivors of sexual assault and 2% (n=99) of U visa cases involved human trafficking survivors who received work authorization. Among VAWA eligible survivors, VAWA self-petitioners made up 28% (n=1,888) of those survivors receiving work authorization. The remaining 6% (n=433) received work authorization from an immigration judge in their VAWA cancellation of removal or VAWA suspension of deportation cases or as abused spouses of work visa holders who receive access to work authorization through VAWA.⁵⁴ *See Figure 8.*

⁵³ When the U visa program was first implemented U visa applicants receive interim relief and work authorization which protected victims while they awaited issuance of the U visa regulations and receipt of their U visas. Since DHS began issuing U visas in 2008 work authorization was granted along with the U visa. Since DHS can only award 10,000 U visas per year a backlog grew and U visa victims whose cases are approvable receive wait-list approval with work authorization based on deferred action (protection from deportation) while they wait in line for a U visa to become available. As of this the fall of 2019 it is taking approximately 5 years from filing to wait list approval in U visa cases, although wait times to adjudication have been much shorter in the past. From late 2014 through 2015 the time from filing to wait list approval was closer to 6 months.

⁵⁴ Immigration and Nationality Act, 8 U.S.C. § 1105a (2018) (Work authorization for abused spouses of the following work visa holders: A visa holder diplomats, E-3 visa holder Australian investors, H-1B work visa holders employed by U.S. companies; and G visa holders who work for international organizations).

Figure 8: Victims Who Obtained Work Authorization By Immigration Case Type
(n=6,770)



Length of Time VAWA and U Visa Immigrant Survivor Clients Wait for Legal Work Authorization

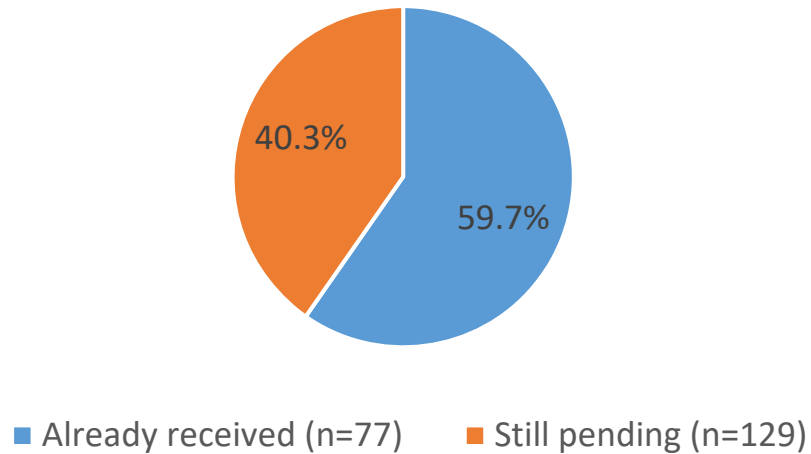
The amount of time a VAWA or U visa applicant must wait to gain work authorization varies by the victim's type of immigration case. The survey asked participants to report the amount of time that their immigrant survivor clients waited, starting from when their immigration case was filed to when the survivor receive legal work authorization. The results for VAWA self-petitioners are reported in *Figures 9 and 10* and discussed first. The discussion of U visa applicants' experiences follows and is reported in *Figures 11 and 12*.

VAWA Self-Petitioners and Work Authorization

Since obtaining legal work authorization is a timely process, the survey asked participating agencies to report on the proportion of their VAWA self-petitioner clients who had already received work authorization (60%) and the proportion of VAWA self-petitioners whose immigration cases had not progressed to the immigrant survivor receiving work authorization (40%). *See Figure 9*. The information demonstrates that study respondents had experience working with both groups of VAWA self-petitioners, those that had and had not received work authorization, and were reporting the experiences of both groups. Documenting study participants' experience with both groups is important as it enables this study to compare the experiences of both groups of survivors and measure how immigrant survivors' experiences change over time.⁵⁵

⁵⁵ Work authorization for most victim-based immigration case types comes with protection from deportation in the form of deferred action status. When in a victim-based immigration case the survivor receives work authorization varies by the type of case and how the wait to work authorization also varies. In some cases this can take many years. For example U visa cases which as of April 2021 have a 5 or more year wait to work authorization. For this reason the authors of this study decided to ask agencies to report on the experiences of their current and prior clients without setting any specific time limitation on how long ago they represented the clients they reported about in the survey.

Figure 9: VAWA Self-Petitioner Clients: Received vs. Pending Work Authorization (n=129 clients)



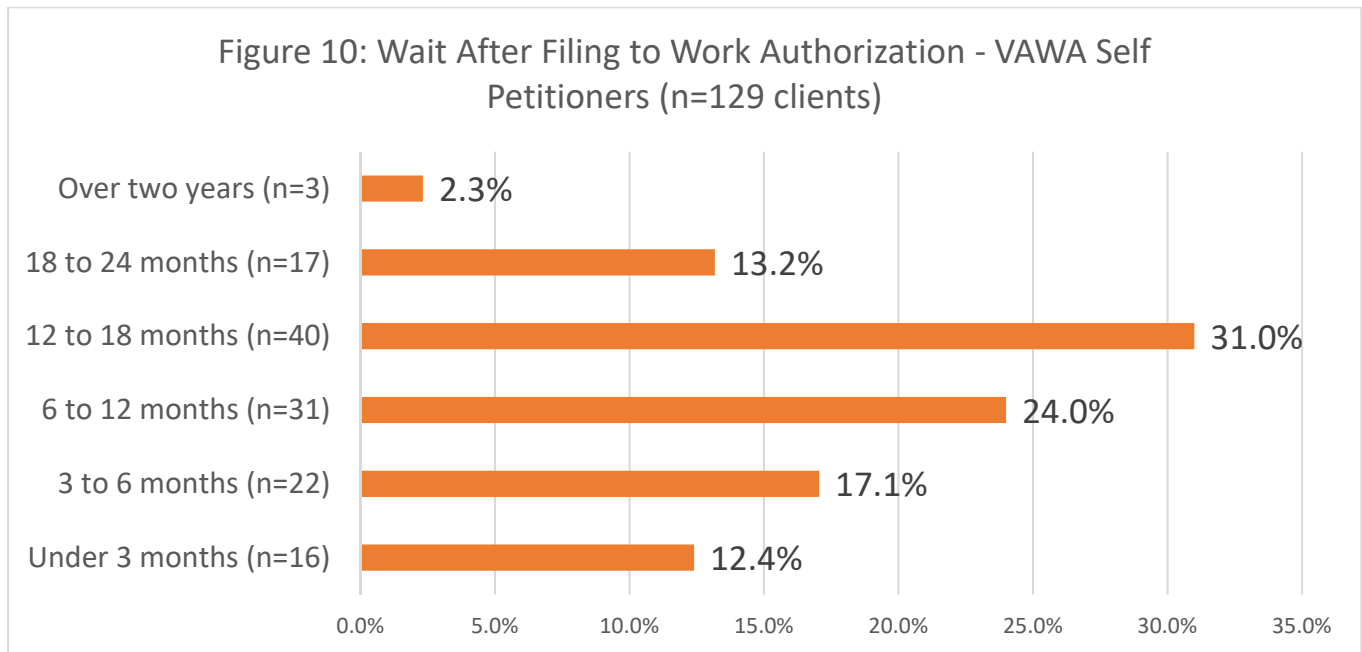
VAWA offers several forms of immigration relief to immigrant survivors of domestic violence, child abuse, and other forms of battering or extreme cruelty. The study participants reported on the following types of VAWA applications: VAWA self-petitioners, VAWA cancellation of removal and VAWA suspension of deportation applicants. Once VAWA cancellation of removal and VAWA suspension of deportation applicants' cases are filed with the immigration judge they are eligible to request work authorization from United States Citizenship and Immigration Services (USCIS). The process can take up to 6 months. VAWA self-petitioners gain access to legal work authorization at one of two points of time:

- 1) When they are eligible to file their applications for lawful permanent residency
 - Abused spouses and children of U.S. citizens are immediately eligible for lawful permanent residency. Generally, abused spouses and children file their VAWA self-petition and their application for lawful permanent residency together,⁵⁶ as an applicant for lawful permanent residency they receive work authorization quickly. *Figure 10* reflects that VAWA self-petitioner clients abused by citizen spouses and parents were 30% receiving work authorization in either under 3 months of filing (12%) or within 3 to 6 months of filing (17%).
- 2) When their VAWA self-petition is approved
 - Spouses and children of lawful permanent residents must wait for a visa to become available to be eligible to apply for lawful permanent residency.⁵⁷ Under the VAWA self-petitioning regulations, once the U.S. Citizenship and Immigration Service (USCIS)

⁵⁶ Filing these applications simultaneously would not be an available options for VAWA self-petitioners who have inadmissibility issues that need to be resolved before the abused spouse is eligible for lawful permanent residency. There a number of special inadmissibility waivers that were specifically designed for VAWA self-petitioners.

⁵⁷ See generally Immigration and Nationality Act, 8 U.S.C. § 1153(a) (2018). For current wait times for spouses and children of lawful permanent residents (F2A) see The Visa Bulletin, U.S. DEPT. STATE, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html> (last visited Apr. 1, 2021).

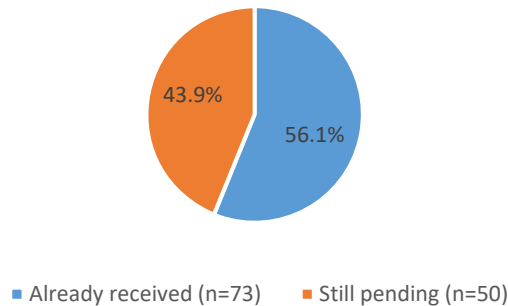
approves the VAWA self-petition the applicant is granted deferred action status. This is a form of protection from deportation that qualifies applicants for legal work authorization. As a result, for VAWA self-petitioners abused by lawful permanent residents, receiving work authorization depends on how long USCIS takes to adjudicate VAWA self-petitions. Responding agencies in this study reported that 47% of VAWA self-petitioners wait over a year for adjudication of the VAWA self-petition and receipt of work authorization, with 16% waiting longer than 18 months. *See Figure 10.*



U Visa Applicants and Work Authorization

As with VAWA self-petitioners, the survey asked responding agencies to report on the proportion of their U visa clients who had received work authorization (56%) compared to U visa clients whose cases were still pending work authorization (44%). *See Figure 11.* In 2014, United States Citizenship and Immigration Services (USCIS) reduced wait times for U visa approvals by increasing the number of staff members in the specialized trained VAWA unit that adjudicates U visa cases. As a result, U visa cases from mid-2014 into early 2016 were being adjudicated close to the USCIS set target of within 6 months of filing, ranging 6-9 months. Since 2016 the wait-times for the initial adjudication of U visa cases has extended to five years or more by the end of 2020. Thus, it was important to learn from study participants what percent of immigrant U visa applicant clients they worked with had cases that had advanced to the point of receiving work authorization.

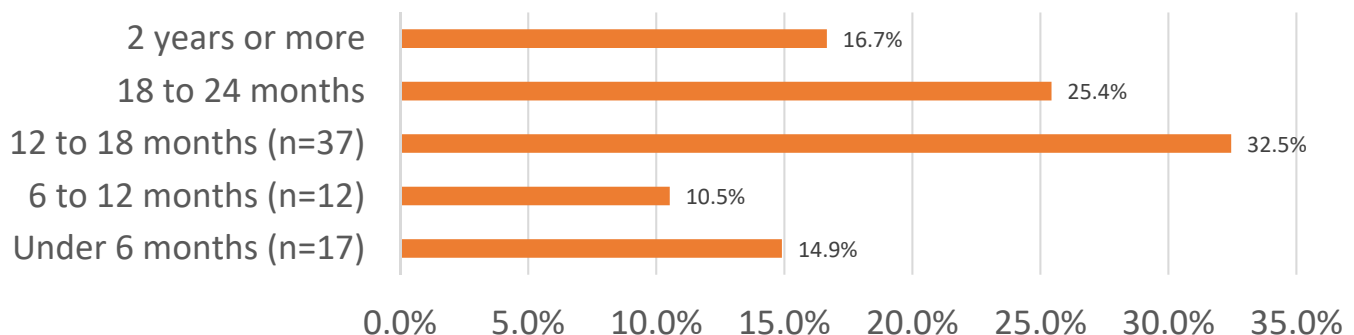
Figure 11: U Visa Clients Received vs. Pending Work Authorization (n=114 clients)



As with VAWA self-petitioners, U visa survivors whose cases received wait-list approval also receive deferred action status, which serves as a basis for the survivors' work authorization. This point of receipt of work authorization for U visa survivors is particularly important because, due to the U visa annual cap of 10,000 visas, the wait to receive the U visa itself could be well over a decade after U visa survivors receive wait-list approval and work authorization.⁵⁸ Deferred action combined with work authorization enhances survivors' safety, economic stability, and ability to participate in criminal investigations and prosecutions while survivors await their U visa issuance.

Agencies participating in the study reported that 75% of their U visa clients had waited longer than a year to gain access to legal work authorization. They also noted that only 15% received work authorization within six months of filing, and only another 11% gained work authorization within a year of filing. *See Figure 12.* The survivors who received work authorization within six months or a year of filing will be pre-2016 U visa applicants and U visa recipients.

Figure 12: Duration of Wait After Filing to Work Authorization - U Visa Cases (n=114 clients)



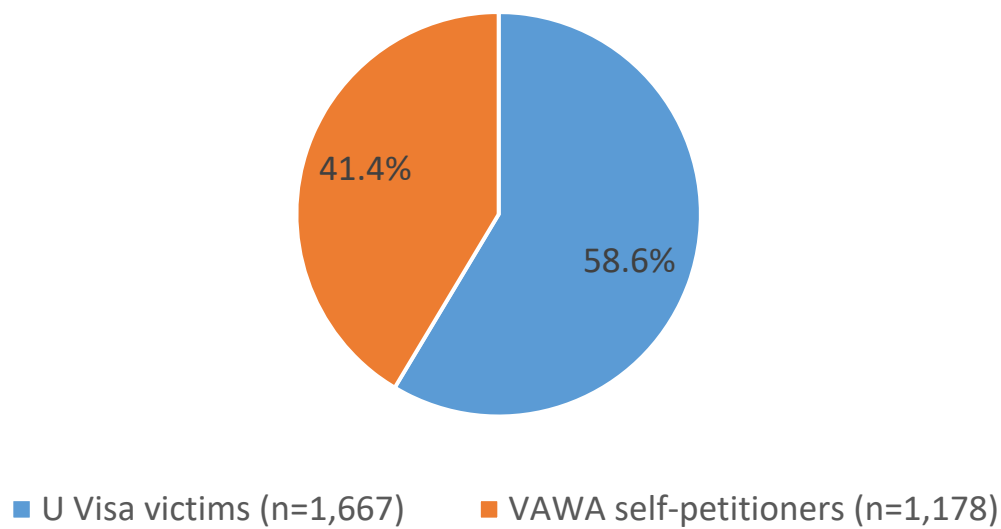
⁵⁸ *U Visa Filing Trends*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Apr. 2020) https://www.uscis.gov/sites/default/files/document/reports/Mini_U_Report-Filing_Trends_508.pdf (The waitlist at the end of fiscal year 2019 was 142,000).

The results of this study, which are discussed later in this report, show that receipt of work authorization is a crucial time in the survivors' VAWA immigration application process. It is a time after which abused immigrant victims and their children begin to experience significant protections and improvements in their lives. Delays in access to work authorization and the protection from deportation that is granted at the same time endangers immigrant survivors and their children. The unpredictability about when self-petitioners and U visa survivors will receive work authorization make safety planning more difficult. Many self-petitioners and U visa battered immigrants put off separation from their abusers until they receive work authorization. Similarly, U visa survivors of workplace based sexual assault and other employer perpetrated abuse do not leave their jobs where the abuse occurred until they receive legal work authorization. Work authorization allows immigrant survivors to support themselves and their children while severing economic dependence on their abusive spouses or employers. The long and unpredictable wait periods for obtaining work authorization are stressful for many adult survivors and their children because financial insecurity locks survivors in abusive relationships where survivors and their children are subject to ongoing abuse, jeopardizing their health and safety.

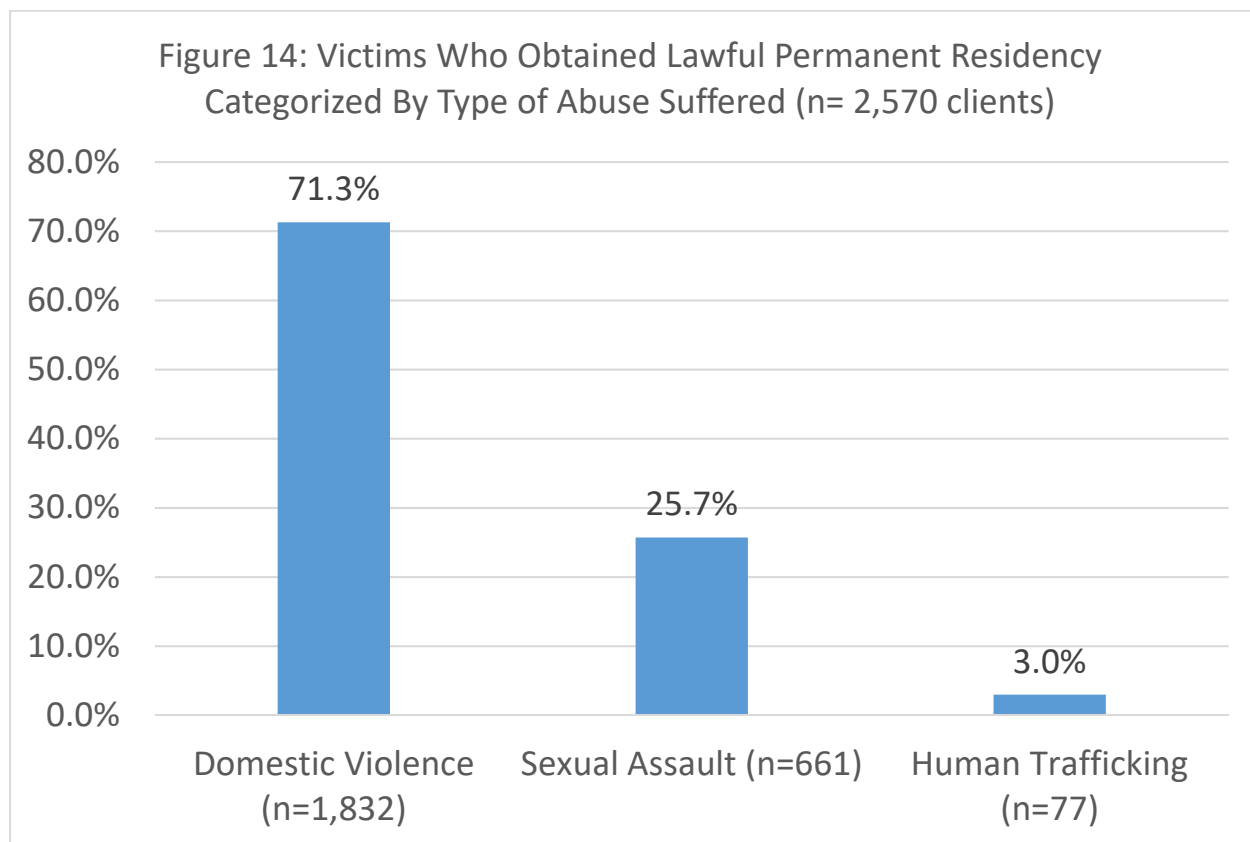
Extent to Which Study Participants' VAWA and U Visa Clients Had Attained Lawful Permanent Residency

Since a key goal of this study was to learn how the lives of immigrant survivors and their children were impacted as they went through the immigration process, it was important to learn what proportion of study participants' VAWA and U visa clients had gained lawful permanent residency through these crime victim based forms of immigration relief. Responding agencies had substantial experience working with VAWA and U visa survivors who attained lawful permanent residency. Agencies reported working with 2,845 immigrant survivor clients who had obtained lawful permanent residency. *See Figure 13.* This amounts to 25% of the 11,171 VAWA and U visa clients whom participating agencies represented. *See Figures 7 and 13.*

Figure 13: Victims Who Obtained Lawful Permanent Residency By Case Type
(n=2,845 clients)



The study also examined the types of abuse suffered by immigrant survivor clients who had attained lawful permanent residency through the VAWA and U visa programs. This was particularly important to understand because U visa clients could have suffered a wide range of different forms of abuse. *Figure 14* demonstrates that VAWA and U visa clients who attained lawful permanent residency were survivors of domestic violence (partner abuse and child abuse) (71%, n=1,842), sexual assault (26%, n=661), or human trafficking (3%, n=77).⁵⁹ All three of these criminal activities can be the basis for a U visa and all three can occur in the context of family violence.⁶⁰ Study participant agencies are representing a higher percentage of these types of criminal activities because agencies participating in this study have specialized in representing immigrant survivors of domestic violence (partner abuse and child abuse), sexual assault, and human trafficking. Many of the legal services agencies participating in the study will have federal grant funding restrictions that specifically authorize the representation of immigrants who are survivors of abuse and crime victimization as an exception from statutory immigrant restrictions.⁶¹ Other programs offering legal services have funding under Violence Against Women Act funded grant programs that support legal representation for survivors of domestic violence, sexual assault, stalking and dating violence.⁶² See *Figure 7*.



⁵⁹ *Trends in U Visa Law Enforcement Certifications, Qualifying Crimes, and Evidence of Helpfulness*, U.S. CITIZENSHIP & IMMIGR. SERVS. (July 2020) https://www.uscis.gov/sites/default/files/document/reports/U_Visa_Report-Law_Enforcement_Certs_QCAs_Helpfulness.pdf (57% of cases filed nationally are based on domestic violence, sexual assault and crimes against children).

⁶⁰ Jennifer Cole & Ginny Sprang, *Sex Trafficking of Minors in Metropolitan, Micropolitan, and Rural Communities*, 40 CHILD ABUSE & NEGLECT 113123 (2015) (Over 62.7% of sex trafficked children their trafficker is a family member).

⁶¹ See, Legal Services Corporation Regulations 45 C.F.R. Section 1626.4 (“Aliens eligible for assistance under anti-abuse laws”).

⁶² See, for example the Office on Violence Against Women at the U.S. Department of Justice, Legal Assistance for Victims grant program. 34 U.S.C. Section 20121.

Survivor's Relationships to the Perpetrators and Perpetrators' Immigration Status

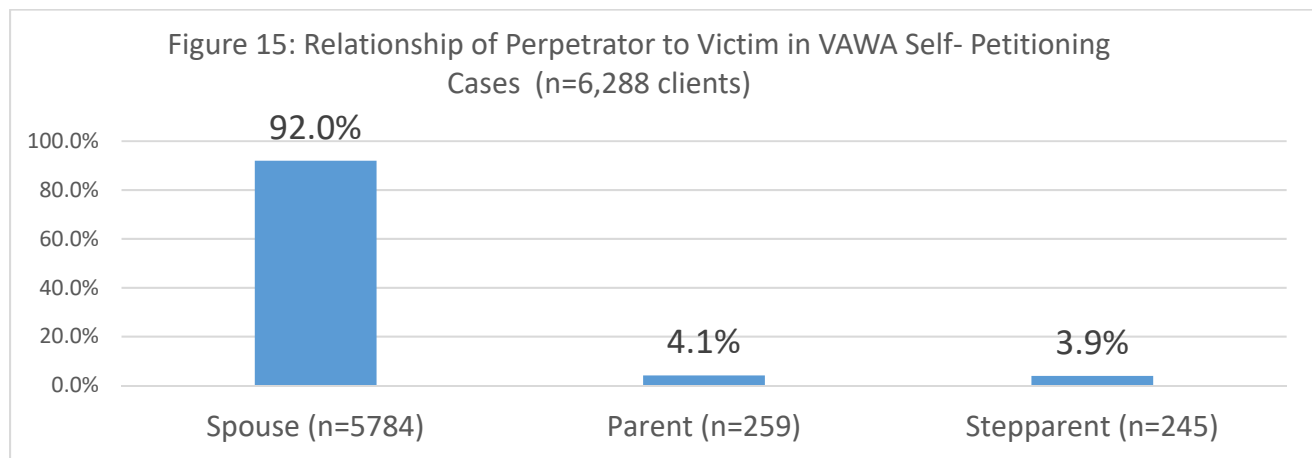
With regard to both VAWA self-petitioners and U visa applicants, this study sought to learn about relationships existing between the perpetrator and the victim as well as the immigration status of the perpetrator.

VAWA Immigration Cases Relationship to and Immigration Status of the Perpetrator

In all forms of VAWA immigration cases, a family relationship is required between the victim and the abuser. For VAWA immigration relief eligibility, the requisite family relationship depends on the type of case but is generally limited to:

- Spousal relationships⁶³
- Parent-child relationships
- Step-parent and Step-child relationships

The agencies participating in the study reported working with a total of 6,288 VAWA self-petitioning cases in which clients reported the relationship between the victim and the perpetrator. In 92% (n=5,784) of the cases, the perpetrator was the victims' spouse. A significantly smaller proportion was eligible to self-petition based on abuse perpetrated by their parent, 4% (n=259) or stepparent, 4% (n=245). *See Figure 15.*



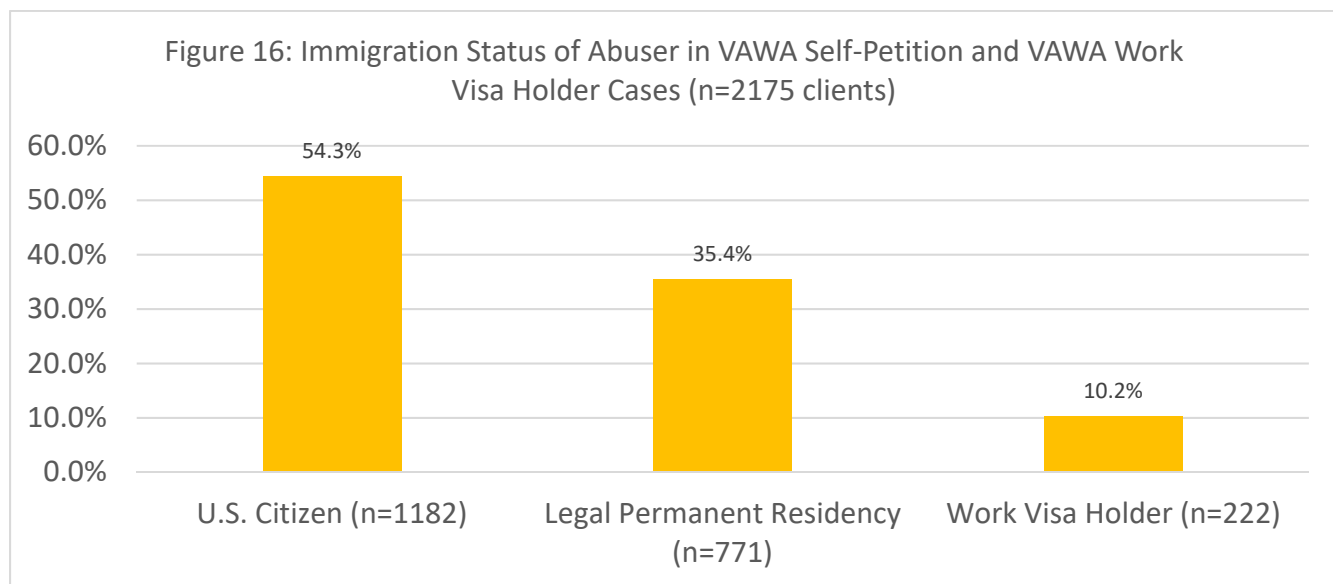
The survey asked agencies to report on the immigration status of their clients' abusers in VAWA immigration cases. There are 4 different types of VAWA immigration cases that participating agencies' clients filed:

- VAWA self-petitions. *See Figure 7.*
- VAWA cancellation of removal. *See Figure 7.*
- VAWA suspension of deportation. *See Figure 7.*
- VAWA work-authorization cases for spouses of work visa holders. *See Figure 16.*⁶⁴

⁶³ All marriages recognized under state laws receive VAWA protections without regard to the gender of the spouses. *Obergefell v. Hodges*, 576 U.S. 644 (2015).

⁶⁴ Immigration and Nationality Act, 8 U.S.C. § 1105a (2018) (Work authorization for abused spouses of the following work visa holders: A visa holder diplomats, E-3 visa holder Australian investors, H-1B work visa holders employed by U.S. companies; and G visa holders who work for international organizations).

With regard to the immigration status of the abuser in VAWA immigration cases (n=2,175), agencies participating in the study reported that 54% (n=1,182) were U.S. citizens, 35% (n=771) had legal permanent residency, and 10% (n=222) were work visa holders. *See Figure 16.* Under U.S. immigration laws, these relationships provide the spouse or child a path to legal immigration status based on the victims' marriage to or being the child or step-child of the abuser. This study's results are consistent with past research studies, which found that abusers of immigrant domestic violence victims actively use their power to control their immigrant spouse's and children's immigration status. Abusers use threats of deportation as tools that play upon victim's fears to keep their abused spouses and children from seeking help or from calling the police to report the abuse.⁶⁵



U Visa Cases Relationship to and Immigration Status of the Perpetrator

Both VAWA and U visa forms of immigration relief offer protection for family violence victims and together ensure that all family violence victims can assess one of these two remedies. VAWA immigration relief requires a marriage or a parent-child relationship and requires that the abuser be a U.S. citizen or lawful permanent resident. Many family violence victims do not meet these criteria. If a domestic violence victim is married to an immigrant who is not a U.S. citizen or lawful permanent resident, the victim is eligible for the U visa but not a VAWA self-petition. In cases of battered immigrants who are abused by their intimate partners, but are not married to the perpetrator, the victim will not be eligible for VAWA self-petition even if the perpetrator is a citizen or lawful permanent resident. Similarly, a child abuse victim whose abuser is not a citizen or lawful permanent resident

⁶⁵ See Nawal H. Ammar et al., *Calls to Police and Police Response: A Case Study from the Latina Immigrant Women in the U.S.*, 7 J. INT'L POLICE SCI. & MGMT. 230-244 (2005); Mangai Natarajan, *Domestic Violence Among Immigrants from India: What We Need to Know—and What We Should Do*, 26 INT'L J. COMPAR. & APPLIED CRIM. JUST. 301-322 (2003); Leslye E. Orloff et al., *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA WOMEN'S L.J. 43-100 (2003); Anita Raj & Jay G. Silverman, *Immigrant South Asian Women at Greater Risk for Injury from Intimate Partner Violence*, 93 AM. J. PUB. HEALTH 435-436 (2003); MARIO D. RAMOS, CULTURAL CONSIDERATIONS IN DOMESTIC VIOLENCE CASES: A NATIONAL JUDGES BENCHMARK (1999); Anita Raj et al., *South Asian Victims of Intimate Partner Violence More Likely Than Non-Victims to Report Sexual Health Concerns*, 7 J. IMMIGRANT HEALTH 85-91 (2005). Giselle Aguilar Hass et al., *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, 7 INT'L REV. VICTIMOLOGY 93-113 (2000); Giselle Aguilar Hass et al., *Battered Immigrants and U.S. Citizen Spouses*, (Apr. 24, 2006), <https://niwaplibrary.wcl.american.edu/pubs/battered-immigrants-u-s-citizen-spouses>.

parent or stepparent, but is instead their mother's live-in boyfriend will qualify for a U visa, but not a VAWA self-petition.

U visa cases do not require family or other relationships between the victim and the perpetrator. This study sought to ascertain more information about the nature of the relationships that may exist between perpetrator and victim among agency's U visa clients by asking agencies to identify the relationships, if any, that the U visa clients had with their abusers. The findings show that the majority of U visa applicants were survivors of domestic violence (68%, n=200); with 36% (n=105) perpetrated by spouses and 32.2% (n=95) perpetrated by intimate partners. In another 20.4% of U visa cases the perpetrator was a parent (10%, n=30) or stepparent (10%, n=30). *See Figure 17.*⁶⁶ These numbers of U visa cases in this study that involved intimate partner, spousal and parent-child relationships are higher than among U visa generally, because many agencies participating in the study specialized in and had funding that particularly supported work with immigrant survivors of domestic violence, child abuse, dating violence, stalking, sexual assault and human trafficking.

Since the U visa covers sexual assault, felonious assault, stalking, false imprisonment, human trafficking, extortion, involuntary servitude and a range of other criminal activities, U visa protections are not limited to domestic violence and child abuse cases. In 6% (n=17) of the cases reported, the abuser was either a stranger, a family member, or someone known to the victim. When the perpetrator was known to victim, agencies described the perpetrator as a teacher, professor, classmate, or someone the victim knew in the community in the survey's narrative responses.

One of the goals of the U visa program is to curb abuse and exploitation by employers. This includes employers who use immigration-related abuse to exert power and control and silence abused workers.⁶⁷ There are various types of U visa that represent criminal activities that are commonly perpetrated by employers against immigrant employees. For many years, the Equal Employment Opportunity Commission (EEOC) has been involved in bringing lawsuits against employers for committing sexual assault and other crimes against immigrant workers.⁶⁸ The U visa was designed and implemented to strengthen the EEOC's and other government agencies' ability to discover criminal activities being committed against workers as part of their civil rights investigations into employment discrimination.⁶⁹ This study found that in 6% (n=18) of the U visa reported cases, employers were the perpetrators. *See Figure 17.*

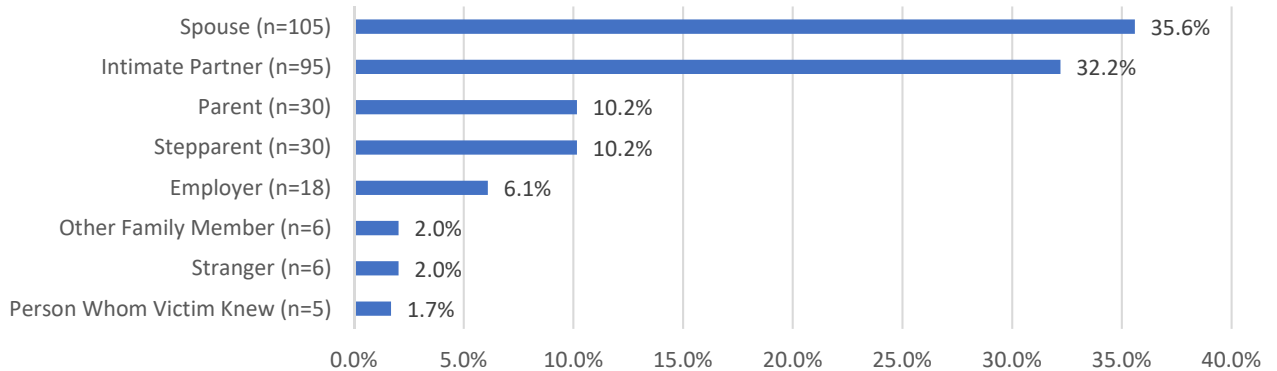
⁶⁶ It is important to note that the numbers of clients about whom survey participants reported data on the relationship between the perpetrator and the abuser was much lower than the number of clients survey participant agencies worked with. Thus the responses reported in Figures 17 and 18 provide some helpful understanding based on limited information about the proportions of U visa clients with various relationships with their perpetrators and about the perpetrators' immigration status.

⁶⁷ Eunice Cho et al., *A New Understanding of Substantial Abuse: Evaluating Harm in U Visa Petitions for Immigrant Victims of Workplace Crime*, 29 GEO. IMMIGR. L.J., Jun. 2015.

⁶⁸ William R. Tamayo, *The EEOC and Immigrant Workers*, 44 U.S.F. L. Rev. 253 (2009).

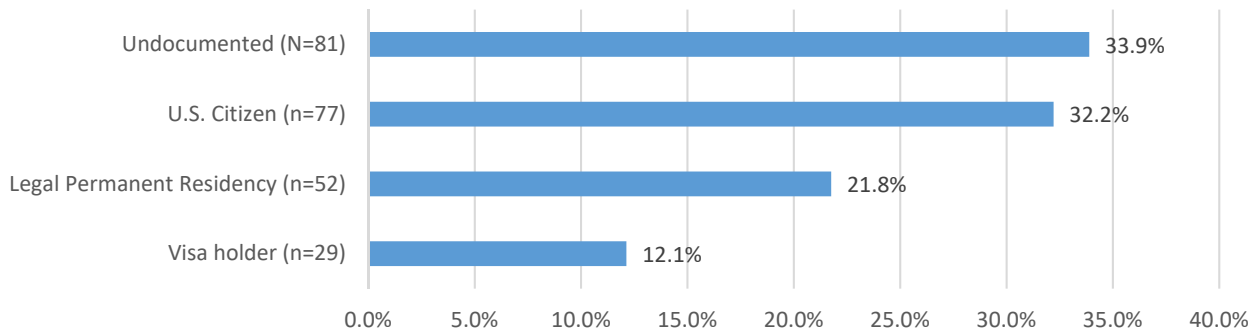
⁶⁹ New Classification for Victim of Criminal Activity; Eligibility for "U" Nonimmigrant Status, 72 Fed. Reg. 53,014, 53,019 (Sept. 17, 2007) (to be codified at 8 C.F.R. pts. 103, 212, 214, 248, 274a, 299).

Figure 17: Relationship of Perpetrator to Victim in U Visa Cases
(n=295 clients)



The immigration or citizenship status of the abuser is not a relevant issue for U visa cases. The perpetrator could be a citizen, a lawful permanent resident, a work visa holder, or an undocumented immigrant. Agencies participating in the study were asked to report on the immigration status of the perpetrators of criminal activities against their U visa clients. Their responses show that the majority of perpetrators (66%, n=158) were citizens or immigrants who were lawfully present in the U.S.⁷⁰ About a third (34%, n=81) were undocumented. *See Figure 18.*

Figure 18: Immigration Status of the Perpetrator in U Visa Cases
(n=239 clients)



IV. Abuses Suffered By Immigrant Survivor Clients

Immigration laws offer protection from deportation and a path to permanent legal residency for immigrant crime victims who have suffered from a wide range of criminal activities perpetrated against them in the United States. VAWA immigration relief (including but not limited to the VAWA self-petition, VAWA cancellation of removal, and VAWA suspension of deportation) offers protection for

⁷⁰ Prior research has found that among immigrant spouses of U.S. citizens experience the higher rates of domestic violence in their marriages compared to immigrant spouses married to lawful permanent residents. Giselle Aguilar Hass et al., *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, 7 INT'L REV. VICTIMOLOGY 93-113 (2000); Giselle Aguilar Hass et al., *Battered Immigrants and U.S. Citizen Spouses*, (Apr. 24, 2006), <https://niwaplibrary.wcl.american.edu/pubs/battered-immigrants-u-s-citizen-spouses>.

abused spouses, children, and parents eligible to gain legal immigration status based on their family relationships to U.S. citizens and lawful permanent residents. Victims eligible for VAWA's immigration protections are a group of immigrant survivors who, when in non-abusive relationships, would have gained legal immigration status based on applications filed for them by their citizen or lawful permanent resident family members. As a form of family-based immigration relief for crime victims, VAWA self-petitioners are victims who have suffered "battering or extreme cruelty"⁷¹ which is defined by immigration law as:

*"[B]eing the victim of any act or a threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor) or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under this rule. Acts or threatened acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence."*⁷²

In the preamble to the VAWA self-petitioning regulations, the Immigration and Naturalization Service explained that this definition was a partial list exemplifying the types of abuse covered by VAWA's immigration protections.

*"It is not possible to cite all perpetrations that could be acts of violence under certain circumstances. The Service does not wish to mislead a potentially qualified self-petitioner by establishing a partial list that may be subject to misinterpretation. This rule, therefore, does not itemize abusive acts other than those few particularly egregious examples mentioned in the definition of the phrase "was battered by or was the subject of extreme cruelty." "*⁷³

In comparison, the U visa is a form of humanitarian immigration relief that offers protection to survivors of a wide range of criminal activities. In this study, respondents were asked how many of their VAWA and U visa clients suffered particular types of abuse at hands of their perpetrators. The study sought to understand both the primary forms of criminal activity VAWA and U visa survivors suffered and the extent to which immigrant survivors suffered multiple forms of abuse that can often occur together, particularly in family and workplace violence cases.

Range of Abuse Suffered by VAWA and U Visa Applicants

Based on the study, agencies reported criminal activities or patterns of criminal activities occurring together for 17,457 VAWA and U visa eligible clients. See Figure 19. The following is a summary of the reported abuse suffered and overlapping forms of abuse reported in Figure 19. Agencies reported battering as the leading form of abuse clients suffered (64%, n=11,236) either as a sole form of abuse (29%, n=5,138) or as co-occurring with other forms of abuse (35%, n=6,098). See Figure 19. The second leading form of abuse agencies reported for their VAWA and U visa clients was sexual assault (40%, n=6,959) both as the sole form of abuse (10%, n=1,776) and, more commonly, in combination with child abuse, domestic violence and/or extreme cruelty (30%, n=5,183). See Figure 19.

⁷¹ Leslye E. Orloff et al., "Battering or Extreme Cruelty" Drawing Examples from Civil Protection Order and Family Law Cases, (Sept. 12, 2015), <https://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2>.

⁷² Petitions for Relatives, Widows and Widowers, and Abused Spouses and Children, 8 C.F.R. § 204.2(c)(1) (2020).

⁷³ *Id.*; Immigration and Naturalization Service, Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Spouses and Children, 61 Fed. Reg. 13,061 (Mar. 26, 1996).

Child abuse, according to the agencies surveyed accounted for 15% (n=2,597) of the abuse reported by their clients, with 4% (n=791) being cases of child abuse only and another 11% (n=1,806) being cases of child abuse in combination with sexual assault, extreme cruelty and/or battering of the child's non-abusive parent. *See Figure 19.*

As will be discussed and illustrated later in *Figures 25 and 32*, the agencies participating in the study indicated that most of their immigrant victim clients had children. The VAWA clients had an average of 2.6 children each and the U visa clients averaged slightly more, 2.9 children each. This means that in addition to the VAWA and U visa child abuse clients (15%) who suffered child abuse reported (and illustrated in *Figure 19*), there were many children growing up in homes impacted by domestic violence. As reflected in *Figure 19*, 65% of the abuse reported was battering only or battering in combination with sexual assault and extreme cruelty that was being perpetrated against the mother in homes where children resided most often (*See Figures 15 and 17*) by the child's father or step-father.

Figure 19: Multiple Types of Abuse Suffered By VAWA and U Visa Clients Served (n=11,171 clients)

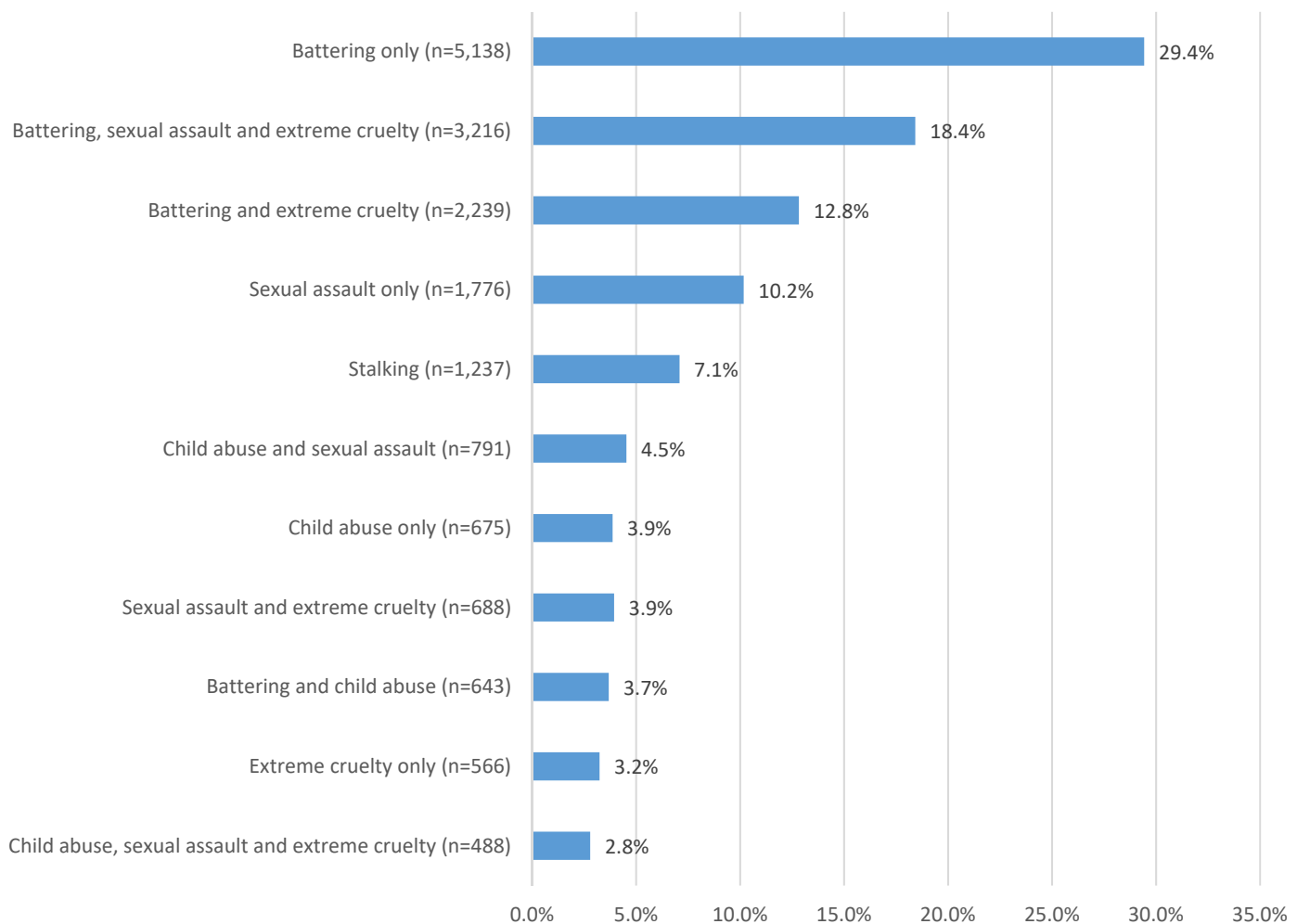
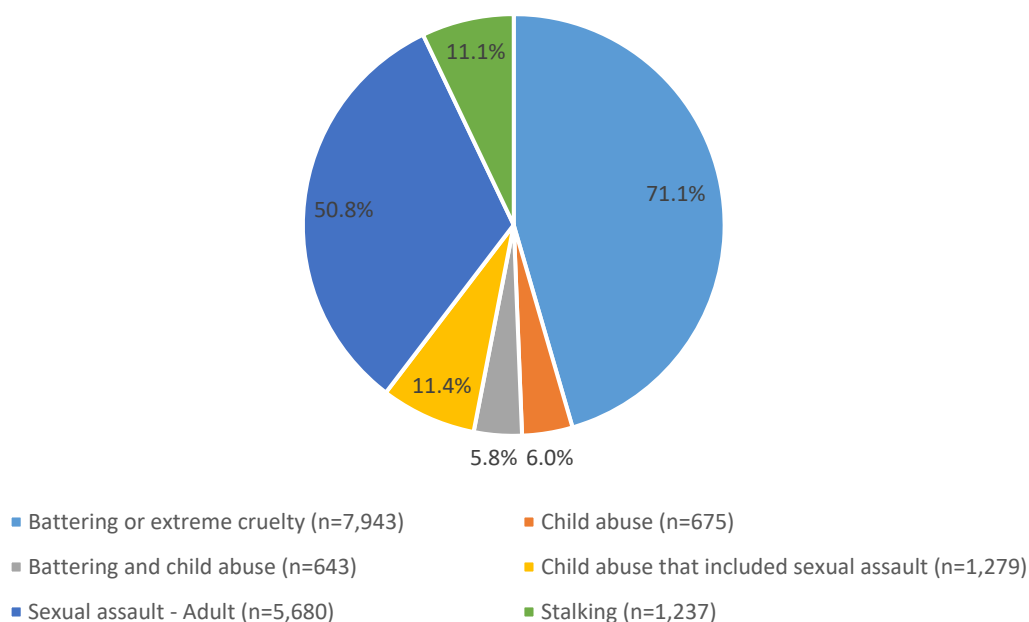


Figure 20 analyzes the detailed data collected about the forms of abuse agencies reported that their VAWA and U visa clients' suffered and organizes it into groupings by criminal activities that more closely fit into the categories of abuse listed under immigration laws. Victims of battering or extreme cruelty (46%, n=7943), victims of child abuse (4%, n=675), and victims of battering and child abuse (4%, n=643) could qualify either for VAWA self-petitioning or U visa depending on the victim's relationship to the perpetrator and the perpetrator's immigration status. Whereas, victims of sexual assault (33%, n=5,680) or stalking (7%, n=1,237) would be U visa eligible only, unless these forms of abuse were perpetrated by a citizen or lawful permanent resident spouse, parent or adult citizen child. Since many victims suffered multiple forms of abuse, the total percentages of abuse suffered add up to more than 100%.

Figure 20: Categories of Overlapping Abuse Suffered by VAWA Self-Petitioner and U Visa Victims Served (n=11,171 clients)



Types of Emotional Abuse Suffered by VAWA Self-Petitioners

In VAWA immigration cases — VAWA self-petitions, VAWA cancellation, VAWA suspension of deportation, and VAWA work authorization cases — survivors qualify for immigration relief if they are either or both battered or subjected to extreme cruelty. All VAWA victims had a path to legal immigration status in the United States through their family relationships to their abuser, which absent abuse would have provided the legal status. For this reason, Congress protected VAWA victims who had suffered extreme cruelty providing access to VAWA's immigration protections without requiring that the survivor wait until the abuse escalated to the point where they or their children suffered their first beating, sexual assault, or other crime.

Agencies participating in the study reported on the types of extreme cruelty experienced by a total of 2,051 VAWA applicant clients with most clients suffering multiple types of extreme cruelty.

Figure 21 catalogues a wide range of activities that either solely or taken together could be sufficient to support a finding of extreme cruelty in a VAWA immigration case. It is important to note that many of the extreme cruelty factors (marked with “**”) under the VAWA regulations are in and of themselves crimes that would also fall into the category of battering or attempted battering.⁷⁴ Examples reported in *Figure 21* include immigrant survivor clients experiencing: threats of death, violence or abuse against the victim (52.7%, n=1,081), their children (36%, n=745) or family members (30%, n=615); unlawful restraint, (38%, n=781); or threats to kidnap children, (36%, n=745).

Emotional abuse and coercive control

Extreme cruelty includes forms of emotional abuse that individually or taken together form a pattern of abuse that were sufficient under family law in states across the U.S. for courts to grant a for-cause divorce.⁷⁵ This includes many factors that provide evidence of coercive control being used to exert power and control over the victim.⁷⁶ Several of the forms of extreme cruelty that study participants reported their VAWA clients suffered are factors that when repeated in intimate partner relationships are linked to heightened risk of lethality on the danger assessment scale.⁷⁷ These are: death threats (a portion of the 53%, n= 1,081 reporting threats of death or violence), jealousy/ suspicion (51%, n= 1,051), coercive control (44%, n=901); coercive demands (36%, n=737), surveillance and monitoring the victim (29%, n=592), and stalking (27%, n=543). *See Figure 21.*

Economic abuse and financial dependence that access to work authorization helps remedy

In the study agencies also reported that immigrant survivors commonly experience forms of extreme cruelty that constitute economic abuse (48%, n=985) that increases economic dependence on the abuser. These are all factors that diminish a battered immigrant’s ability to survive economically apart from the abuser and why helping survivors gain access to legal work authorization as soon as possible is so important. More detailed examples provided include: destroying the victim’s credit (17%, n=352), employment related abuse (17%, n=350), and fraudulently taking real property (10%, n=196). *See Figure 21.* Since clients suffered multiple forms of extreme cruelty the percentages in *Figures 21 and 22* both add up to more than 100%.

⁷⁴ 8 C.F.R. §204.2(c)(1).

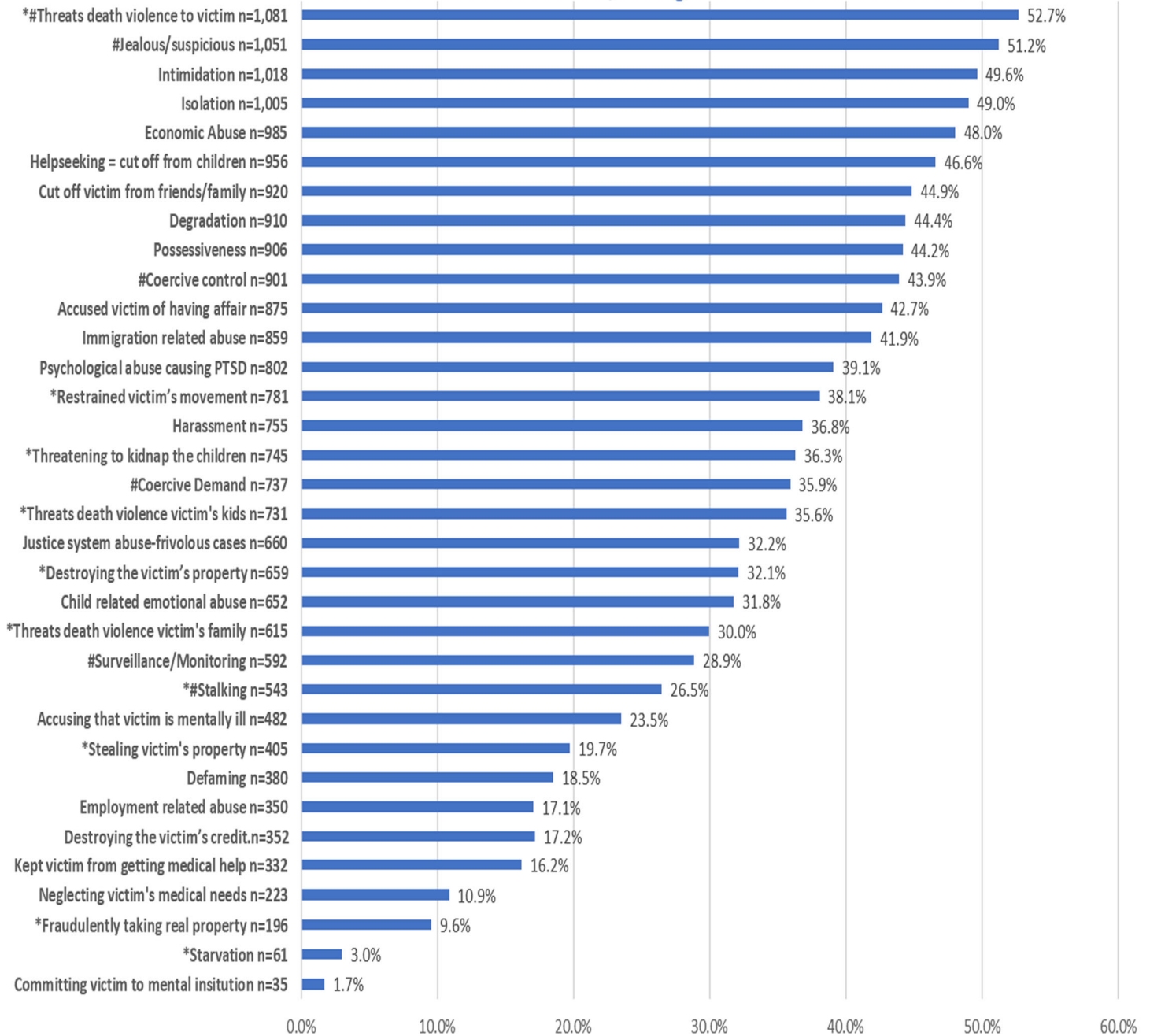
⁷⁵ Leslye E. Orloff et al., “Battering or Extreme Cruelty” *Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP (Sept. 12, 2015), <https://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2>; Giselle Aguilar Hass et al., *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, 7 INT’L REV. VICTIMOLOGY 93-113 (2000).

⁷⁶ *Coercive Control in Families, the Impact on Children and Extreme Cruelty*, NIWAP, <https://niwaplibrary.wcl.american.edu/coercive-control-extreme-cruelty> (last visited Apr. 1, 2021).

⁷⁷ Jacquelyn C. Campbell, *Danger Assessment* (2013), <https://www.dangerassessment.org/DA.aspx> (Danger Assessment Tool); Corey Nichols-Hadeed et al., *Assessing Danger: What Judges Need to Know*, 50 FAM. COURT REV., Jan. 2012, at 150-158.

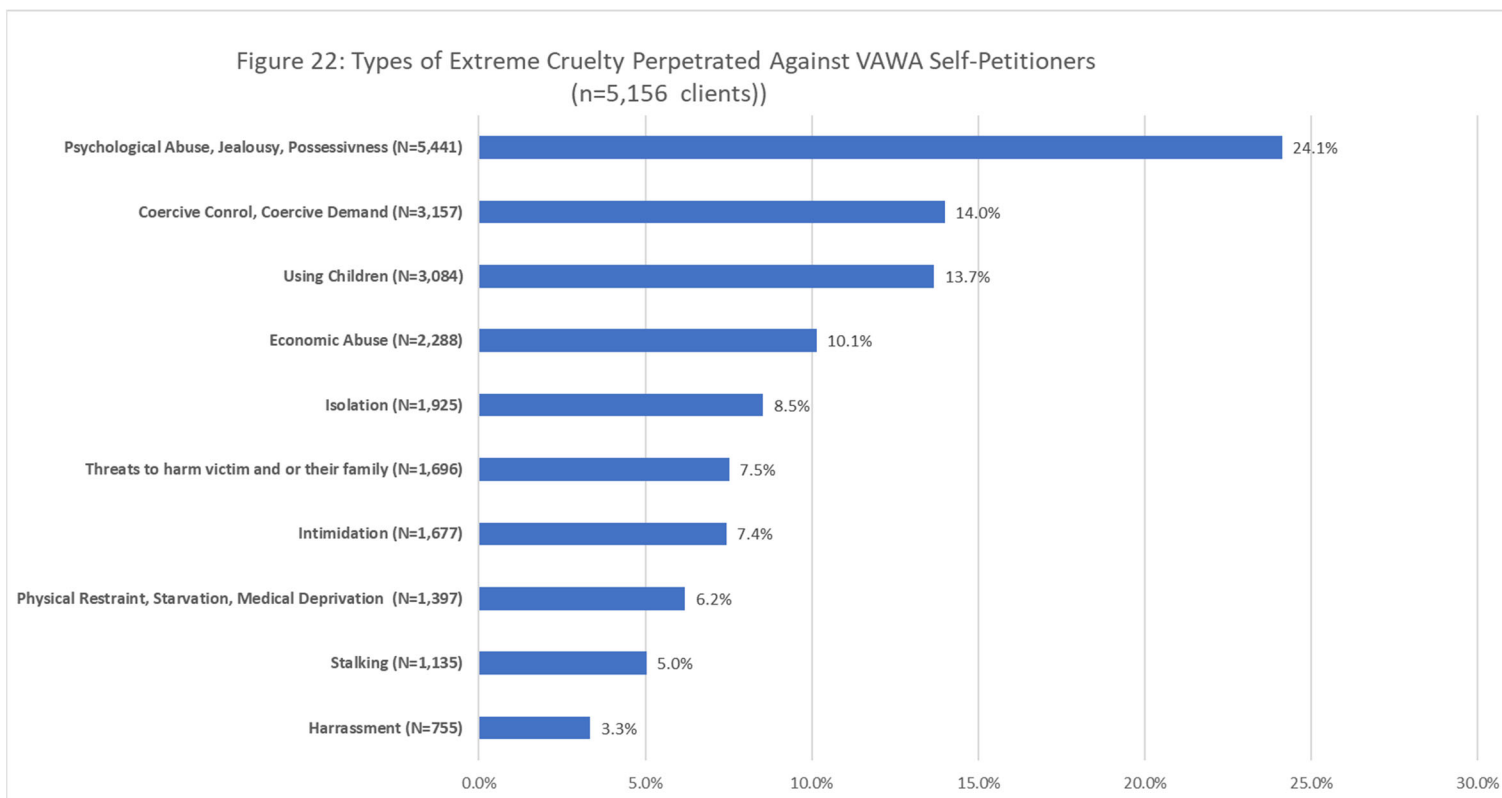
Figure 21: Self-Petitioner's Experiences of Factors that Individually or Collectively Constitute Extreme Cruelty (n=5,156 clients)

***Is also a crime under most state laws; # Danger assessment factors**



The data reported by the agencies surveyed about extreme cruelty was grouped into categories to better understand the patterns of extreme cruelty survivors eligible for VAWA's forms of immigration relief suffered. The top three forms of extreme cruelty experienced by immigrant VAWA applicants served by the agencies surveyed were: a wide range of psychological abuse, jealousy, and possessiveness

(24%, n=5,411), coercive control and demands (14%, n=3,157), and using children (14%, n=3,084). See *Figure 22*. In collecting the forms of extreme cruelty into categories it is important to note that some categories contain more reported types of abuse than the numbers of clients whom agencies were reporting about. This is because some survivors suffered multiple forms of abuse listed separately in *Figure 21* that fall into the same category in *Figure 22*.



U Visa Clients and Types of Abuse

The agencies participating in this study worked with U visa survivors who were largely (90%) abused, as we indicated in *Figure 17*, by spouses, intimate partners, parents, stepparents, and other family members. The participating agencies also reported that other U visa clients experienced workplace-based crimes and abuse (6%) and other criminal activities committed by strangers or other persons known to the victim (4%). It is important to keep these data in mind since it largely reveals the types of criminal activities that immigrant victims, to a large extent, were experiencing in their homes and workplaces.

This section reports detailed data the participating agencies in the survey reported about the experiences of their 4,053 U visa clients. *Figure 23* provides an overview of the categories of criminal activities reported and *Figure 24* provides a more detailed account that ranks the criminal activities suffered by U visa victims from the most reported to the least reported.

The pattern emerging from the data obtained from study shows that the topmost U visa crime being reported is family violence (45% (n=1,810) committed against spouses and intimate partners (40%, n=1,611) and children (50%, n=199). The next most common forms of violence being reported

by U visa victims were rape and sexual assault (18%, n=746), felonious assault (12%, n=466), kidnapping related crimes (8%, n=305), and human trafficking including forced labor (5%, n=216). *See Figure 23.*

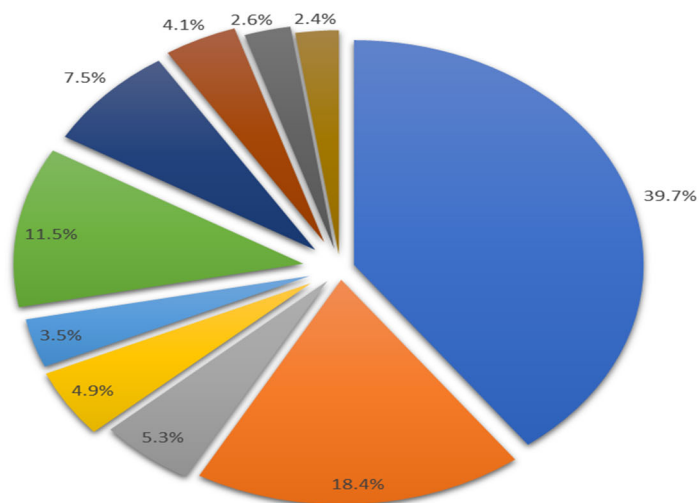
Looking specifically at the abuse and criminal activities that are the focus of the Violence Against Women Act and the Trafficking Victims Protection Act, 72% of U visa clients agencies reported on representing survivors who suffered domestic violence (40%), child abuse (5%), sexual assault (18%), stalking (4%), or human trafficking (5%). Applying these percentages to the total number of U visa clients (n=7951) amounts to 5,717 (72%) being survivors of these crimes. Adding this together with the, 100% (n=3,220) of VAWA clients who suffered domestic violence or child abuse, this study finds that 80% (n=8,937) of agencies' VAWA and U visa clients were survivors of these family violence and gender based crimes. *See Figures 23 and 7.*

The detailed data in *Figure 24* found that top six (6) criminal activities that U visa clients were reported to have suffered were intimate partner violence (40%, n=1,611), rape or sexual assault (16%, n=656), felonious assault (12%, n=466), child abuse (5%, n=199), false imprisonment (4%, n=176), and stalking (4%, n=142).

This data closely tracks the U visa filing data reported by USCIS with domestic violence, sexual assault and felonious assault as being the top criminal activities experienced by U visa applicants nationally.⁷⁸ This study offers data findings that illuminate the contours and the contexts of the crimes suffered by study participant agencies' clients. Examining the data on who was perpetrating the criminal activities that agencies' U visa clients' experienced (*see Figure 15*), together with data on the crimes being committed, (*see Figures 22 and 23*), it is clear that the domestic violence, child abuse, sexual assaults, felonious assault, kidnapping and human trafficking offenses reported here are largely being committed within families and by family members. Study participant agencies' clients also experienced criminal activities being committed by employers.

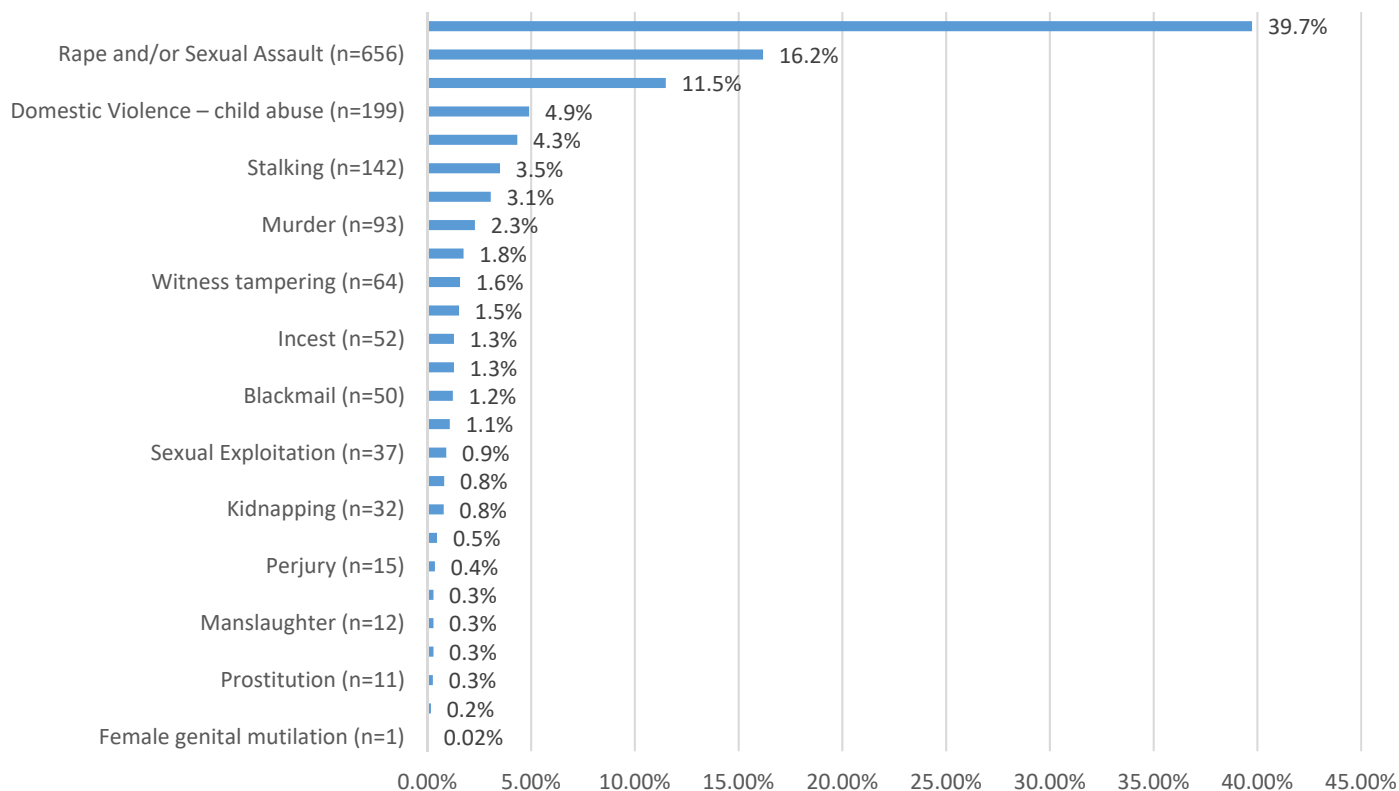
⁷⁸ *Trends in U Visa Law Enforcement Certifications, Qualifying Crimes, and Evidence of Helpfulness*, IMMIGR. & NATURALIZATION SERV. (July 2020), https://www.uscis.gov/sites/default/files/document/reports/U_Visa_Report-Law_Enforcement_Certs_QCAs_Helpfulness.pdf.

Figure 23: Categories of Criminal Activities U Visa Clients Suffered (n=4,053 clients)



- Domestic Violence (n=1,611)
- Human Trafficking and Forced Labor, (n=216)
- Stalking (n=142)
- Kidnapping and related crimes, (n=305)
- Murder/Manslaughter, (n= 105)
- Rape and/or Sexual Assault and sexually related offenses (no DV) (n=746)
- Child Abuse, (n= 199)
- Felonious Assault, (n= 466)
- Torture, Extortion, Blackmail (n=165)
- Obstruction of Justice, (n= 98)

Figure 24: Criminal Activities Suffered by U Visa Clients (n=4,053)



V. Children of VAWA Applicants and U Visa Applicants and Child Applicants

Under U.S. immigration laws, a child is defined as a person who is unmarried and under the age of 21.⁷⁹ Children who have been victims of child abuse, incest, sexual assault, stalking or any of the U visa listed criminal activities are eligible to file U visas, VAWA self-petitions, and for VAWA cancellation of removal or VAWA suspension of deportation to the same extent as adults. VAWA and U visa protections were specifically designed to offer protection to child victims. In drafting VAWA and the U visa, Congress sought to further protect child victims by granting VAWA and U visa protection to immigrant parents of children who suffered these same types of offenses. This countered fears of deportation and immigration-related abuse against the immigrant parents of child abuse victims that could keep the parents from reporting to the authorities that their children or stepchildren suffered from child abuse, sexual assault, incest, stalking, and other criminal activities. VAWA and the U visa offers this protection to all immigrant parents of abused children without regard to the child's immigration or citizenship status and thus protects and helps all children — citizens, lawful permanent residents, and immigrant children. VAWA also offers equal protection to children and stepchildren.

VAWA also ensures that VAWA self-petitioners are allowed to include their children in their VAWA self-petition applications enabling the children to receive legal immigration status together with their abused immigrant parents.⁸⁰ VAWA cancellation of removal applicants and VAWA suspension of deportation applicants must apply for and be granted VAWA cancellation or VAWA suspension first, and then their children may be granted humanitarian parole, providing a temporary legal status while the children go through the process of gaining lawful permanent residency through their family-based visa application that their approved VAWA self-petitioner parent files on their behalf.⁸¹ Both adult and child VAWA self-petitioners can include their own children in their VAWA self-petitions and gain parole for their children as VAWA cancellation or suspension recipients. Under U.S. immigration laws a person is a “child” if they are under 21 years of age. Thus, there will be child, self-petitioners who will be able to include their own children in their VAWA self-petitions.

To learn more about the children who benefited from VAWA and U visa programs both as direct victims of abuse and as children of abused immigrant parents, the survey asked participating agencies about their clients' children. The first section below discusses child VAWA applicants and the children of VAWA applicants. The next section will present data on child U visa applicants and the children of U visa case applicants.

Child VAWA Applicants and Children of VAWA Self-Petitioner and VAWA Cancellation and Suspension Applicants

Child Demographics

Only a minority of participating agencies' VAWA clients had no children (15%, n=422) and 17% (n=491) had only one child. The majority (68%, n=5,984) had two or more children and 44% (n=1,273) had three or more children. The average number of children that each VAWA applicant had was 2.6. This means that in addition to the 2,881 battered immigrant spouses benefiting from VAWA

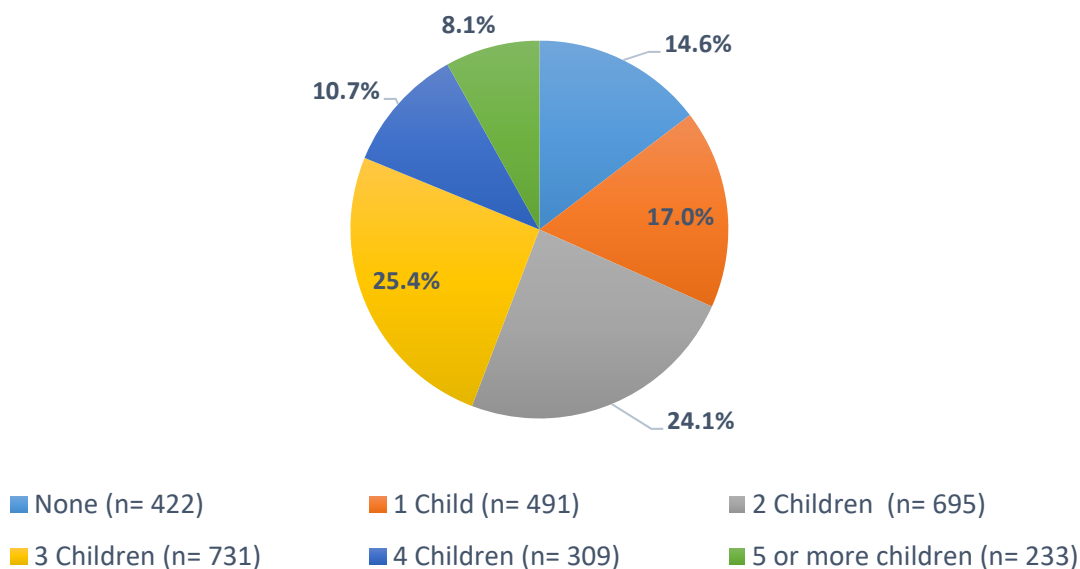
⁷⁹ Immigration and Nationality Act, 8 U.S.C. § 1101(a)(51)(b)-(c).

⁸⁰ *Id.* at § 1154(a)(1)(A)(iii)-(iv); *Id.* at § 1154(a)(1)(B)(ii)-(iii).

⁸¹ *Id.* at § 1229a(b)(4).

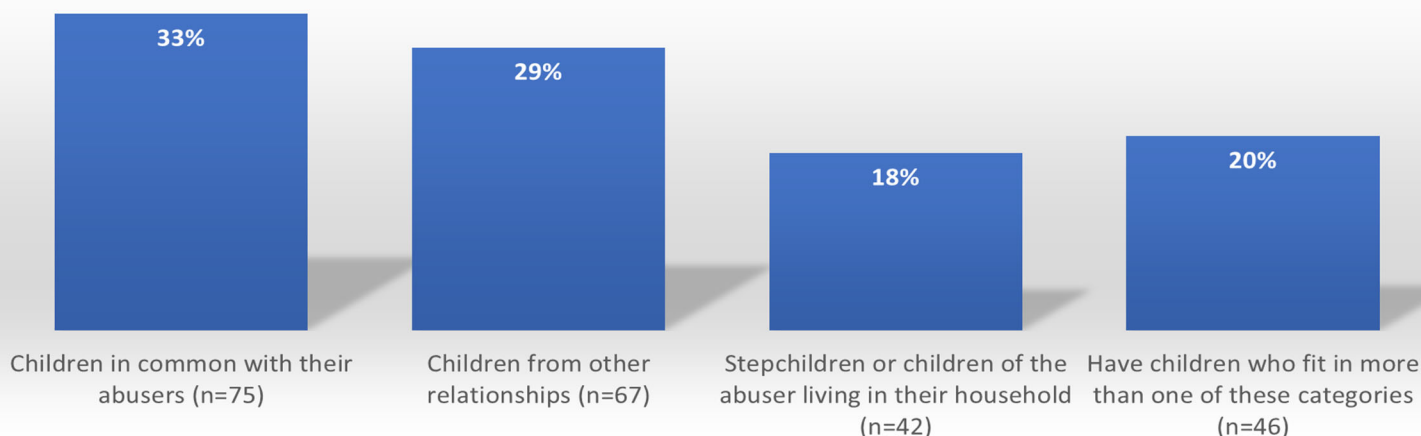
immigration relief (in the survey), another at least 6,475 children were living in these households. These children benefited either directly as children included in VAWA applications or indirectly as citizen or lawful permanent resident children of the VAWA self-petitioner from the safety and stability VAWA immigration relief provided their abused immigrant parents. The scope of the derived benefits children accrue from VAWA and U visa protections will be discussed in later sections of this paper.

**Figure 25: Number of Children VAWA Applicants Have
(n=2,881 Clients; Average 2.6 Children Per VAWA Applicant)**



This study found that most of the children of VAWA self-petitioners and VAWA cancellation and suspension of deportation applicants were living in families where the perpetrator of the abuse against their immigrant parent or the child themselves was the child's parent or stepparent (71%, n=163). See Figure 26.

Figure 26: Children of VAWA Applicants - Relationship To The Abuser (n=230 clients)

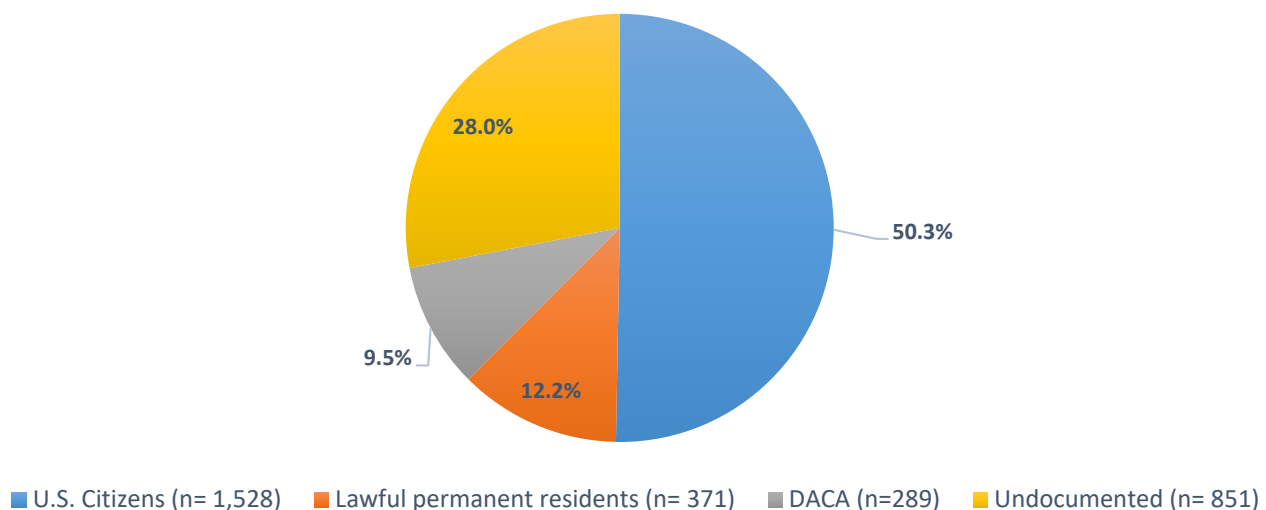


Legal Status of Abused children

In VAWA self-petitioning cases victims are required to prove that their marriage to the abuser is a good faith marriage. Proving good faith marriage is easiest when the victim has children in common with their abusive spouse. Many self-petitioners have children with their abusive citizen and lawful permanent resident husbands. This study sought to learn more about the immigration status of these children the abuser and the victim have in common. When battered immigrant spouses had children in common with their abusive U.S. citizen or lawful permanent resident spouses, over half of the time (50%, n=1,528) their children were U.S. citizens. Significantly, however, another 12% (n=371) of the children that VAWA victims and their abusers had in common were children who had gained legal immigration status as lawful permanent residents. *See Figure 27.* This finding provides support of observations made by victim advocates and attorneys working with VAWA self-petitioners in the field stating, that abusive citizen and lawful permanent resident spouses were filing family based immigration cases for their undocumented children, but they were choosing to leave their abused immigrant spouses out of those immigration applications.

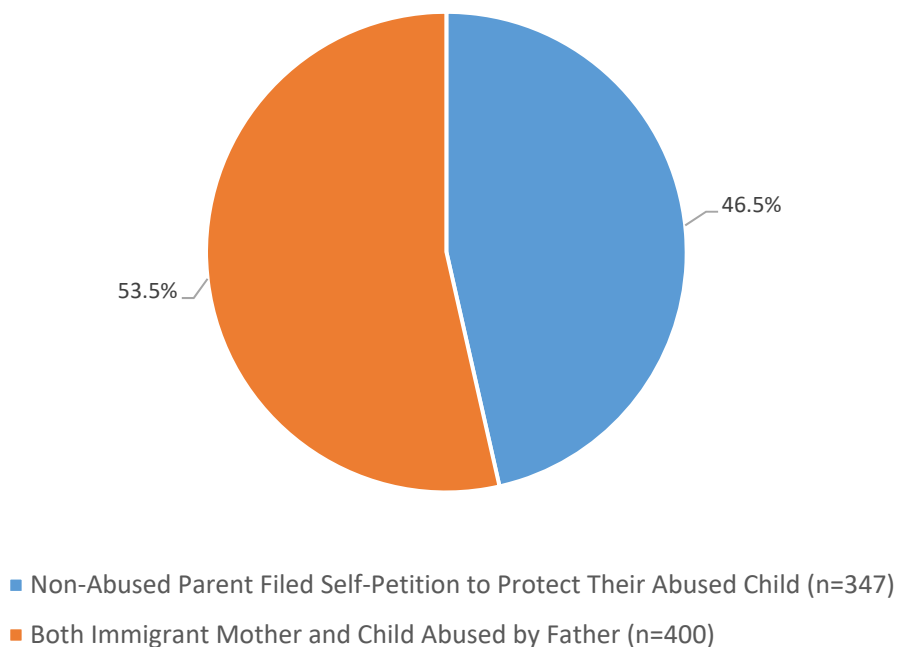
The study revealed that VAWA self-petitioners had children who were undocumented (28%, n=851) and children who had been granted Deferred Action for Childhood Arrivals (DACA) (10%, n=289). *See Figure 27.* The fact that DACA recipient children have VAWA self-petitioner parents means that through the VAWA self-petition the DACA child has a path to lawful permanent residency that the child would not otherwise have. It is also true that the reason these children needed DACA is because their abusive citizen or lawful permanent resident parent refused to file a family based petition on the child's behalf. This finding illustrates why the best practice should be to uniformly screen all immigrant children who have been granted DACA for eligibility of VAWA and U visa immigration relief which may provide these DACA recipient children with a path to lawful permanent residency that DACA, as of February 2021, does not provide.

Figure 27: Legal Status of Children That VAWA Applicants Had in Common With Their Abusers (n=3,039 clients)



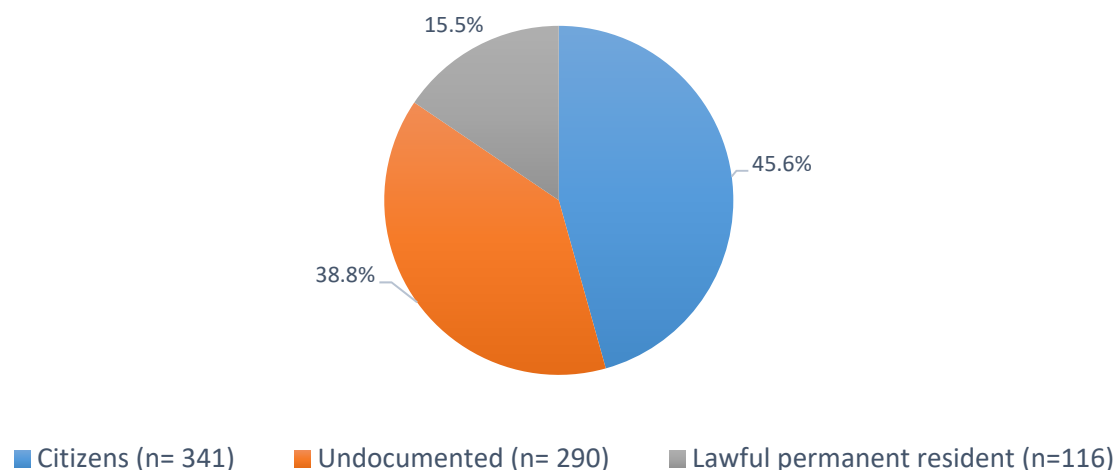
Next, the study sought to learn the extent to which VAWA cases were filed based on abuse of an immigrant parent's child and the percentage of cases of co-occurring abuse when both the immigrant parent and their child were abused. Among the study participants providing information about self-petitions for abused children, participating agencies reported that in 47% (n=347) of these cases a non-abused parent filed a self-petition to protect their abused child or stepchild. Additionally, agencies reported that in 54% (n=400) of these cases both the immigrant parent and their child had been abused. See *Figure 28*.

Figure 28: Self-Petitions That Include Protections for Children Abused By The Child's U.S. Citizen and Lawful Permanent Resident Fathers (n=747 clients)



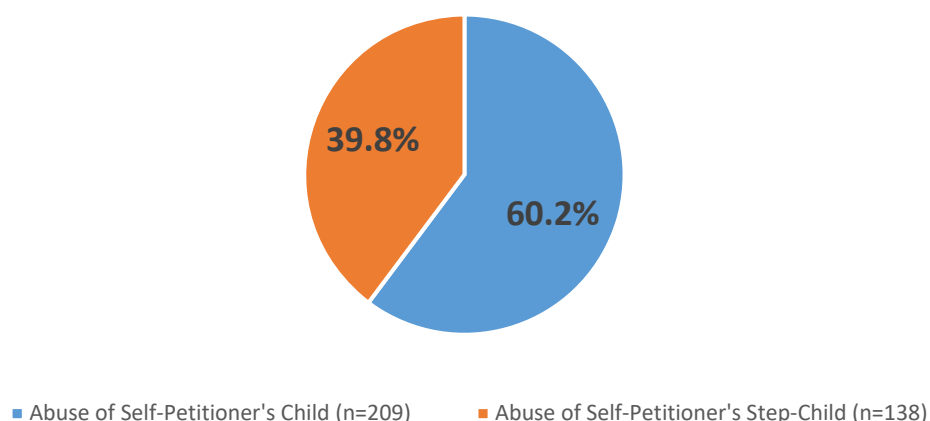
Participant agencies were also asked to report on the immigration or citizenship status of the abused children reported in *Figure 28*. Among the children abused by their citizen or lawful permanent resident fathers, 46% (n=341) were of the abused children were U.S. citizens, 16% (n=116) were lawful permanent residents, and 39% (n=290) were undocumented. See *Figure 29*.

Figure 29: Legal Status of Self-Petitioner's Children Who Were Victims of Child Abuse Perpetrated By The Child's U.S. Citizen or Lawful Permanent Resident Father (n=747 clients)



Additionally, agencies participating in the study were asked about the number of their adult self-petitioner clients who were eligible to self-petition based on their child's or step child's abuse. Surveyed agencies reported on 347 immigrant parent clients who were eligible for a petition based solely on their child's abuse perpetrated by the other parent who was a citizen or lawful permanent resident. *See Figure 30.* Of these immigrant mothers, 60% (n=209) filed based on abuse of their own child and 40% (n=138) filed based on abuse of their stepchild.⁸² *See Figure 30.*

Figure 30: Mothers and Step-Mothers Filing VAWA Self-Petitions to Protect Their Abused Children and Step Children (n=347 clients)

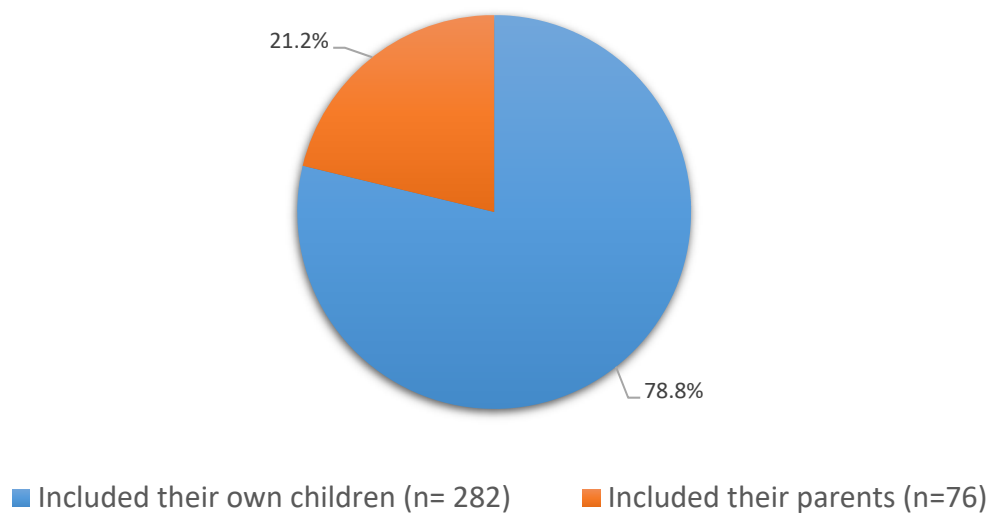


⁸² Figure 30 reflects the percentages based on the total number of responses. The way the question was asked it is not possible to tell whether there were cases in which both the self-petitioner's child and step-child were abused in the same household.

Family Members Included in Children's Self-Petitions

The study also sought to collect data on self-petitioner's which family members were included in child VAWA self-petitioner's applications. Under 21 year old child self-petitioners can include their own children, their under 18 year old siblings, and their parents in their self-petition.⁸³ VAWA self-petitions filed by children accounted for 16% (n=462) of the VAWA self-petition cases reported in the study. As seen in *Figure 31*, 61% (n=282) of child VAWA self-petitioners included their own children in their VAWA self-petition applications. Another 16% (n=76) included their non-abusive immigrant parent included as in the child's self-petition.

Figure 31: Child Self-Petitioners Including Their Parents or Their Children In Their Applications (n=462 clients)



Child U Visa Applicants and Children of U Visa Applicants

Congress created the U Visa because⁸⁴ –

“Immigrant women and children are often targeted to be victims of crimes committed against them in the United States, including rape, torture, kidnapping, trafficking, incest, domestic violence, sexual assault, female genital mutilation, forced prostitution, involuntary servitude, being held hostage and being criminally restrained.”

“All women and children who are victims of crimes committed against them in the United States must be able to report these crimes to law enforcement and fully participate in the investigation of the crimes committed against them and the prosecution of the perpetrators of such crimes.”

⁸³ Sylvie Sheng & Leslye E. Orloff, *U Visa Protections for Family Members*, NIWAP (July 2, 2020), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-family-member>.

⁸⁴ Violence Against Women Act of 2000 Section 1513(a)(1)(A) and (B), Pub. L. No. 106-386 (October 28, 2000).

“[I]s to create a new ... visa... that will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage law enforcement officials to better service immigrant crime victims and to prosecute crimes committed against aliens.”

U Visa Children

Many U visa applicants are immigrant women and children.⁸⁶ Children can be direct family violence victims themselves and can suffer significant harm to their development living in homes where domestic violence is perpetrated.⁸⁷ One particular focus of VAWA’s immigration protections is prioritizing child safety. Both immigrant child abuse victims and children of immigrant domestic and sexual violence victims need to be able to receive the much-needed VAWA immigration protections. To accomplish this, the U visa followed the approach taken by other forms of VAWA immigration relief and offered protections to both direct and indirect victims.⁸⁸ This allows an immigrant parent to file for a U visa or a VAWA self-petition when their child or stepchild is a victim of abuse regardless of whether the immigrant parent also suffered abuse themselves.⁸⁹

These study findings demonstrate that the U visa program helps protect children that are living in homes where abuse and crimes are occurring, such as child abuse, domestic violence, sexual assault, and human trafficking. In this study, participating agencies were asked to report on whether their U visa clients had children and, if so, the number of children that they had. The data shows that U visa victims were living in households with a slightly higher average number of children per victim (2.9) than VAWA self-petitioners (2.6). Responding agencies reported that 90% (n=2,403) of their U visa clients had children of which 42% (n=1,103) of U visa applicants had three or more children. Only 10% (n=255) of the U visa clients they worked with did not have any children. *See Figure 32*. Study participant agencies reported in *Figure 32* on 2,403 U visa clients who collectively had a minimum of 7,087 children who would also benefit from their parents’ or their own U visa applications.

⁸⁵ Violence Against Women Act of 2000 Section 1513(a)(2), Pub. L. No. 106-386 (October 28, 2000).

⁸⁶ *U Visa Demographics*, U.S. CITIZENSHIP & IMMIGR. SERVS. 9 (Mar. 2020),

https://www.uscis.gov/sites/default/files/document/reports/U_Visa_Report_-_Demographics.pdf.

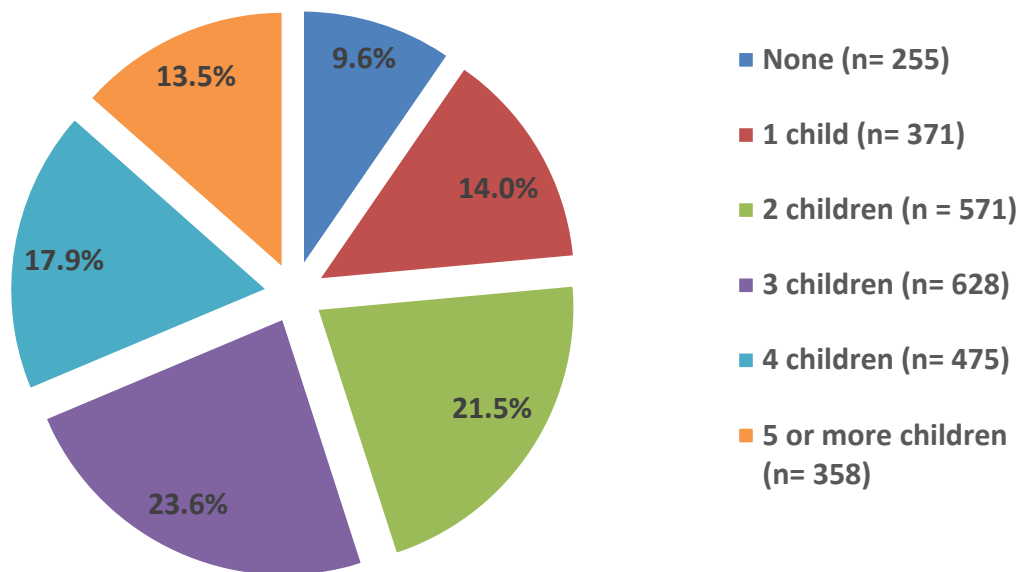
⁸⁷ *See generally* Meaghan Fitzpatrick et al., *Understanding the Significance of a Minor’s Trauma History in Family Court Rulings*, NIWAP (Sept. 27, 2017), <https://niwaplibrary.wcl.american.edu/pubs/effects-of-trauma-on-minors-fact-sheet>; Decl. of David B. Thronson, O.M.G. v. Wolf, 474 F. Supp. 3d 274, 277 (D.D.C. 2020) (No. 20-786); *BIA Amicus Brief on Recent Research Concerning the Neurobiological, Cognitive, and Psychological Development of Children and Adolescents*, NIWAP (July 11, 2016),

<https://niwaplibrary.wcl.american.edu/pubs/niwap-bia-amicus-child-brain-development>.

⁸⁸ New Classification for Victims of Criminal Activity; Eligibility for “U” Nonimmigrant Status, 72 Fed. Reg. 53,014, 53,017 (Sept. 17, 2007) (to be codified at 8 C.F.R. pts. 103, 212, 214, 248, 274a, 299) (“By extending the victim definition to include certain family members of deceased, incapacitated, or incompetent victims, the rule encourages these family members to fully participate in the investigation or prosecution.”).

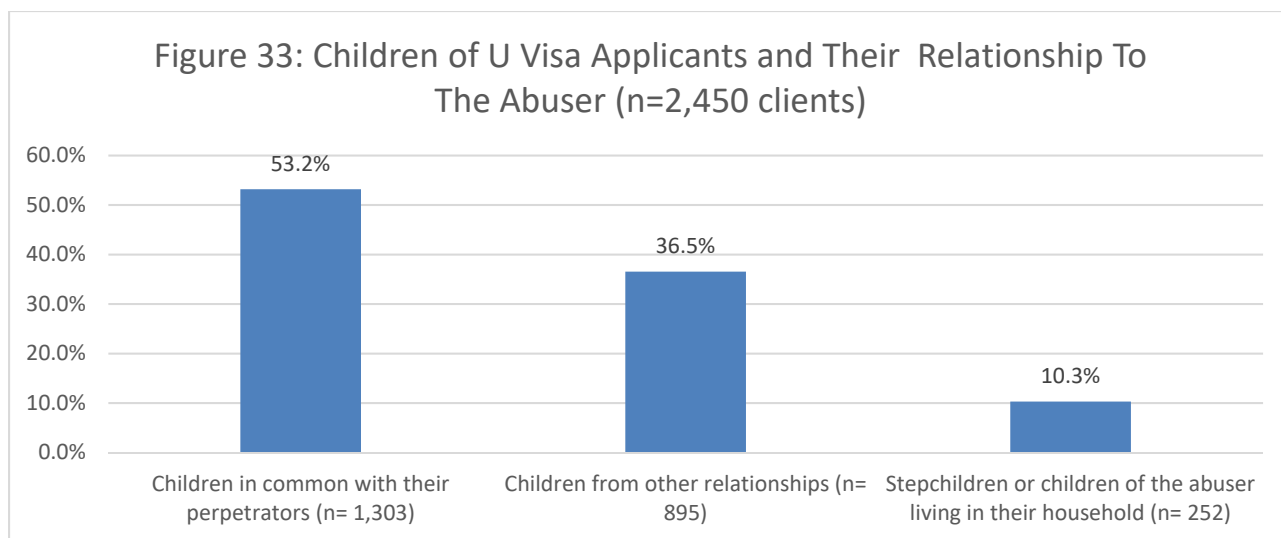
⁸⁹ Leslye E. Orloff & Janice V. Kaguyutan, *Offering a Helping Hand: Legal Protections for Battered Immigrant Women: A History of Legislative Responses*, J. GENDER, SOC. POL’Y & L. 95, 112, 115, 149 (2002).

Figure 32: Number of Children U Visa Clients Have (n=2,658 clients, average 2.9 children)



U Visa Child and Relationship to Abuser

The study found a high proportion of immigrant victims filing for U visa protection based on domestic violence and child abuse (*Figure 23*) and that a substantial proportion of these victims have children (*Figure 32*). The study sought to learn about the types of relationships that existed between the perpetrator and the victim's children. Study participants reported that for 64% of U visa applicant clients (n=1,555 clients, with approximately 4,510 children), the perpetrator was the parent or stepparent of the victim's children. *See Figure 33*. The study identified an additional 5% (n=430) of U visa cases in which immigrant parents or stepparents were filing for U visa protection to help with detection, investigation, or prosecution of child abuse perpetrated against the U visa applicant's child or stepchild. In both of these cases, the perpetrator was highly likely to be involved in raising the victims' children and exposing them directly or indirectly to abuse and violence. Specifically, 53% of study participants' U visa clients (n=1,303 clients, with about 3,779 children) were cases in which the victim and perpetrator had children in common. *See Figure 33*. Study participants also reported that another 37% of their clients (n=895 clients, with approximately 2,596 children) had children from other relationships who were also being affected by the same abuse the U visa victim suffered. *See Figure 33*. These findings have important implications for custody cases.



As discussed in *Figures 15 and 23*, study participant agencies helped a high proportion of U visa applicants suffering from domestic violence, child abuse and stalking perpetrated by their intimate partners, husbands, parents, or stepparents. Under the U visa statute, both adults and children can include specified family members in their applications.⁹⁰ Under U.S. immigration laws, the definition of child includes any person under the age of 21.⁹¹ Nationally, USCIS reports that among child U visa applicants 7% include their immigrant parents in their U visa applications.⁹² USCIS data also report that 49% of U visa applicants include a spouse and 43% include a child in their U visa applications.⁹³

The study asked agencies to report on the numbers of children and spouses of U visa clients included in their U visa applications.⁹⁴ In answering this question study participants provided data reporting on 1,740 adult U visa clients who included children in their applications at a rate of 75.7% (n=1,318). *See Figure 34*. The percentage of U visa clients who included children in their applications is lower than the percentage of U visa applicants with children reported in *Figure 32* (90%) because many (52%, n=1,218) of the U visa survivors' children are U.S. citizens and thus would not need to be included in the survivors' U visa application. *See Figure 35*. For these reasons, the proportion of applicants including spouses and children in their applications were lower than the national averages.

Study participants also reported on 422 cases (24%) where U visa applicants included their spouses in their U visa applications. *See Figure 34*. This finding is explained by *Figure 23*, which reveals that many U visa survivor clients who included spouses in their U visa applications are survivors of sexual assault or other U visa criminal activities that were perpetrated by persons who were not their spouses.

⁹⁰ Sylvie Sheng & Leslye E. Orloff, *U Visa Protections for Family Members*, NIWAP (July 3, 2020), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-family-member>.

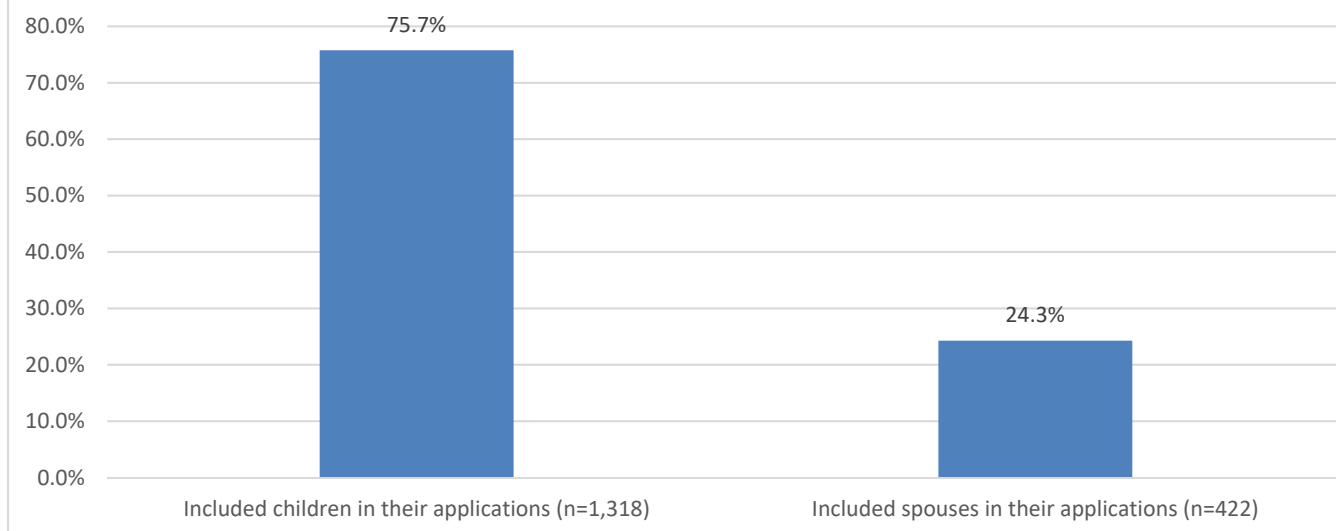
⁹¹ Immigration and Nationality Act, 8 U.S.C. §1101(a)(51)(b)(1) (2018).

⁹² *Id.*

⁹³ *U Visa Demographics*, U.S. CITIZENSHIP & IMMIGR. SERVS.9 (Mar. 2020), https://www.uscis.gov/sites/default/files/document/reports/U_Visa_Report_-_Demographics.pdf.

⁹⁴ The question asked for numbers of children and spouses included in adult victim's U visa applications but did not ask about the number of clients who included both a spouse and children in their applications.

Figure 34: Number of Spouses and Children That Adult U Visa Victims Included Their Applications (n=1,740 children and spouses)

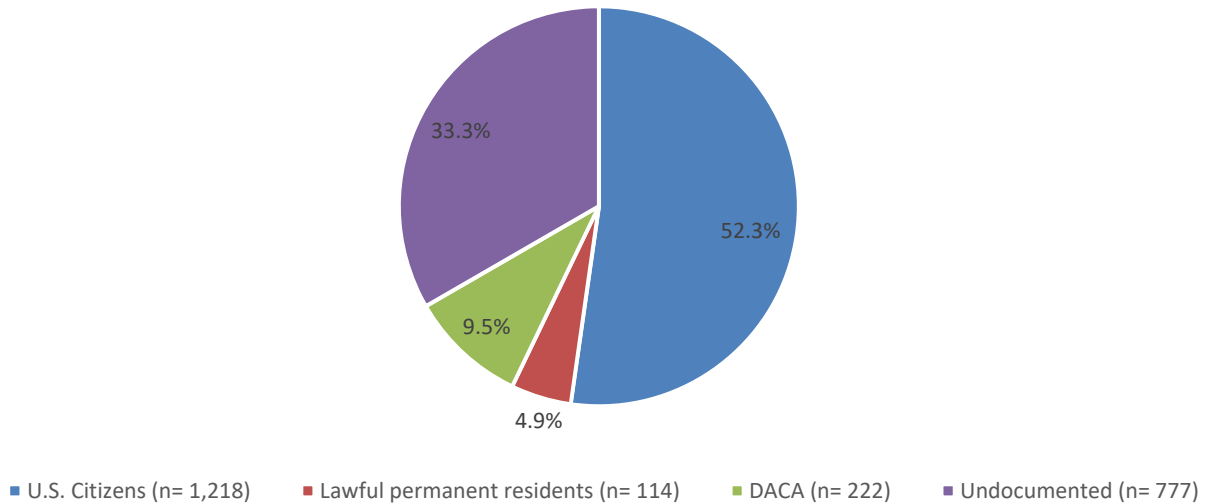


The study also asked participating agencies to report on the immigration and citizenship statuses of U visa applicants' children. Most of the U visa applicants' children were U.S. citizens or were lawful permanent residents in the United States (57%, n=1,332). Of this data, 52% were United States citizens and 5% (n=114) were lawful permanent residents. *See Figure 35.*

Strikingly, as with VAWA self-petitioners, this study found evidence of undocumented immigrant victim parents with lawful permanent resident children. Ordinarily, the immigrant mother and child would have filed for immigration relief and received lawful permanent residency together. One potential explanation for this finding is that the U visa applicant immigrant mothers have a child in common with but are not married to the child's other lawful permanent resident parent, and the child was born abroad. The lawful permanent resident parent may have chosen not to marry the immigrant parent to exert power and control over the immigrant parent. The legal permanent resident parent filed immigration papers for the child *only*, and that application resulted in lawful permanent residency for the child alone.

Further, study respondents reported on 14% (n=999) of U visa children who were eligible to be included in their immigrant parents' U visa application. *See Figure 35.* They were either undocumented (33%, n=777) or were DACA recipients (10%, n=222) and being included in their immigrant parents' U visa application would provide them a path to lawful permanent residency and stability that DACA, as of February 2021, does not offer them. *See Figure 35.*

**Figure 35: Legal Status of Children of U Visa Applicants
Who Had Children in Common With Their Abusers (n=2,331 clients)**



Perpetrators of domestic violence and child abuse commonly raise the survivor’s immigration status to gain advantage in contested custody cases.⁹⁵ It is well established that history of domestic violence in a relationship must be considered in determining best interests of the child in custody cases.⁹⁶ However, the American Bar Association’s Center on Children and the Law found that “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.”⁹⁷ The Center continues and finds “this change will ensure that children of immigrant domestic violence victims will benefit from reforms in the laws (like presumptions against awarding custody or unsupervised visitation to batterers) in the same manner as all other children.”⁹⁸ Over the past decade, a significant body of training materials and training has been provided to state court judges who hear custody and other family court cases to provide judges access to legally correct information about immigrant crime survivors’ legal rights to VAWA and U visa immigration relief.⁹⁹ This helps courts ensure that all victims, including immigrant victims who turn to the courts for help, receive fair and equitable results that are not biased especially when abusers provide misleading information about immigration law, which is particularly important in custody cases.¹⁰⁰ This study’s findings about the

⁹⁵ Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant Crime Victims and Children: Findings of a National Judicial Survey and Recommendations*, in *TRENDS IN STATE COURTS: COURTS AND SOCIETY* 111 (Deborah W. Smith et al. eds., 2018); Leslye E. Orloff & Andrea Carcamo Cavazos, *Family Court Bench Card on Issues That Arise in Custody Cases Involving Immigrant Parents, Children and Crime Victims*, NIWAP (Oct. 13, 2013), <https://niwaplibrary.wcl.american.edu/pubs/benchcard-issues-arise-custody-cases>.

⁹⁶ See H.R. Con. Res. 172, 101st Cong. (1990); Morgan Lewis & Bockius LLP, *Best Interests of the Child – Factors in State Law*, NIWAP (Dec. 29, 2017), <https://niwaplibrary.wcl.american.edu/pubs/appendix-q1-best-interests-of-the-child-all-factors>; Morgan Lewis & Bockius LLP, *Best Interests of the Child – Family Violence*, NIWAP (Dec. 29, 2017), <https://niwaplibrary.wcl.american.edu/pubs/appendix-q7-best-interests-family-violence>.

⁹⁷ AM. BAR ASS’N, *THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN* 20 (Aug. 1994), <https://niwaplibrary.wcl.american.edu/pubs/impact-dv-children>.

⁹⁸ *Id.*

⁹⁹ *SJI and National Judicial Network Training Materials*, NIWAP, <https://niwaplibrary.wcl.american.edu/sji-jtn-materials> (last visited Mar. 3, 2021).

¹⁰⁰ H.R. Con. Res. 172 (House Congressional Resolution expressing the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of one’s spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse.).

proportion of VAWA and U visa cases that involve child abuse victims and children living in homes in which domestic violence is occurring underscores the importance of this training.

As discussed in Part III, the section on research design, the following sections and for most of the remainder of this research report, figures report on data collected from attorneys, victim advocates and systems-based victim witness staff asking them based upon their extensive experience working with immigrant survivors to compare immigrant survivors' experiences at different points in time over the course of the VAWA and U visa immigration case processes. For all questions, researchers asked study participants to report on their clients' experiences about a range of factors at three points in time — before filing, at and after receipt of work authorization, and at and after receipt of lawful permanent residency. For some factors, researchers sought to learn additional information and asked participants about their immigrant survivor clients' experiences at other points in time, for example before survivors filed their immigration cases or while survivors were still living with their abusers.

VI. VAWA Self-Petitioners and U Visa Survivors Experiences with Immigration-Related Abuse and Immigration Enforcement

Historically, immigration laws have required U.S. citizens and legal permanent residents to file immigration papers for their spouses and children. Usually, in non-abusive relationships, U.S. citizens and lawful permanent residents will file immigration papers for their immigrant spouse before or shortly after marriage. However, this is not the case in abusive relationships.¹⁰¹ Abusers threaten to not file or to withdraw immigration papers filed for the victim as a tool that allows perpetrators to establish coercive control over the victim.¹⁰² Research has found that “immigration related threats are an important tool that many abusers use to lock battered immigrants into abusive relationships.”¹⁰³

Immigration-related abuse includes, but is not limited to, refusal to file or threats to withdraw immigration papers for the victim or her children, threats of deportation, threats to turn the victim in to immigration enforcement officials, and threats to raise the victims' immigration status in custody, protection order or divorce cases.¹⁰⁴ Abusers also hide or control important immigration documents, such as passports.¹⁰⁵ Physically and sexually abused immigrant women experience significantly higher rates of immigration related abuse that are 10 times higher than victims of psychological abuse experience.¹⁰⁶

¹⁰¹ See Giselle Aguilar Hass et al., *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, 7 INT'L REV. VICTIMOLOGY 93–113 (2000); Mary Ann Dutton, *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. POVERTY L. & POL'Y 245 (2000); Anita Raj & Jay G. Silverman, *Immigrant South Asian Women at Greater Risk for Injury from Intimate Partner Violence*, 93 AM. J. PUB. HEALTH 435 (2003); Anita Raj & Jay Silverman, *The Roles of Culture, Context, and Legal Immigrant Status on Intimate Partner Violence*, 8 VIOLENCE AGAINST WOMEN 367–398 (2002).

¹⁰² Leslye E. Orloff et al., “*Battering or Extreme Cruelty*” *Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP (Sept. 12, 2015), <https://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2>.

¹⁰³ Giselle Aguilar Hass et al., *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, 7 INT'L REV. VICTIMOLOGY 93, 109 (2000).

¹⁰⁴ 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 1.1, 711 (Kathleen Sullivan & Leslye Orloff eds., 2013), <https://niwaplibrary.wcl.american.edu/pubs/cult-man-ch1-1-dynamicsdomesticviolence2016>; Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant Crime Victims and Children: Findings of a National Judicial Survey and Recommendations*, in TRENDS IN STATE COURTS: COURTS AND SOCIETY 111 (Deborah W. Smith et al. eds., 2018).

¹⁰⁵ Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP 16 (May 3, 2018) <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

¹⁰⁶ Mary Ann Dutton, *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. POVERTY L. & POL'Y 245, 292295 (2000).

Types of Immigration-Related Abuse Perpetrated Against VAWA and U Visa Clients

Figures 36, 37, 38 and 39 report on data collected from 52 agencies reporting on immigrant survivor clients' experiences with immigration-related abuse based on the agencies' work with VAWA and U visa clients. The immigration-related abuse immigrant survivors suffered can be categorized under three immigration-related abuse factors:

- Deportation-related abuse and interference with the victim's ability to gain legal immigration status: Threats of deportation, threats or attempts to withdrawn or not file immigration papers for the victim, and destruction of the victim's passport or other identity documents.
- Abuse related to the victim's children: Immigration-related threats aimed at cutting the victim off from her children or gaining advantage in family court proceedings involving the children.
- Employment-related abuse: Workplace-related immigration status threats that are related to a pattern of sexual assault, sexual harassment, job sanctions or failure to pay wages.

The study examined each of these forms of immigration-related abuse at four different periods of time during of the survivors' immigration case process:

Period 1: While the victim was still living with or working for the perpetrator (*Figure 36*)

Period 2: After separation from the perpetrator (*Figure 37*)

Period 3: After receipt of work authorization (*Figure 38*)

Period 4: After the VAWA or U visa applicant gained lawful permanent residency (*Figure 39*)

Generally, respondent agencies reported that their clients experienced significant declines in immigration-related abuse *often and if not almost always* occurring after their clients obtained legal work authorization compared to when victims were living with their abusers. After work authorization, the proportion of victims who *often or almost always* were victims of the following types of immigration-related abuse changed in the following ways (*Comparing Figures 36, 37, 38, and 39*):

- Threats or attempts to have the victim deported, detained or arrested by DHS: Victims *often or almost always* experiencing these threats declined from 71.2% when the parties were living together to 13.5% after the VAWA or U visa applicant was granted legal work authorization (81% decrease). This form of immigration-related abuse declined to 5.8% after the survivor attained lawful permanent residency.
- Taking or destroying victim's documents: Document-related abuse includes threats, attempts, or destruction of the victim's passport, immigration papers, or identity

documents. This is a potent form of coercive control for two reasons. Many victims come from countries where carrying your identity documents at all times is required by law and persons caught without these documents can be subject to fine or arrest.¹⁰⁷ Immigrant survivors do not know that the U.S. does not have this requirement. Secondly, the process of applying for immigration relief generally requires that the applicant be able to produce their passport, immigration and identity documents and not having these documents could undermine access to immigration protections. The study found that victims who *often or almost always* experienced threats, taking, and destruction of vital documents as a form of immigration-related abuse reduced from 54% when the parties lived together to 9.6% after the VAWA or U visa applicant was granted legal work authorization (82% decrease). This form of abuse declined to 4% when the survivor attained lawful permanent residency. Since separation makes it more difficult for the perpetrator to gain access to and control the victim's documents, there was an initial 43% drop in this form of immigration-related abuse following separation. (Figure 37).

- Threats or attempts related to filing an immigration case for the victim or the victim's child: This category of immigration-related abuse includes failing to file and threatening not to file immigration papers for the victim and/or their children and withdrawing or revoking an immigration case filed on the victim's or the victim's children's behalf. This form of immigration-related abuse that victims *often or almost always experienced* declined from 60% when the parties were living together to 15% following the VAWA or U visa victim being granted legal work authorization (74% decrease).

As it pertains to immigration-related abuse that threatens or attempts to use the victim's immigration status to cut off victims' ability to see children or to win custody of children, here too study participants report that their clients experienced substantial reductions in this form of abuse after survivors attain legal work authorization. Compare Figures 36 and 38. The extent to which immigrant VAWA and U visa applicants *often or almost always* received child-related immigration threats changed over the course of the victim's immigration case in the following ways: (Compare Figures 36, 37, 38, and 39)

- Threats to cut off access to children: Victims *often or almost always* experienced high rates (71%) of threats that the perpetrator would use the victim's immigration status against her to cut off her ability to see her children when victims were living with their abusers. After victims' receipt of work authorization, these threats declined to 15% (78% decrease) and continued to decline after victims' attained lawful permanent residency to 9.6%.
- Threats and attempts to use the victims' immigration status in family court to win custody of children: While the victim and perpetrator resided together, victims *often or almost always* were threatened (65%) that if the victim left or went to court the abuser would win custody of their children. This includes telling the victim that the abuser would raise the victim's immigration status against her to help him win custody of the children in court. This form of immigration-related abuse decreased to 23.1% (65% decrease) after

¹⁰⁷ *National IDs Around the World Interactive Map*, WORLD PRIV. F. (July 24, 2017), <https://www.worldprivacyforum.org/2017/07/national-ids-around-the-world/>.

the victim attained legal work authorization. While this decline was not as sharp as the 78% decline in threats to cut off the children, these threats and attempts decreased to 14% by the time the victim attained lawful permanent residency. Moreover, after a victim received lawful permanent residency, nearly 35% of VAWA and U visa victims *rarely or never* experienced threats or actions to win custody by raising a victim's immigration status. *See Figure 38.*

Recent research has shown that particularly in anti-immigrant times, abusers of immigrant victims increase their use of immigration-related abuse. Abusers increase their efforts to raise immigration status of victims in family court cases¹⁰⁸ to overcome the detrimental effect that the abuse they perpetrated should have on the abuser's ability to win custody of children.¹⁰⁹ State laws for the best interests of the child require that courts identify and consider the history of domestic violence as a factor in child custody determinations to ensure that child custody is not awarded to the abusive parent.¹¹⁰

The findings of this study, that perpetrator's efforts to raise immigration status in custody cases decline when survivors have filed and been granted work authorization through a VAWA or U visa immigration case, have important ramifications for survivor and child protection and well-being. Swifter access to work authorization will improve survivors' ability to win custody of their children in state family court cases. When immigrant survivors who are protective parents are granted legal custody of children, custody with the protective parent helps children heal and limits the ability of perpetrators to use children as tools for perpetuating abuse. Survivors who receive work authorization are better able than they previously would have been to demonstrate to the court that they will be remaining in the U.S. and that they have improved means to support themselves and provide for their children.

Judges need training on responding justly and fairly when such immigration-related allegations arise. With access to legally correct information about immigration law's protections for immigrant survivors, judges will know how unlikely it is that a victim may be removed from the U.S. and will know that being in the U.S. undocumented is a civil violation of immigration laws, not a crime. Armed with the information, judges can avoid being distracted by issues of immigration law being raised by the abuser and can instead issue orders that hold abusers accountable for their abuse and its impact on children and promote the safety of immigrant survivors and their children.¹¹¹

With regard to the last form of immigration-related abuse occurring in the work place, the study identified and documented two forms of abuse in this category. Immigration-related abuse include threats of deportation being used to silence victims or coerce victims of sexual assault and sexual harassment occurring in the work place. The extent to which victims *sometimes, often or always*

¹⁰⁸ Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP 1417 (May 3, 2018) <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

¹⁰⁹ H.R. Con. Res. 172, 101st Cong. (1990).

¹¹⁰ *Special Immigrant Juvenile Status Bench Book Table of Contents*, NIWAP, <https://niwaplibrary.wcl.american.edu/sijs-manual-table-of-contents> (last visited Mar. 22, 2021) (Appendices Q and Q 1-12).

¹¹¹ Soraya Fata et al., *Custody of Children in Mixed-Status Families: Preventing the Misunderstanding and Misuse of Immigration Status in State-Court Proceedings*, 47 FAM. L.Q. 191 (2013); Veronica T. Thronson et al., *Winning Custody Cases for Immigrant Survivors: The Clash of Laws, Cultures, Custody and Parental Rights*, 9 FAM. & INTIMATE PARTNER VIOLENCE Q. 169 (2017); Leslye E. Orloff & Andrea Carcamo Cavazos, *Family Court Bench Card on Issues that Arise in Custody Cases Involving Immigrant Parents, Children and Crime Victims*, NIWAP (Oct. 13, 2013), <https://niwaplibrary.wcl.american.edu/pubs/benchcard-issues-arise-custody-cases>; Leslye Orloff et al., *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 6.1 (Kathleen Sullivan & Leslye Orloff eds., 2013), <https://niwaplibrary.wcl.american.edu/pubs/ch6-1-counterabuserraisingimmstatus>.

experienced immigration-related abuse in the work place changed over the course of the survivors' immigration cases as follows: (*Compare Figures 36, 37, 38 and 39*)

- Immigration-related abuse in the context of workplace sexual assault and sexual harassment: This study also found strong declines in workplace immigration-related abuse for immigrant victims who had experienced sexual assault and sexual harassment in the workplace. During the time when victims worked for the employer where the abuse took place, victims reported *sometimes, often or almost always* experiencing these forms of abuse at rates of 42%. These rates dropped to 21% (50% decline) by the time the immigrant VAWA or U visa applicant received work authorization and declined further to 9.6% by lawful permanent residency.
- Using immigration status as part of threats to fire, demote or not pay victims: Agencies participating in the study reported that 35% of immigrant victim working clients *sometimes, often or almost always* experienced threats to fire, demotion or not pay wages to victims using the victim's immigration status as part of the abuse. The rates for this type of abuse declined to 21.2% (64% decline) after receipt of work authorization and then reduced again to 8% by lawful permanent residency. *Compare Figures 36, 37, 38 and 39.*

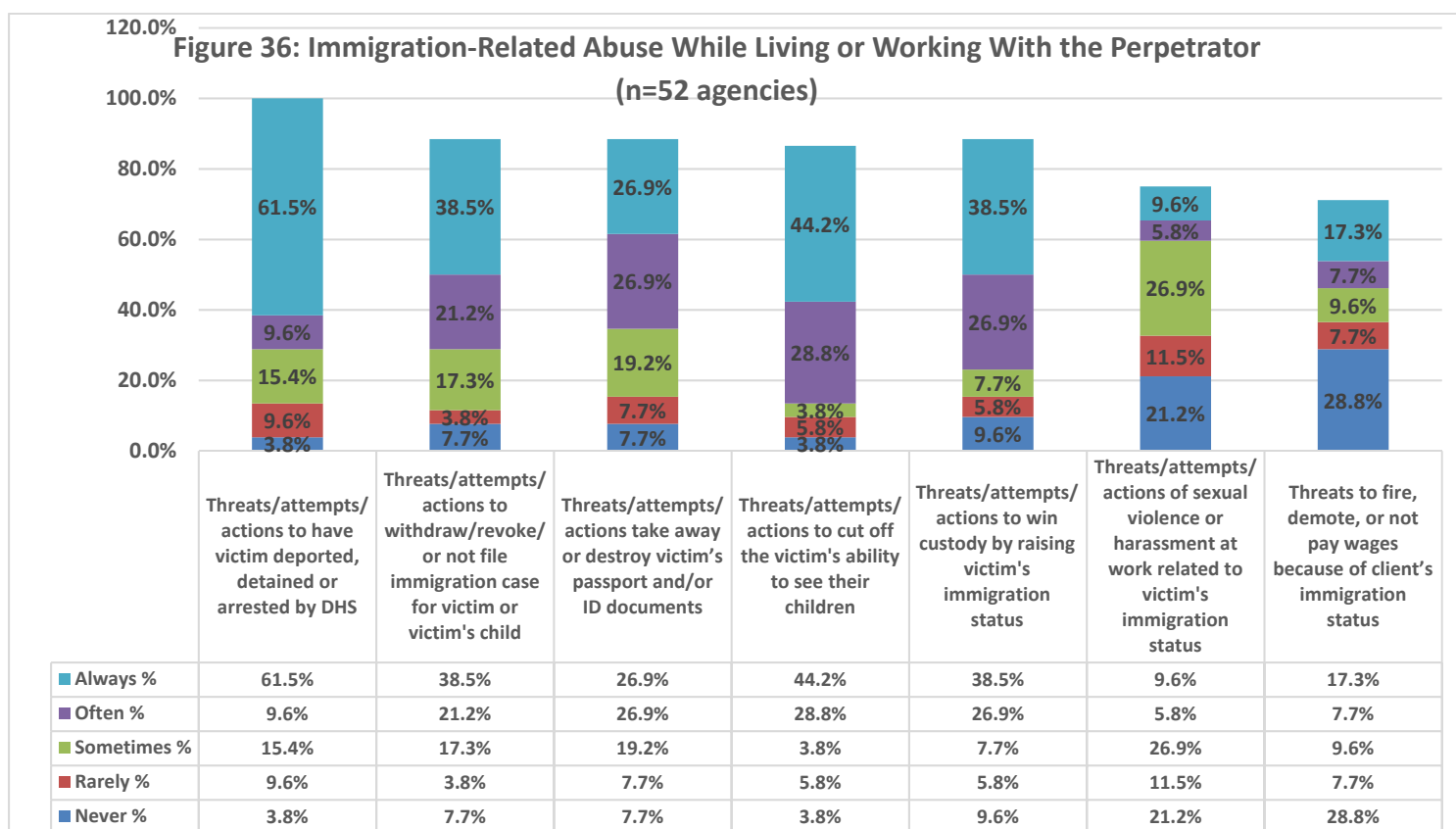


Figure 37: Immigration-Related Abuse After Separation (n=52 agencies)

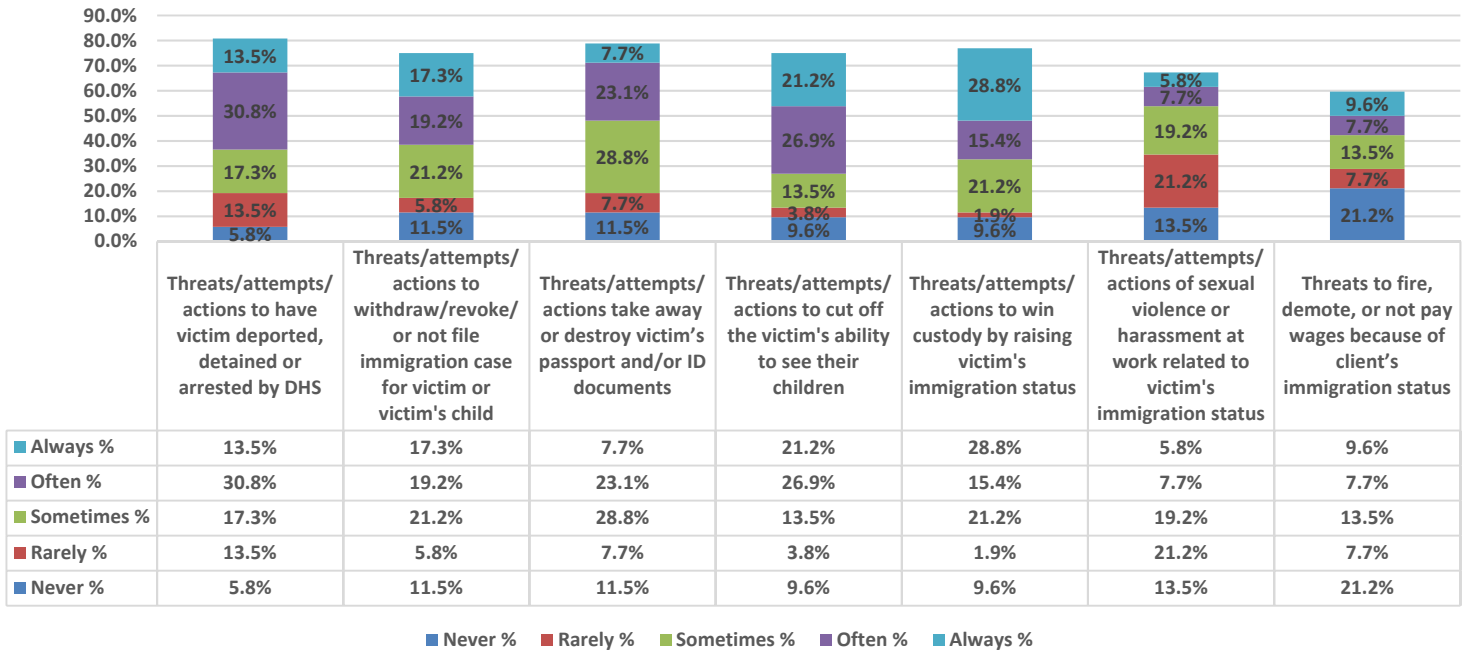
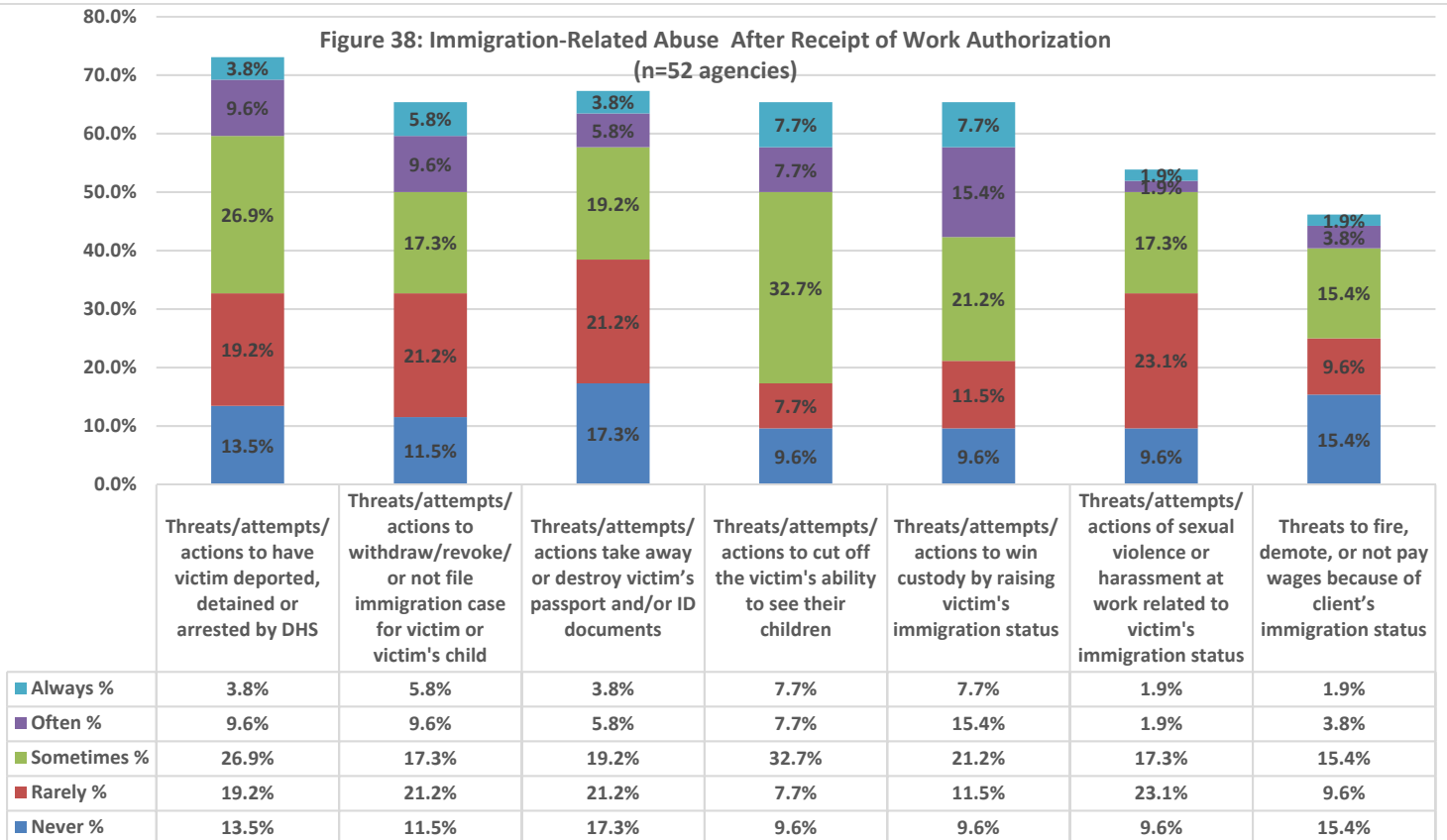
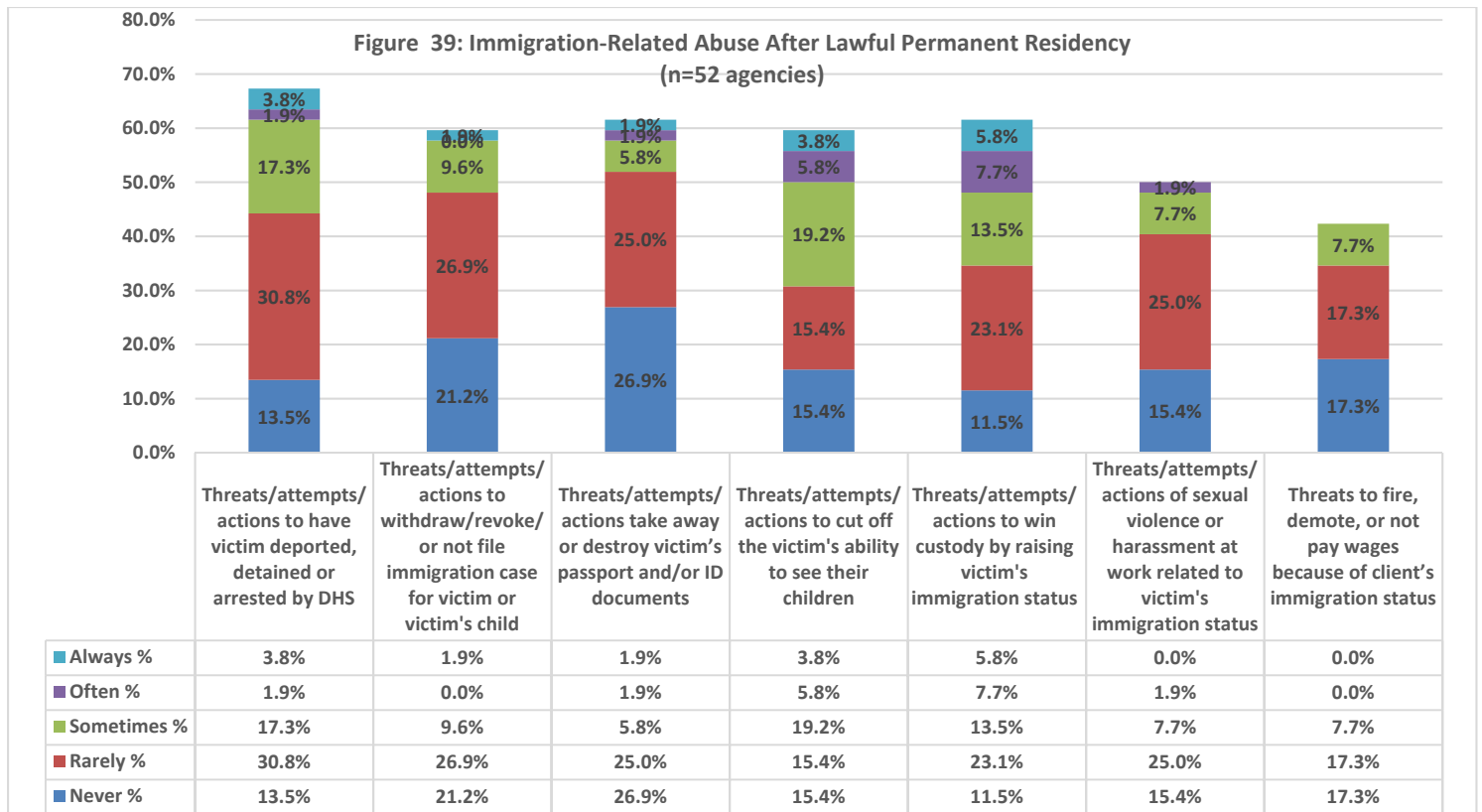


Figure 38: Immigration-Related Abuse After Receipt of Work Authorization (n=52 agencies)





Once a survivor obtains work authorization and deferred action, each of these forms of immigration-related abuse drastically declines. These findings highlight the importance of screening and identifying survivors that qualify for VAWA and U visa protections and helping them file their immigration cases as early as possible. Immigration-related threats and abuse take a devastating emotional toll on victims. These threats are effective tools that keep victims from seeking help from family courts, criminal courts, the EEOC, the Department of Labor, and from victim services agencies. These study findings can be useful in training governmental and non-governmental agencies who encounter immigrant survivors in their work about the importance of identifying and screening survivors who qualify for crime victim-based forms of immigration relief, including VAWA and the U visa. It is also important to train U visa certifying agencies on the importance of signing U visa certifications soon after victims have turned to the police, prosecutors, state or federal agencies, or the courts for help. The earlier a victim receives a certification, the sooner that her immigration case can be filed. By prioritizing work authorization and deferred action, DHS can stop abusers from successfully using its employees as a tool to harm victims while providing protections that this study found creates a better standard of life with more community engagement and participation for victims.

Perpetrator's Active Involvement in Triggering Immigration Enforcement Against Victims

This study confirms what prior research has found: perpetrators of domestic violence, sexual assault, child abuse, human trafficking, and stalking are actively involved in threatening and making calls to immigration enforcement officials to have their immigrant victims stopped, arrested, detained or

deported.¹¹² Research in 2013¹¹³ and 2017¹¹⁴ found that among victims with pending crime victim-based immigration cases, perpetrator-initiated enforcement actions occurred in the following rates:

- VAWA self-petitioners – 38% (2017); 27% (2013)
- U visa applicants – 25% (2017); 27% (2013)

These past research reports also found that immigrant victims, who are often limited English proficient (LEP), who called the police for help as victims of domestic violence, sexual assault, or human trafficking, were arrested instead of or in addition to the perpetrator at the following rates:¹¹⁵

- VAWA self-petitioners – 17% (2017); 15% (2013)
- U visa applicants – 36% (2017); 8% (2013)

A range of factors contribute to this outcome including: the failure of law enforcement to obtain qualified interpreters to assist in their communication with limited English proficient at the crime scene; lack of training for law enforcement on immigration law protections under the VAWA, U and T visa programs; and continued resistance by untrained police to employing best practices and taking domestic violence calls seriously.

A study conducted by the National Immigrant Women's Advocacy Project, American University, Washington College of Law in conjunction with the ACLU found that "when immigration officers conduct arrests in courthouses, there can be significant damage to the ability of the police, prosecutors, defenders, and judges to deliver justice."¹¹⁶ Congress created VAWA confidentiality laws¹¹⁷ to stop immigration enforcement officials from relying on perpetrator-provided information that harms victims and to establish protected locations where victims could seek help without fear of immigration enforcement at those locations. Protected locations include shelters, rape crisis centers, supervised visitation centers, family justice centers, victim service centers, community-based organizations that serve victims, and courthouses in connection with any protection order, child custody case, civil or criminal case involving or related to sexual assault trafficking, domestic violence or stalking.¹¹⁸

This study sought to build upon the knowledge gained in prior research to learn whether and to what extent immigration enforcement actions against victims changed in their rate of occurrence as victims moved through their VAWA and U visa immigration cases. In this study, participating agencies were asked to report on the number of immigration enforcement actions clients experienced and report

¹¹² Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP 114 (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>; Krisztina E. Szabo et al., *Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants*, NIWAP 25-26 (Feb. 12, 2014), https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

¹¹³ Krisztina E. Szabo et al., *Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants*, NIWAP 25-26 (Feb. 12, 2014), https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

¹¹⁴ Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP 92, 114 (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

¹¹⁵ Leslye E. Orloff et al., *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA WOMEN'S L.J. 64-69 (2003) (In responding to 8.34% of domestic violence calls and 10.7% of sexual assault calls involving immigrant victims, police spoke only with the perpetrator who spoke English.).

¹¹⁶ *Freezing Out Justice*, AM. C.L. UNION (2018), https://www.aclu.org/sites/default/files/field_document/rep18-icecourthouse-combined-rel01.pdf.

¹¹⁷ Alina Husain & Leslye E. Orloff, *VAWA Confidentiality: Statutes, Legislative History, and Implementing Policy*, NIWAP (Mar. 11, 2017), <http://niwaplibrary.wcl.american.edu/pubs/vawa-confidentiality-statutes-leg-history/>.

¹¹⁸ INA Section 239(e); 8 U.S.C. Section 1229(e).

at what stage of the survivor's immigration application process. Responding agencies reported on 70 clients who had been subjected to immigration enforcement actions. *See Figure 40.* Agencies were asked to report on three specific triggers for immigration enforcement. If the agency did not have the details to report on the specific action that triggered immigration enforcement against their client, the study allowed agencies to report the enforcement action without listing the cause. Participants were asked to provide the numbers of clients who had been subject to the following:

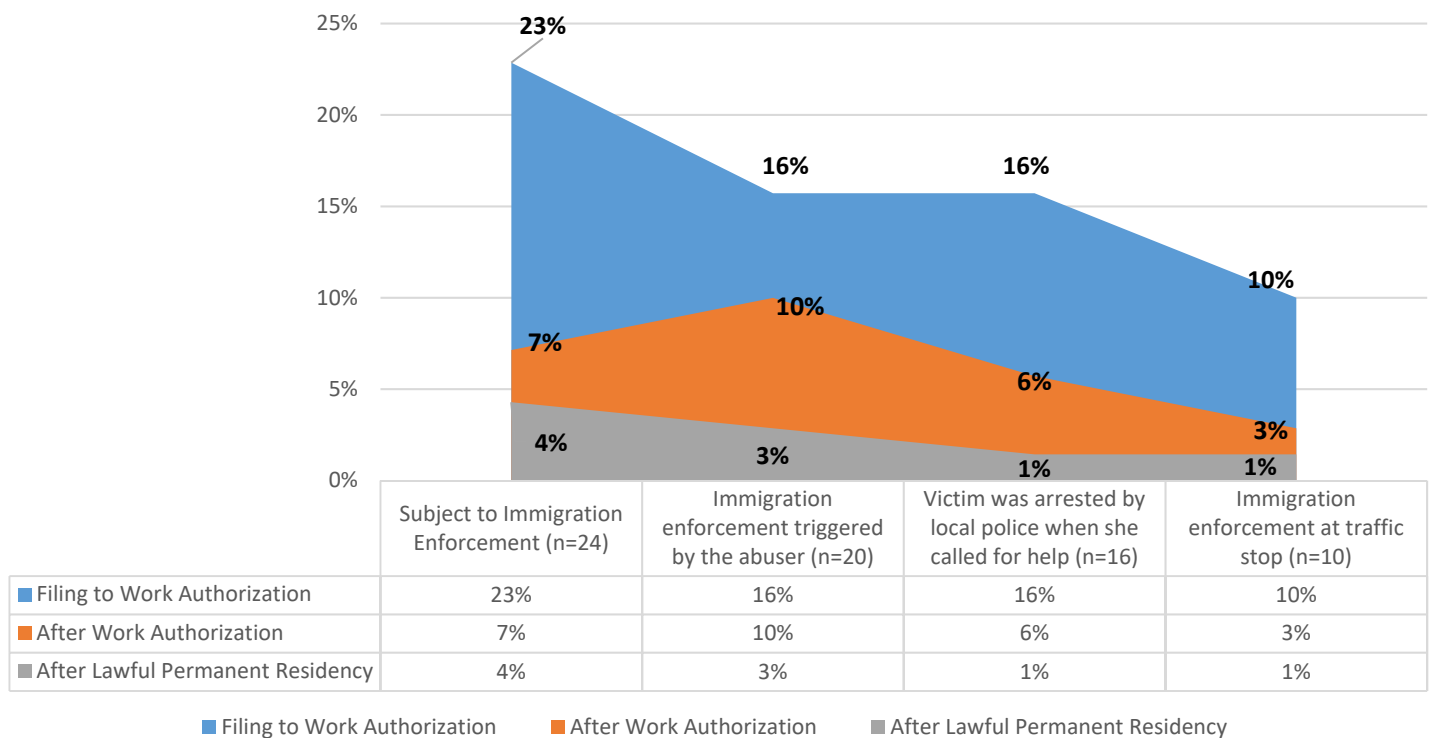
- Immigration enforcement occurring against victims when the agency reporting was not able to ascertain the cause;
- Immigration enforcement triggered by calls to immigration enforcement officials by the victims' abuser or crime perpetrator;
- Victims who call for help from police and are arrested at domestic violence or sexual assault crime scenes and police refer arrested victims to immigration enforcement officials;¹¹⁹ or
- State and local police conduct traffic stops and contact immigration officials about immigrants they suspect may be undocumented.

Out of 70 clients who had been subjected to immigration enforcement, 64% (n=45) of the cases were subject to immigration enforcement after filing their immigration case and before receiving work authorization. This rate declined to 26% (n=18) after survivors received work authorization and to 10% (n=4) after survivors attained lawful permanent residency. Reported immigration enforcement actions against victims declined 60% when VAWA self-petitioners and U visa victims were granted work authorization. Immigration enforcement actions against victims declined by a total of 84% once victims were granted lawful permanent residency. *See Figure 40.*

However, the declines did not occur uniformly. Rates of perpetrator-initiated enforcement action showed the least decline after survivors received work authorization. At the work authorization stage, the largest declines in immigration enforcement was at traffic stops and in enforcement actions where the cause could not be determined (70%). There were also significantly lower levels, a decline of 63%, from filing to work authorization in immigrant victims who called police for help being arrested and turned over to immigration enforcement officials. In the time between filing and when the survivor attained legal work authorization, there was a 38% reduction in perpetrator-initiated immigration enforcement actions. *See Figure 40.* Perpetrator initiated immigration enforcement actions declined most significantly (70%) from work authorization to the point in time the survivor attained legal permanent residency through the victims' VAWA or U visa immigration case.

¹¹⁹ Immigration and Customs Enforcement's detainers ask state and local law enforcement officials using ICE detainer forms to screen immigrants before seeking a detainer request for victimization and ask that officials notify ICE if the person subject to the detainer request may be a victim of a crime. *See Immigration Detainer – Notice of Action*, DEP'T. HOMELAND SEC., <https://www.ice.gov/doclib/secure-communities/pdf/immigration-detainer-form.pdf> (DHS Form I-247 which states, "Notice: Once in our custody, the subject of this detainer may be removed from the United States. If the individual may be the victim of a crime, or if you want this individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness, please notify the ICE Law Enforcement Support Center at (802) 872-6020."). However, the state and local law enforcement agencies whose practices involve routinely turning over suspected undocumented immigrants to ICE rarely provide this information.

Figure 40: Victims With Pending & Approved VAWA Self-Petitioning and U Visa Cases Subject to Immigration Enforcement (n=70 clients)



VII. VAWA and U Visa Applicants Justice System Participation

New Jersey’s Chief Justice Stuart Rabner wrote that “A true system of justice must have the public’s confidence. When individuals fear that they will be arrested for a civil immigration violation if they set foot in a courthouse, serious consequences are likely to follow.”¹²⁰ The Chief Justice of California, Tani G. Cantil-Sakauye, wrote “[E]nforcement policies that include stalking courthouses and arresting undocumented immigrants, the vast majority of whom pose no risk to public safety, are neither safe nor fair. They not only compromise our core value of fairness, but they undermine the judiciary’s ability to provide equal access to justice.”¹²¹ A 2018 report by the American Civil Liberties Union found that programs like the VAWA self-petition and the U visa “have been a critical lifeline for immigrant survivors of crime and an important tool for law enforcement to ensure that survivors and witnesses can safely come forward and pursue cases without the looming danger of deportation.”¹²² This ACLU report found that “fear of deportation — magnified by immigration arrests in courthouses . . . — is stopping immigrants from reporting crimes and participating in court proceedings.”¹²³

Interestingly, prior research had found that immigrants with pending or approved immigration cases filed under the VAWA and U visa programs were more likely than other immigrant victims to seek help and participate in the criminal justice system. U visa applicants cooperate with law

¹²⁰ *Freezing Out Justice*, AM. C.L. UNION 3 (2018), https://www.aclu.org/sites/default/files/field_document/rep18-icecourthouse-combined-rel01.pdf.

¹²¹ *Id.*

¹²² *Id.* at 5.

¹²³ *Id.*

enforcement at a rate of 73% and 25% file police reports for future crimes.¹²⁴ VAWA self-petitioners who are not required to interact with the justice system as a pre-requisite to filing for immigration relief have high rates of justice system participation (49% file police reports; 62% participated in criminal investigations and prosecutions.).¹²⁵

In 1990, research on family court cases found that in “70% of domestic violence cases, the issuance of a civil protection order decreased physical violence and made petitioners feel more secure.”¹²⁶ This is consistent with National Institute of Justice funded research, which found that with support from victim advocates and attorneys, immigrant domestic violence survivors were willing to seek civil protection orders, which 88% found to be helpful or very helpful in reducing future violence and other forms of abuse.¹²⁷ Victims’ attorneys and advocates play a central role in informing immigrant survivors about protection orders and supporting immigrant survivors through the application process.¹²⁸ Even during anti-immigrant times, when survivors become more reticent to file VAWA self-petitions and U visa cases,¹²⁹ immigrant survivors continued to seek civil protection orders from state courts.¹³⁰

Based on these prior research findings, this study sought to learn more about whether there were points in the immigration case process at which immigrant victims became more willing to participate in the criminal justice system and seek help from family courts. This study sought to learn how survivors’ participation in the criminal and family court justice systems changed over time as their VAWA and U visa cases moved through immigration case processing. Fifty (50) agencies responded to survey questions describing their VAWA and U visa clients’ experiences with the criminal justice system and family court cases.

The report on the study findings regarding immigrant survivors’ willingness to use the justice system is divided into four parts. The first report is on immigrant victims’ involvement with the criminal justice system. The second provides information collected about immigrant victim clients’ use of adult and child protective services. The third section provides data on civil court cases including employment-related cases. The fourth part discusses immigrant victim’s willingness to turn to the family courts for help. *Figures 41- 44* reporting the civil and criminal justice system findings follow the discussion of the related findings. *Figures 45- 48* reporting the family justice system findings are at the end of the family justice system discussion.

¹²⁴ Krisztina E. Szabo et al., *Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants*, NIWAP 29-30 (Feb. 12, 2014), https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

¹²⁵ *Id.* at 29.

¹²⁶ Peter Finn & Sarah Colson, *Civil Protection Orders: Legislation, Current Court Practice and Enforcement*, U.S. DEP’T JUST. (1990), <https://www.ojp.gov/pdffiles1/Digitization/123263NCJRS.pdf>.

¹²⁷ Mary Ann Dutton et al., *Use and Outcomes of Protection Orders by Battered Immigrant Women*, U.S. DEP’T JUST. 13-15 (Nov. 10, 2006), <https://niwaplibrary.wcl.american.edu/pubs/fam-gov-nijtechnicalreportprotectionorders11-10-06>.

¹²⁸ Benish Anver & Leslye E. Orloff, *Protection Orders and Battered Immigrants: The Impact of Attorneys and Advocates*, NIWAP (Jun. 20, 2014), <https://niwaplibrary.wcl.american.edu/pubs/battered-imms-cpo-advocacy>; Nawal H. Ammar et al., *Battered Immigrant Women in the United States and Protection Orders: An Exploratory Research*, 37 CRIM. JUST. REV. 337-359 (2012).

¹²⁹ Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP 82-83 (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report> (391% drop in willingness to file VAWA self-petitions in 2017 compared to 2016; 31% decline in willingness to file U visas).

¹³⁰ Nawal H. Ammar et al., *Immigrant Victims of Interpersonal Violence and Protection Orders in Civil Court Responses to Intimate Partner Violence and Abuse* (2020) <https://niwaplibrary.wcl.american.edu/pubs/immigrant-victims-and-protection-orders-2020>.

Criminal Justice System

This study found high levels of participation in the criminal justice system by immigrant crime survivors who have filed for immigration relief through the VAWA and U visa programs. With regard to criminal justice system participation by immigrant survivors, it is important to note that the survey sample of clients represented by participating agencies included a greater proportion of U visa applicants (71%) compared to victims applying for VAWA immigration relief (29%). When asking questions about how survivors' lives changed the survey did not ask participating agencies to distinguish and separately report data on U visa survivors' experiences and data on survivors applying for VAWA immigration relief.

The study took this approach because we expected that the two groups of immigrant survivors would be similar in several important ways. Agencies' immigrant survivor clients were largely mothers who were survivors of domestic violence, child abuse and sexual assault and were pursuing the form of immigration relief available to them under either the VAWA or U visa. The goal was to measure the impact of the immigration process on immigrant survivors and to identify differences in their experiences at different points in time — after filing, at and after receipt of work authorization, and at and after receipt of lawful permanent residency. Future research may want to explore whether and how the two groups differ.

This section's topic — willingness to turn to the criminal justice system for help — may be an area of distinction between the groups because U visa applicants are required to help and, with some exceptions, continuously assist in the detection, investigation, prosecution, conviction or sentencing of the criminal case against their perpetrator when their assistance is reasonably requested.¹³¹ VAWA self-petition eligibility has no such requirement. However, in designing this survey, it was known that prior research had found that almost half of VAWA self-petitioners filed police reports and over half participated in criminal cases against their perpetrators.¹³² As a result the survey asked about criminal justice system involvement of both groups of immigrant survivors and did not ask survey respondents to answer the questions related to this topic separately for their VAWA and U visa clients.

As the findings of this study are discussed, it is important to keep in mind the history of the relationship between law enforcement and immigrant communities and the relationship between law enforcement and immigrant crime victims specifically. Prior research has documented the strained relationships between immigrant communities and police which include selective law enforcement interventions, acts of violence, violation of rights and other coercive measures.¹³³ This includes law enforcement officials turning in immigrants, including battered immigrant victims, to immigration enforcement officials at Department of Homeland Security for removal.¹³⁴ Research focusing on

¹³¹ U visa applicants must demonstrate that they are helpful, have been helpful, or are willing to be helpful in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity to gain certification and qualify for the U visa. From the time their case has been filed through the time the victim attains lawful permanent residency, a U visa recipient the victim has an ongoing responsibility to provide assistance reasonably requested by law enforcement or prosecution officials. However, the statute creates an exception for immigrant victims who did not unreasonably refuse to assist. Sylvie Sheng et al., *U Visa Certification and T Visa Declaration Toolkit for Federal, State and Local Judges, Commissioners, Magistrates and Other Judicial Officers*, NIWAP 37-39 (Aug. 12, 2020), <https://niwaplibrary.wcl.american.edu/pubs/judges-u-and-t-certification-toolkit-2020>; Peter Helein et al., *U-Visa: "Helpfulness" Checklist*, NIWAP (Jul. 23, 2015), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-helpfulness-checklist>.

¹³² Krisztina E. Szabo et al., *Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants*, NIWAP 29 (Feb. 12, 2014), https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

¹³³ Julia L. Perilla, *Domestic Violence as a Human Rights Issue: The Case of Immigrant Latinos*, 21 HISP. J. BEHAVIORAL SCIS. 107-133 (1999).

¹³⁴ Sarah Stillman, *When Deportation is a Death Sentence*, NEW YORKER (Jan. 8, 2018), <https://www.newyorker.com/magazine/2018/01/15/when-deportation-is-a-death-sentence> (This article provides an example of a domestic violence victim who had been issued a protection order and who should have received a U visa certification from the police officer who investigated the domestic violence perpetrated against her. Instead, the victim was never

immigrant and LEP domestic violence victims conducted prior to the U visa regulations being issued found that police did not take calls for help from immigrant and LEP victims seriously.¹³⁵ Police responded to calls for help but never spoke to the victim at the crime scene¹³⁶ and failed to take police reports.¹³⁷

Congress created the U visa and VAWA immigration relief in an effort to respond to this history and to “encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.”¹³⁸ The goal was to provide a tool that law enforcement could use to overcome fear and build trust with immigrant crime victims and their communities.¹³⁹ One of the key goals of this study was to learn to what extent and when in the victim’s immigration case process immigrant victims become more willing to turn to the criminal justice system for help and participate in prosecutions against their abusers.¹⁴⁰

Markedly, among immigrant survivors seeking crime victim-based immigration relief, this study found substantial criminal justice system participation, particularly before victims filed their immigration cases. This study found that prior to filing their immigration case, 56% of victims *sometimes, often or almost always* filed police reports. Study participant agencies reported that another 44% of victim *sometimes, often or almost always* assisted law enforcement in criminal investigations and/or assisted prosecutors in criminal prosecutions of the perpetrators of the crimes committed against them. *See Figure 41.*

Rates of calling police for help and reporting crimes victims experienced or witnessed remained consistently high for U visa victims and VAWA self-petitioners after they filed their immigration cases. Comparing *Figures 42, 43, and 44* reveals that VAWA self-petitioners and U visa victims *sometimes, often or always*:

- File future police reports: After filing the victim’s immigration case (44%); after receiving work authorization (36%); after receipt of lawful permanent residency (38%);

informed of the U visa and at a traffic stop, a police officer turned her in for removal and the victim was ultimately killed by her abuser when she was deported to Mexico). Traffic stops at which local police turn victims over to DHS for immigration enforcement are among the most common factors that lead to initiation of immigration enforcement actions against immigrant survivors. Krisztina E. Szabo et al., *Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants*, NIWAP 25-26 (Feb. 12, 2014), https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12; Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP 91-93 (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

¹³⁵ Nawal H. Ammar et al., *Calls to Police and Police Response: A Case Study from the Latina Immigrant Women in the U.S.*, 7 J. INT’L POLICE SCI. & MGMT. (2005); Leslye E. Orloff et al., *Battered Immigrant Women’s Willingness to Call for Help and Police Response*, 13 UCLA Women’s L.J. (2003).

¹³⁶ Leslye E. Orloff et al., *Battered Immigrant Women’s Willingness to Call for Help and Police Response*, 13 UCLA Women’s L.J. 63 (2003); Natalia Lee et al., *National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access*, NIWAP 25-26 (Apr. 16, 2013), <https://niwaplibrary.wcl.american.edu/pubs/national-survey-on-police-response-u-visas-language-access-report-4-16-13-final>.

¹³⁷ Natalia Lee et al., *National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access*, NIWAP 7-10 (Apr. 16, 2013), <https://niwaplibrary.wcl.american.edu/pubs/national-survey-on-police-response-u-visas-language-access-report-4-16-13-final>. This occurred in 9.6% of calls from immigrant sexual assault victims, 10.4% of calls from immigrant victims of sexual assault, and 11.8% of calls from immigrant victims of human trafficking.

¹³⁸ Immigration and Nationality Act, Pub. L. No. 106-386, § 1512(a)(2)(A) (2000).

¹³⁹ Stacy Ivie et al., *Overcoming Fear and Building Trust with Immigrant Communities and Crime Victims*, POLICE CHIEF, Apr. 2018, 34.

¹⁴⁰ Law enforcement officials and prosecutors are finding that once victims come forward and benefit from the U visa program, victims’ help to law enforcement can often go beyond that victim’s individual case. Victims who have filed U visa cases and have been granted U visas often assist law enforcement and prosecutors in prosecuting other crimes committed by their perpetrators. *See* Corrin Chow et al., *Stories from the Field: The Crime Fighting Effectiveness of the U Visa*, NIWAP (Aug 27, 2020), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-crime-fighting-stories>.

- Participate in criminal investigations and/or prosecutions: After filing the victim's immigration case (36%); after receiving work authorization (40%); after receipt of lawful permanent residency (40%).

The study also found significant declines in the unwillingness of immigrant victims to work with law enforcement from before filing to after receipt of work authorization among immigrant victims who filed VAWA self-petitions and U visa cases. Comparing *Figures 41 and 43* reveals that the proportion of VAWA and U visa clients who were *rarely or never* willing to do the following declined:

- Participating in criminal investigations and/or prosecutions: Declined from 24% of immigrant victims *rarely or never* willing to participate in criminal investigations or prosecutions to only 8% *rarely/never* willing to participate after the victim received work authorization (66.7% decline);
- Filing future police reports: Declined from 26% of immigrant victims *rarely or never* were willing to file police reports before filing the victim's immigration case to only 12% *rarely or never* willing to file police reports once the victim received work authorization (46% decline).

The rate of filing police reports and participating in criminal investigations remained relatively steady as victims became more trusting of law enforcement and prosecution officials over time. These rates are impressive and illustrate how when victims gain protection from deportation and work authorization they are able to successfully leave abusive homes and workplaces in greater numbers, they become more willing and less reticent to turn to police for help when they suffer abuse or victimization in the future. Since many of these cases involve family violence, and many victims have children in common with the perpetrator many are subjected to future incidents of abuse and violence.

It is important to note that this survey was conducted in 2016 and in 2019 during a period of increasing anti-immigrant sentiment and immigration enforcement, a group what was feared and prevalent in immigrant communities. Despite this fact, this study found that with support of advocates and in communities where police and prosecutors have practices of signing U visa certifications, more immigrant survivor clients are deciding to have a higher level of participation in criminal investigations as they attain legal work authorization.

Research conducted with law enforcement officials comparing 2016 and 2017 examined the impact of increased immigration enforcement on law enforcement officers' ability to work effectively with immigrant victims. That research found a 22% decline in immigrant and LEP victims' willingness to seek assistance from police and make police reports.¹⁴¹ This report also noted that a considerable number of law enforcement officials reported that crimes involving family violence, immigrant crime victims and crimes of violence were becoming "harder to detect, investigate and prosecute."¹⁴² However, this study also found a significant difference between law enforcement agencies that had established practices of signing U visa certifications and law enforcement agencies that were not signing U visa certifications. The signing agencies had robust community policing programs with immigrant

¹⁴¹ See Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP 42 (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

¹⁴² *Id.* at 109.

communities that included outreach to immigrant victims. Signing agencies' certification programs and community policing efforts resulted in these agencies reporting increases in the willingness of immigrant survivors to come forward to make police reports and assist with both crime scene and post-crime scene investigations.¹⁴³

These findings are consistent with the findings here regarding the declines in the numbers of VAWA and U visa victims who by the time they receive work authorization would rarely or never make police reports or participate in a criminal prosecution. The post-work authorization increases in the numbers of immigrant survivors willing to participate in ongoing criminal investigations and prosecutions underscore the importance of providing deferred action and swift access to work authorization to immigrant victims. This improves victim safety and the ability of law enforcement and prosecutors to hold perpetrators accountable for their crimes.

Child and Adult Protective Services Systems

Study participant agencies also report that an important percentage of their VAWA and U visa clients are actively involved in child and adult protective services investigations and court cases. Prior to the victim filing for immigration relief under the VAWA or U visa programs, immigrant survivors *sometimes, often or almost always*: (Figure 41)

- 34% Reported to or participated in child protective services investigation;
- 26% Participated in child welfare court case brought by the state against the child's abuser;
- 16% Reported to or participated in adult protective services investigation.

After filing their VAWA or U visa immigration cases, immigrant victims *sometimes, often or always* continued to work with child and adult protective services agencies and the courts in the following ways: (Figures 42, 43, and 44)

- Reported to or participated in child protective services investigations: After filing the victim's immigration case (34%); after receiving work authorization (30%); after receipt of lawful permanent residency (24%);
- Participated in child welfare court cases: After filing the victim's immigration case (24%); after receiving work authorization (20%); after receipt of lawful permanent residency (22%);
- Reported to or participated in adult protective services investigations: After filing the victim's immigration case (12%); after receiving work authorization (12%); after receipt of lawful permanent residency (8%).

Employment and Civil Court Cases

The survey asked participating agencies whether their VAWA and U visa clients turned to justice or administrative law court systems for help with other types of cases. These include workplace-based

¹⁴³ See Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

sexual assault and sexual harassment cases that the Equal Employment Opportunity Commission (EEOC) investigated and filed in court, cases being investigated and litigated against employers by the U.S. Department of Labor (DOL) and state labor agencies, and other civil or administrative court cases. Examples of other civil court or administrative law cases that victims might be involved in include landlord-tenant cases, state administrative housing enforcement actions, small claims cases involving non-married parties, and civil law suits brought by victims against their perpetrators.

Prior to the victim filing their VAWA or U visa immigration case, victims *sometimes, often or almost always*: (Figure 41)

- 22% were involved in civil court or administrative law cases;
- 16% sought help from state or federal employment agencies including the EEOC and DOL.

Once victims' VAWA or U visa cases were pending, victims were *sometimes, often or almost always* involved in these types of civil or administrative law cases at the following rates: (Figures 42, 43, and 44)

- Participated in a state or federal civil court case or administrative agency investigation or court case: After filing the victim's immigration case (16%); after receiving work authorization (18%); after receipt of lawful permanent residency (18%);
- Sought help from state or federal employment agencies: After filing the victim's immigration case (12%); after receiving work authorization (16%); after receipt of lawful permanent residency (16%). There was a 41.7% decline in the numbers of immigrant victim clients that *never or rarely* would be willing to seek help from the EEOC, DOL, or state employment labor agencies from 48% before filing to 28% after victims received work authorization. See Figures 41 and 43. In light of the findings of this study regarding victims willingness to work with law enforcement and prosecutors particularly after victims receive work authorization, outreach by the EEOC and other agencies to this population of immigrant victims could be particularly effective.

Figure 41: VAWA Self-Petitioner and U Visa Victim Use of the Criminal and Civil Justice Systems - Before Filing (n=50 agencies)

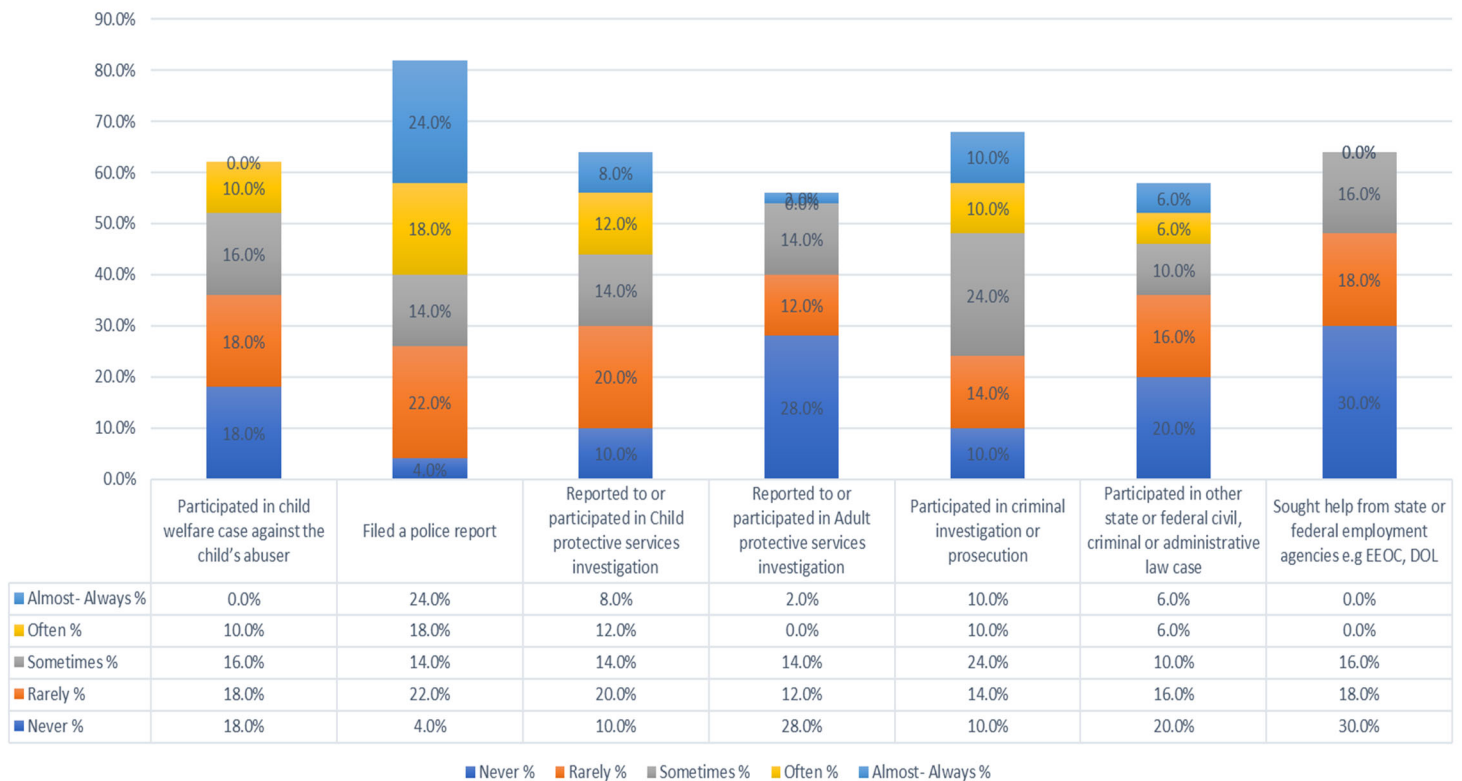


Figure 42: VAWA Self-Petitioner and U Visa Victim Use of the Criminal and Civil Justice Systems - Between Filing and Before Receiving Work Authorization (n=50 agencies)

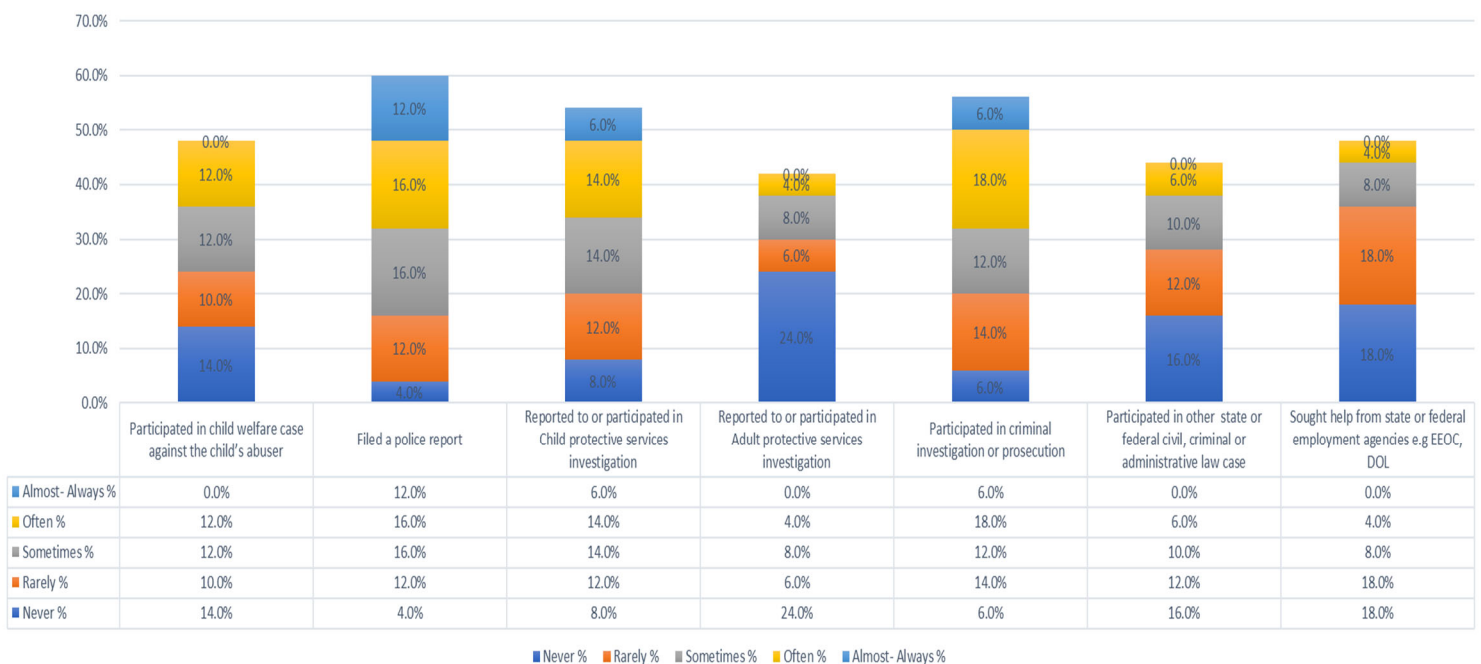


Figure 43: VAWA Self-Petitioner and U Visa Victim Use of the Criminal and Civil Justice Systems - After Work Authorization (n=50 agencies)

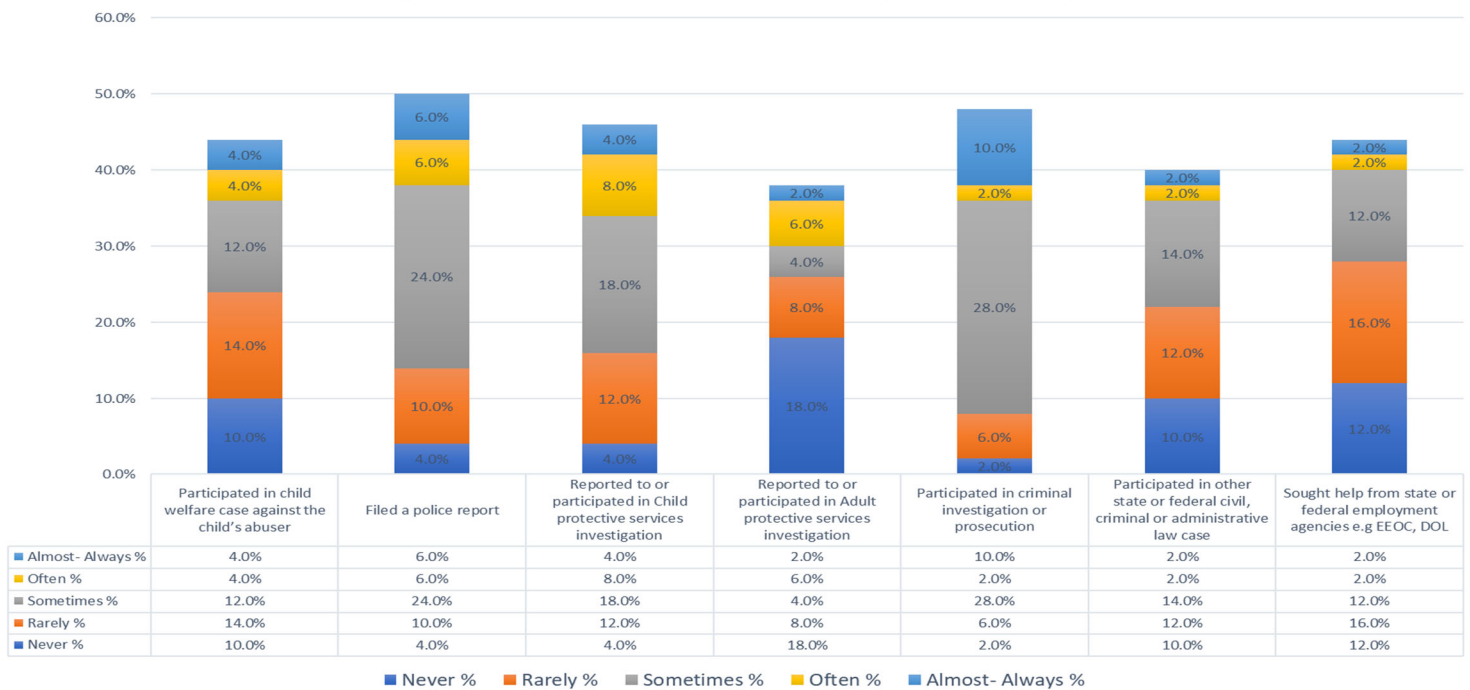
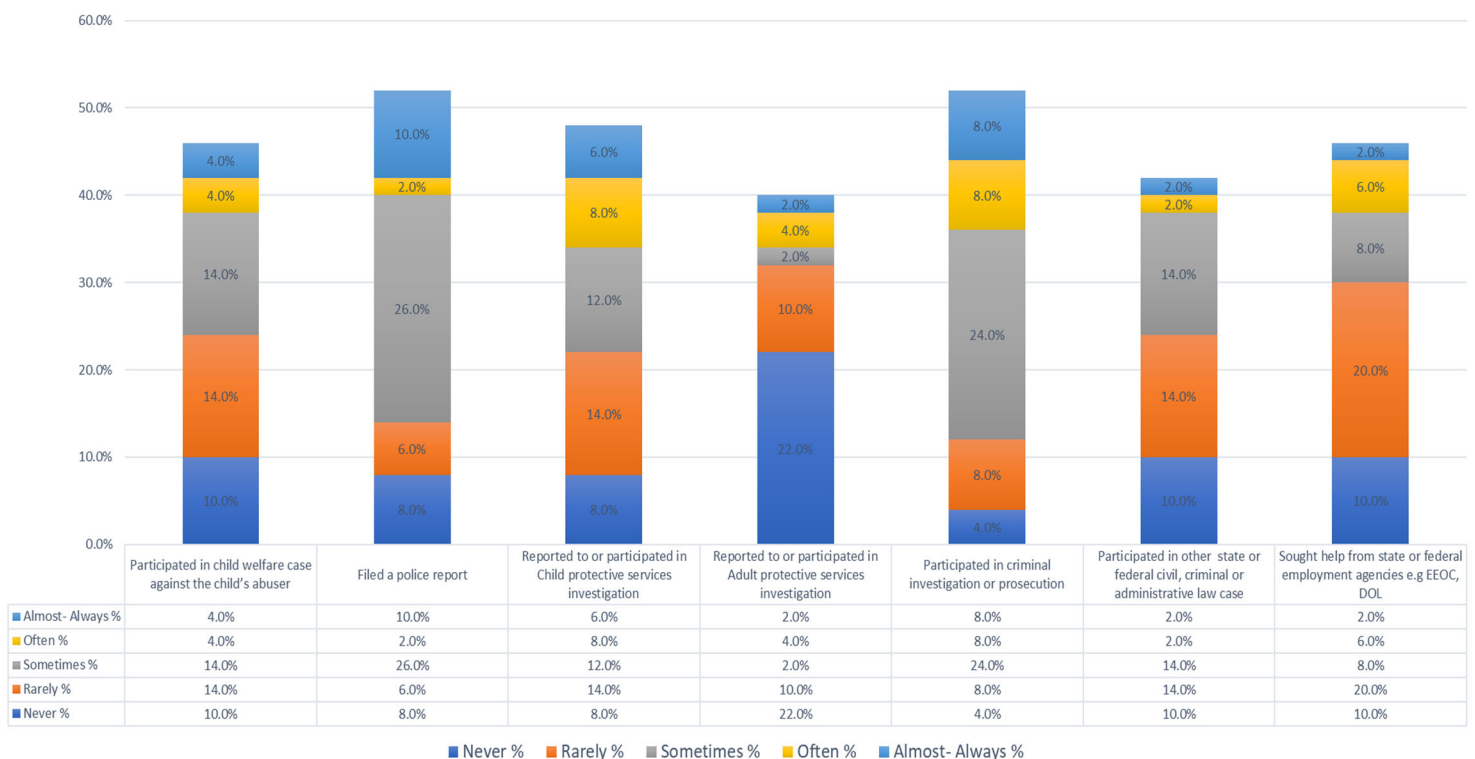


Figure 44: VAWA Self-Petitioner and U Visa Victim Use of the Criminal and Civil Justice Systems - After Receiving Lawful Permanent Residency (n=50 agencies)



Family Law

Civil protection orders

Civil protection orders may be one of the most effective means to protect victims from continued abuse. The study found high civil protection order filing rates before victims filed their VAWA or U visa immigration cases, with 74% of immigrant victim clients *sometimes, often or almost always* filing civil protection orders. *See Figure 45.* With these high protection order filing rates prior to filing the victims' immigration cases, it was not surprising that victims' need to file protection orders declined after victims filed their immigration cases. Many of the protection orders issued prior to filing the victims' immigration case will continue in effect after issuance of a final order for a year or more and permanently in some states.¹⁴⁴ For domestic violence victims, immigrant victim protection orders are effective in reducing future violence.¹⁴⁵

Despite this fact, a good percentage of VAWA and U visa applicants do seek civil protection orders after filing their immigration cases. Current best practices are to file the victims' immigration case as soon as possible so that victims get VAWA confidentiality's protections against deportation. This helps keep DHS from initiating immigration enforcement action against victims based on "tips" called in from perpetrators after they are served with papers in the protection order proceeding. The effects of this practice are seen in the 52% of victims who *sometimes, often or always* file for protection orders after they file their VAWA or U visa case and before they attain lawful permanent residency. *See Figure 46.*

Many immigrant survivors continue living with their abusers until they obtain legal work authorization. *Figure 47* reflects that 36% of immigrant victims *sometimes, often or almost always* obtain civil protection orders after receiving work authorization. The victims seeking protection orders after obtaining work authorization will be in large part battered immigrants who seek protection orders to remove the abuser from the family home or to protect the victim as she separates from the abuser and moves forward in reestablishing a life for herself and her children.

As victims gain independence, economic self-sufficiency, and stability, the percentage of victims needing protection orders declines to just under a quarter (24%) who *sometimes, often, or always* seek protection orders after the victim attains lawful permanent residency. *See Figure 48.* This continued use of protection orders by immigrant victims provides important safety and stability in the lives of immigrant victims, particularly when so many of immigrant survivors have ongoing contact with their abusers because their shared children. *See Figures 27 and 25.* Protection orders provide important access to court orders that mandate and enforce how visitation is to take place with children and how the children are to be safely exchanged for visitation. Ultimately, this study found that immigrant victim clients are using civil protection orders to protect themselves and their children from ongoing harm perpetrated by their abusers. The protection orders provide structure and potential enforcement to lessen

¹⁴⁴Two resources provide good information on the duration of protection orders. Domestic Violence Civil Protection Orders (CPOs), Am. Bar Assoc. (Jun. 2020), https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/Charts/cpo2020.pdf; National Network to End Domestic Violence, WomensLaw.Org, Domestic Violence Restraining Orders <https://www.womenslaw.org/laws/general/restraining-orders> (Provides a database where one can look up the duration of protection orders by state).

¹⁴⁵Peter Finn & Sarah Colson, *Civil Protection Orders: Legislation, Current Court Practice and Enforcement*, U.S. DEP'T JUST. (1990), <https://www.ojp.gov/pdffiles1/Digitization/123263NCJRS.pdf>; Mary Ann Dutton et al., *Use and Outcomes of Protection Orders by Battered Immigrant Women*, U.S. DEP'T JUST. 13-15 (Nov. 10, 2006), <https://niwapllibrary.wcl.american.edu/pubs/fam-gov-nijtechnicalreportprotectionorders11-10-06>.

the coercive control and harm that their perpetrators could continue inflict over immigrant survivors in the context of ongoing contact involving children.

Divorce, Custody, Child Support and Spousal Support

Divorce: The percentage of immigrant VAWA and U visa applicant survivors who were *rarely or never* willing to seek divorce dropped from 26% before filing, to only 4% at work authorization who were *rarely/never* willing to file for divorce (85% decline). *See Figures 45 and 47.* The proportion of immigrant survivors who are *often or almost always* willing to seek divorce grew 63% steadily from filing (22%), to work authorization (24%), and with the most increase by lawful permanent residency (36%). *See Figures 46, 47 and 48.*

Custody: VAWA and U visa victims' interest and willingness to seek child custody from the family courts follows a similar pattern. There is a 73% decline in immigrant victims who were *rarely or never* willing to seek child custody orders with 22% before filing to 6% unwilling to seek custody at work authorization. *See Figures 45 and 47.* These findings illustrate how before victims file their immigration cases and attain work authorization, abusers are able to use children as tools to coerce victims into staying in the abusive relationship. Like divorce, as immigrant victims gain stability and confidence as their case progresses through the immigration application process, victims are more willing to turn to state courts to obtain legal custody of their children and seek the court's help in structuring safe visitation arrangements designed to reduce future violence and abuse. Immigrant victims reported to *often or almost always* turn to courts when seeking legal custody of children which increased from 22% at filing, to 24% at work authorization, and rising to 32% at lawful permanent residency. *See Figures 46 and 47.*

Child Support: Study participants reported that victims have slightly more reticence to seek child support than child custody. This study found a decline in immigrant victims who are *rarely or never* interested in seeking child support from a high of almost one-third of immigrant VAWA and U visa victims (32%) pre-filing, to only 10% after receiving work authorization. *See Figures 45 and 47.* This amounts to a 69% decline. This reticence drops further at lawful permanent residency to 8% who are *rarely or never* willing to seek child support. *See Figure 48.* Once victims receive work authorization through lawful permanent residency, 42% are *often or almost always* willing to seek child support. *See Figures 47 and 48.*

Spousal Support: Substantially lower percentages of immigrant survivors are able to and are willing to seek spousal support. Generally, only married victims are eligible to seek and be awarded spousal support. When victims are married to U.S. citizens in cases where their spouses filed immigration cases on the victim's behalf, the victim may be eligible to obtain enforcement of the abuser's affidavit of support in addition to spousal support in a family court case.¹⁴⁶ For victims whose abusers are lawful permanent residents, visa holders, or undocumented, when state laws provide spousal support, domestic violence victims may have more access to spousal support than other divorcing wives.¹⁴⁷ In cases where the parties are not married, although victims can obtain some economic relief as part of a protection order, victims generally have no access to spousal support. Agencies participating in this study reported that the numbers of their VAWA and U visa clients who *rarely or never* sought

¹⁴⁶ Veronica Tobar Thronson, 'Til Death Do Us Part: Affidavits of Support and Obligations to Immigrant Spouses, 50 FAM. CT. REV. 594-605 (2012).

¹⁴⁷ *Divorce*, WOMEN'S L., <https://www.womenslaw.org/laws/general/divorce>.

spousal support declined by 32% from filing (56%) to work authorization (38%). *See Figures 45 and 47.* There was an additional slight decline in victims who would *rarely or never* seek spousal support to 46% at lawful permanent residency. *See Figure 48.*

**Figure 45: VAWA Self-Petitioner and U Visa Victim Use of Family Courts - Before Filing
(n=50 agencies)**

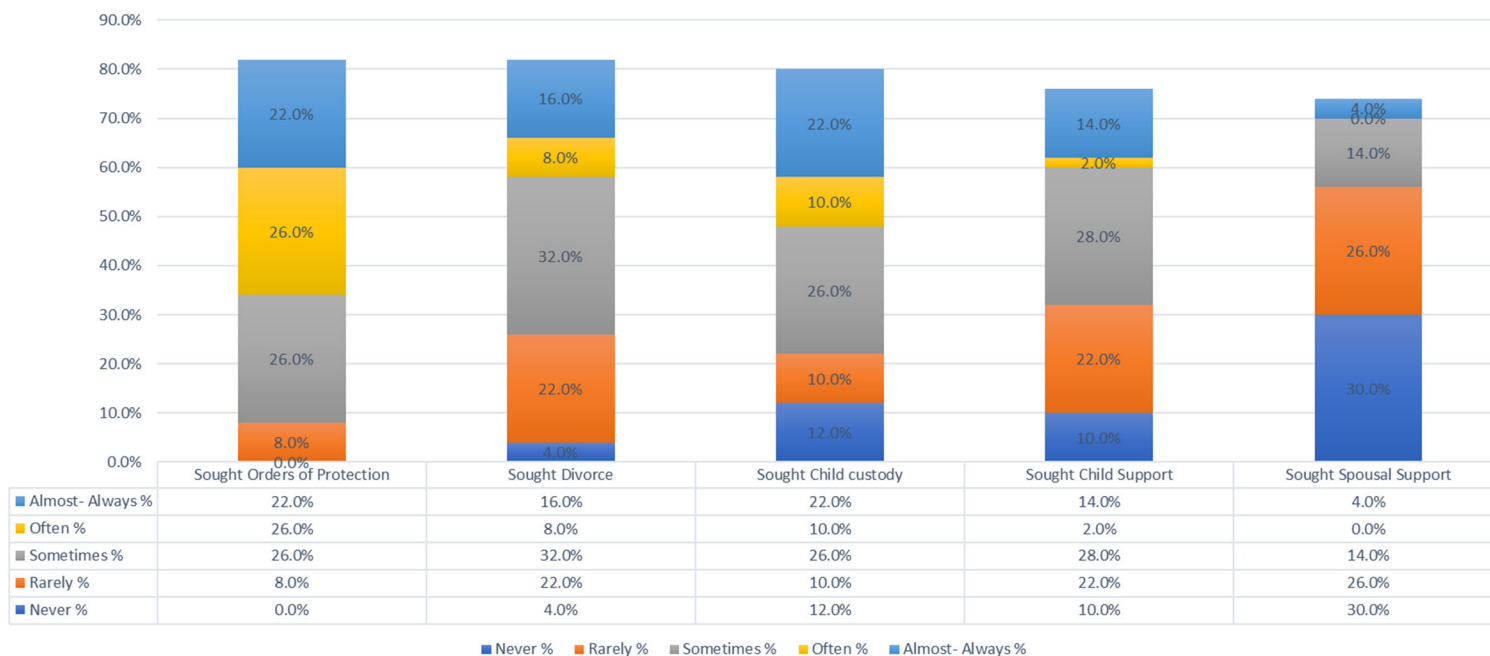


Figure 46: VAWA Self-Petitioner and U Visa Victim Use of Family Courts- Between Filing and Before Receiving Work Authorization (n=50 agencies)

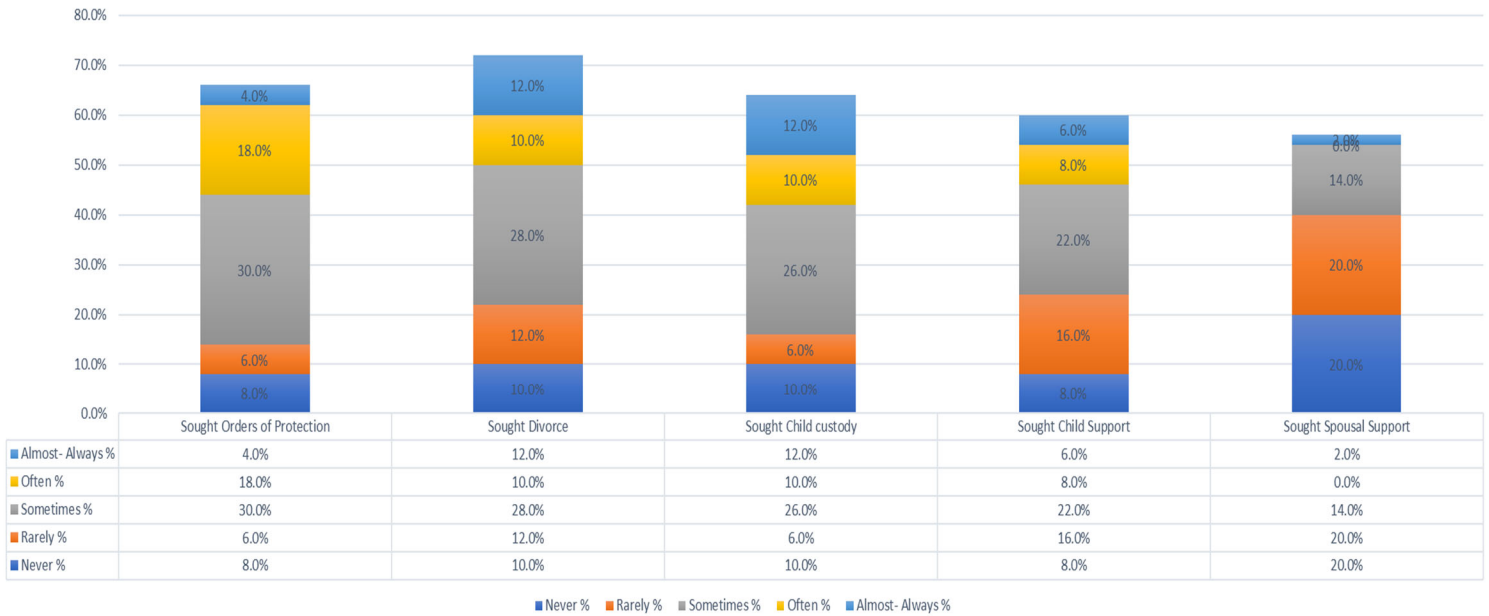


Figure 47: VAWA Self-Petitioner and U Visa Victim Use of Family Courts - After Work Authorization (n=50 agencies)

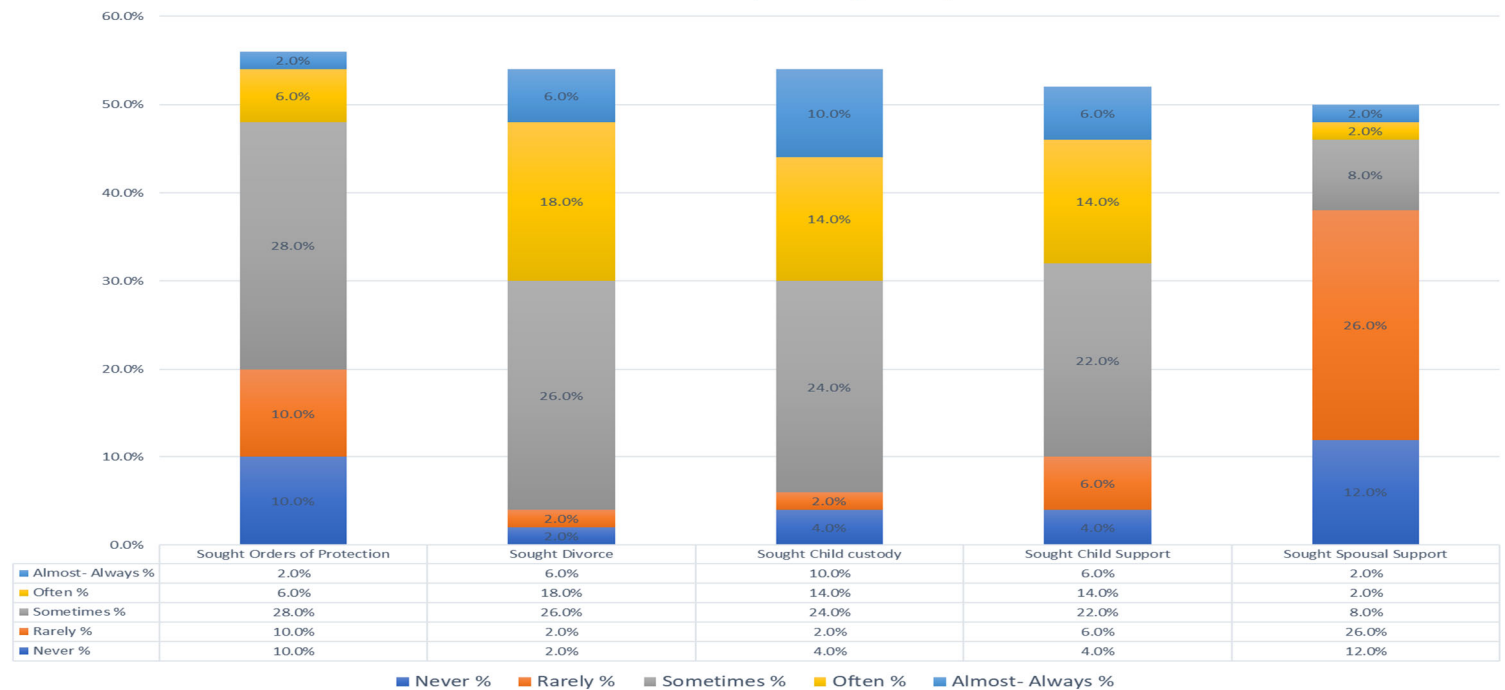
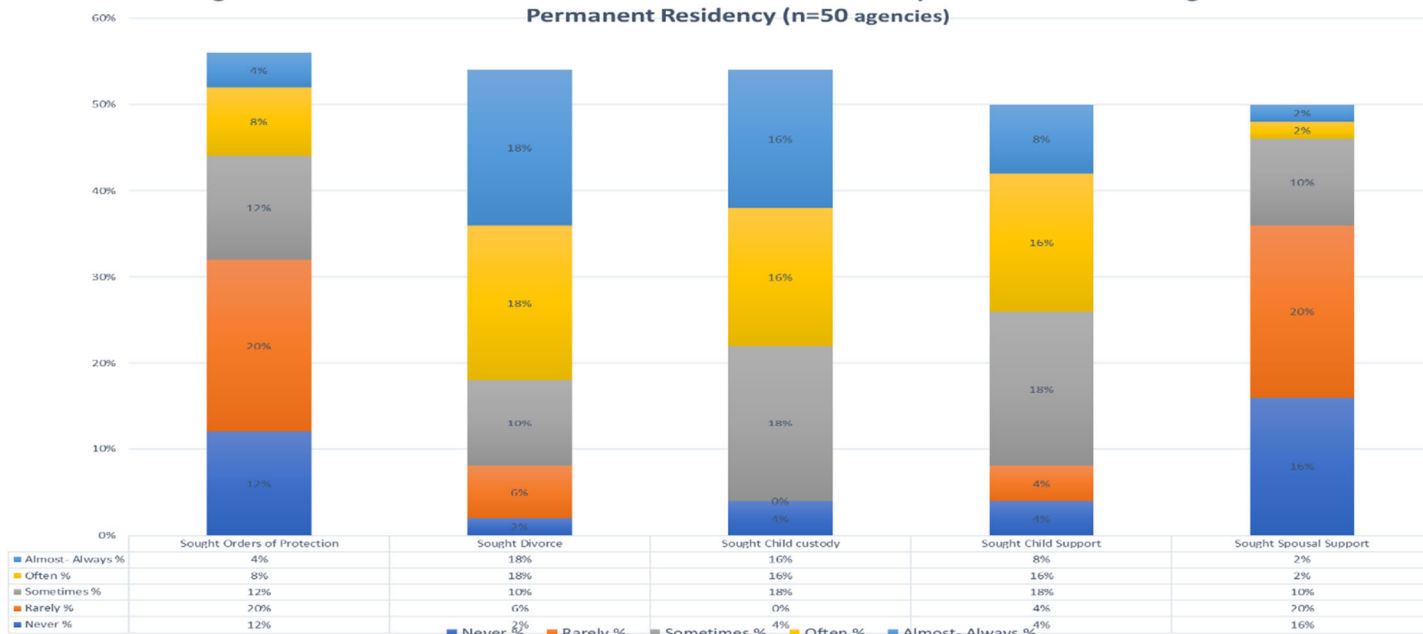


Figure 48: VAWA Self-Petitioner and U Visa Victim Use of Family Courts- After Receiving Lawful Permanent Residency (n=50 agencies)



The study underscores the importance of immigrant victims having access to justice and judges having greater access to legally correct information about how federal immigration laws and state family laws do and do not intersect.¹⁴⁸ Courts saw a rise in cases in which in state courts’ parties raise immigration status issues offensively to gain advantage in the state court case.¹⁴⁹ A 2018 research report also found “a greater percentage of participants reported that court cases were being interrupted due to immigrant victims’ fear of coming to court in 2017 than in 2016.”¹⁵⁰

This study documents the significant extent to which immigrant victims are willing to turn to the state family courts for help when they have been victims of domestic violence or when they or their children have been child abuse victims. Once immigrant victims obtain work authorization, victims they are more able to take steps to defend and protect themselves and their children from further harm including seeking child support and family courts orders granting them custody of children they share in common with their abusers.

VIII. VAWA and U Visa Victims’ Willingness to Seek Public Benefits, Programs Necessary to Protect Life and Safety, and Legal and Social Services

This section of the study sought to learn about how the process of seeking immigration relief affected immigrant victims’ help-seeking efforts. As victims of domestic violence, sexual assault, child

¹⁴⁸ For training materials for state courts on immigrant victims’ legal rights and best practices for courts when immigration issues arise in state family law cases, see *SJI and National Judicial Network Training Materials*, NIWAP (July 7, 2019), <https://niwaplibrary.wcl.american.edu/sji-jtn-materials>.

¹⁴⁹ Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant Crime Victims and Children: Findings of a National Judicial Survey and Recommendations*, in *Trends in State Courts: Courts and Society* 53 (Deborah W. Smith et al. eds., 2018).

¹⁵⁰ Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP 14, 102 (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

abuse and other crimes rebuild their lives following abuse, like by separating from their abusers and leaving abusive workplaces, victims need access to safety net services, such as housing, health care, and public benefits, that provide crucial assistance to help victims secure safety, economic security and the care they and their children need to heal.¹⁵¹ Prior research has found that victim advocates and attorneys who have the expertise of serving domestic and sexual violence victims and have the experience of serving the particular needs of immigrant survivors play a central role in helping immigrant victims access the services and support for which they legally qualify.¹⁵² There is a wide range of publicly funded services and assistance, which are necessary to protect life and safety, which are open to all survivors without regard to immigration status.¹⁵³ This includes access to shelter and transitional housing, food banks, emergency health care, health care from government-funded community and migrant clinics, help from the courts, police and prosecutors, and many other services.

However, access to state and federal public benefits programs is subject to immigrant restrictions that immigrant survivors and their children need help navigating because eligibility is a complex intersection of federal immigration laws and federal and state public benefits laws.¹⁵⁴ As victims begin applying for VAWA and U visa immigration benefits, their access to state and federal public benefits grows.¹⁵⁵ Immigrant survivors' and their children's eligibility for state or federal public benefits and services varies by state, the type of victim based immigration relief the victim has filed for, the time when the victim first entered the United States, and the type of benefits the victim needs.¹⁵⁶ For this reason, seeking assistance from well-trained victim advocates and attorneys is essential to ensure that immigrant victims gain access to all of the benefits and services they are legally eligible to receive.

Since VAWA and U visa applicants gain greater access to public benefits and safety net assistance as they move through the immigration case process, this study sought to understand the extent to which immigrant survivors who were eligible for various state and federal benefits programs and other government funded services (e.g. childcare, healthcare, health insurance, VOCA) were seeking and obtaining these forms of assistance and support.

Agencies were asked to report on the extent to which their immigrant VAWA and U visa clients were accessing federal and state public benefits and safety net services and 52 agencies provided data in response to these questions. This section divides the findings on this issue into two parts. First, the study asked responding agencies about the extent to which their VAWA and U visa clients sought housing assistance, vocational and educational programs, and healthcare, including mental health care. Immigrant victim clients' willingness to seek housing assistance, health care, educational grants and

¹⁵¹ Leslye Orloff, *Lifesaving Welfare Safety Net Access for Battered Immigrant Women and Children: Accomplishments and Next Steps*, 7 WM. & MARY J. RACE, GENDER, & SOC. JUST. 597, 614-621 (2001).

¹⁵² Krisztina E. Szabo & Leslye E. Orloff, *The Central Role of Victim Advocacy for Victim Safety While Victims' Immigration Cases are Pending*, NIWAP (Jun. 18, 2014), <https://niwaplibrary.wcl.american.edu/pubs/imm-qref-safetyplanning>; Mary Ann Dutton et al., *Use and Outcomes of Protection Orders by Battered Immigrant Women*, U.S. DEP'T JUST. (Nov. 10, 2006), <https://niwaplibrary.wcl.american.edu/pubs/fam-gov-nijtechnicalreportprotectionorders11-10-06>.

¹⁵³ Catherine Longville & Leslye E. Orloff, *Programs Open to Immigrant Victims and All Immigrants Without Regard to Immigration Status*, NIWAP (May 22, 2014), <https://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>.

¹⁵⁴ Cecilia Olavarria et al., *Public Benefits Access for Battered Immigrant Women and Children*, in *Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants* (Kathleen Sullivan & Leslye Orloff eds., 2013), <https://niwaplibrary.wcl.american.edu/pubs/ch4-2-public-bens-access-battered-immigrants>.

¹⁵⁵ See *All State Public Benefits Charts and Interactive Public Benefits Maps*, NIWAP (Jun. 7, 2019), <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts> (Providing tools to help professionals working with VAWA and U visa survivors look up which benefits each individual victim and their children apply for by state, immigration case type, and benefits program.).

¹⁵⁶ Soraya Fata et al., *Access to Programs and Services that Can Help Victims of Sexual Assault and Domestic Violence*, in *Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault* (Leslye Orloff ed., 2013), <http://niwap.wpengine.com/pubs/ch16-programaccessforsexualassaultdvictims>.

loans, and vocational training are discussed and reported in *Figures 49 to 53*. The latter half is the study's findings on immigrant survivors' willingness to access cash assistance through the Temporary Aid to Needy Families (TANF) program, subsidized child care, nutritional assistance including food stamps, legal services, victim services, and Victims of Crime Act Funded victim assistance. *See Figures 49, 50, 51, and 52.*

Prior to the discussion of study results on each of the benefits and services programs, this report begins with a short explanation of VAWA and U visa victims' legal eligibility of each program. This is followed by the study findings regarding victim access at the various stages of the victims' immigration cases. These stages include: before filing, between filing and receipt of work authorization, after receiving work authorization, and after attaining lawful permanent residency. This section will discuss how eligible immigrant victims are accessing services and how immigration case processing delays impact immigrant victims' access to these vital lifesaving services.

Housing

All immigrant victims of domestic violence, child abuse, sexual assault, stalking, dating violence, human trafficking, and other U visa covered criminal activities are legally eligible to access emergency shelter and transitional housing irrespective of the victims' or their child's immigration status.¹⁵⁷ As a matter of law, these programs are open to all persons including immigrant survivors because emergency shelter and transitional housing are programs necessary to protect health and safety and are exempt from immigration restrictions.¹⁵⁸ Victim advocates working in emergency and transitional housing programs play a crucial role in identifying immigrant survivors who qualify for immigration relief. These programs also help connect victims with other programs that can help victims prepare their VAWA and U visa immigration cases. Immigrant survivors and their children qualify for emergency shelter and transitional housing both before and after they file their VAWA and U visa immigration cases. Immigrant survivors need help from victim advocates and attorneys to assist them through the process of gaining access to these important housing programs.¹⁵⁹

Emergency Shelter: This study found that VAWA and U visa clients *sometimes, usually or often* received services from emergency shelter (62%) and transitional housing programs (48%) before the victims filed their immigration cases. *See Figure 49*. The study data reveals a 47% decline in immigrant victim clients *sometimes, usually, or often* needing emergency shelter from 62% pre-filing to 33% when the victim received work authorization. *See Figures 49 and 51*. The numbers of immigrant victims needing emergency shelter continues to decline to 25% after the victim attains lawful permanent residency. *See Figure 52*. In particular, the study data shows victims who *usually or often* sought emergency shelter experienced an 83% decline in the need for and use of emergency shelter from 35% pre-filing to 6% at or shortly after filing the victim's immigration case. *See Figures 49 and 50*.

¹⁵⁷ *Three Federal Agencies Issue Joint Agency Letter On Shelters and Transitional Housing*, NIWAP (Aug. 12, 2016), <https://niwaplibrary.wcl.american.edu/joint-agency-letter-shelters-transitional-housing>.

¹⁵⁸ Cecilia Olavarria et al., *Access to Programs and Services That Can Help Battered Immigrants*, in *Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants* (Kathleen Sullivan & Leslye Orloff eds., 2013), <https://niwaplibrary.wcl.american.edu/pubs/ch4-1-access-to-services-helpbatteredimm>.

¹⁵⁹ Meghan Fitzpatrick et al., *Access to Emergency Shelters and Transitional Housing for Battered Immigrants and Immigrant Victims of Crime*, NIWAP (Jun. 3, 2014), <https://niwaplibrary.wcl.american.edu/pubs/access-shelters-housing>.

Victim advocates working in emergency shelter programs can be the first to identify immigrant victims who qualify for VAWA and U visa immigration relief and they can help victims connect with community programs that have expertise filing VAWA and U visa cases. Filing for immigration relief puts victims on a path to stability, protection from deportation, and legal work authorization. This study's data provides evidence that once VAWA and U visa applicants attain legal work authorization they gain the confidence and economic security they need to move from emergency shelter to more permanent forms of housing for themselves and their children.

Transitional Housing: For domestic and sexual violence victims, finding housing they can afford independent of their abuser is a significant concern, second only to safety.¹⁶⁰ The time it takes for homeless families to secure permanent housing can be 9 months.¹⁶¹ For immigrant VAWA and U visa victims who are waiting to attain legal work authorization, securing permanent housing can take longer. Transitional housing programs provide important housing support for immigrant survivors with pending VAWA and U visa applications. The goal of transitional housing programs for victims is to provide a longer-term housing option and provide them the help and support they need to obtain and maintain permanent housing. Transitional housing programs provide survivors a minimum of a six-month stay with rent subsidies by the transitional housing program so the victim does not need to pay more than 30% of their income in rent.¹⁶² Since all immigrant victims are eligible for transitional housing programs, the study sought to learn the extent to which immigrant VAWA and U visa victims were participating in these programs.

The study reveals that before filing a VAWA or U visa case 48% of immigrant survivor clients of surveyed agencies were *sometimes, usually or often* participating in transitional housing programs. *See Figure 49.* It is likely that victim advocate staff in transitional housing programs may be playing an important role in helping immigrant victims learn about and obtain referrals to programs that help victims apply for VAWA and U visa immigration relief. Post-filing, there is little change in this level of need for transitional housing (46%). However, once victims attain legal work authorization, there is a 36% decline in VAWA and U visa victims need for transitional housing programs from 48% pre-filing to 31% *sometimes, usually or often* needing transitional housing at work authorization and lawful permanent residency. *See Figures 49, 51 and 52.* Generally, as immigrant victims gain legal work authorization, their income earning capacity increases thus allowing VAWA and U visa victims to leave transitional housing and move to permanent housing. The 31% continuing need for transitional housing programs can be a reflection of the difficulties for immigrant survivors with children to locate affordable market rate housing in their communities that is also safe from their perpetrators.

Public and assisted housing: Whether an immigrant survivor is eligible for public housing or assisted housing vouchers depends on the type of immigration case the victim is eligible to file. VAWA self-petitioners are eligible for public and assisted housing immediately after filing their VAWA self-petitions¹⁶³ and victims of human trafficking with continued presence or T visa applications with bona-

¹⁶⁰ Eleanor Lyon & Shannon Lane, *Meeting Survivor's Needs: A Multi-State Study of Domestic Violence Shelter Experiences*, NAT'L INSTITUTE JUST. (Oct. 2008), <https://www.ojp.gov/pdffiles1/nij/grants/225025.pdf>.

¹⁶¹ Testimony of Diane Yentel, President and CEO National Low Income Housing Coalition, Financial Services Committee United States House of Representatives 8 (April 30, 2019) <https://www.congress.gov/116/meeting/house/109380/witnesses/HHRG-116-BA00-Wstate-YentelD-20190430.pdf>

¹⁶² *Transitional Housing: Models & Rent Structures*, NAT'L NETWORK END DOMESTIC VIOLENCE (Aug. 2013), https://nnedv.org/wp-content/uploads/2019/07/Library_TH_2018_Housing_Models_Rent_Structures.pdf.

¹⁶³ *Access to Public and Assisted Housing VAWA Self-Petitioners*, NIWAP (Sep. 10, 2020), <https://niwaplibrary.wcl.american.edu/access-public-assisted-housing-vaawa-self-petitioners>.

fide determinations are also eligible for public and assisted housing.¹⁶⁴ In contrast, U visa victims do not become eligible for subsidies through public or assisted housing programs for many years until the U visa victim is granted lawful permanent residency.¹⁶⁵ Ineligible immigrant victims, including U visa applicants, with children who are eligible to receive public or assisted housing subsidies can qualify for public or assisted housing. However, the amount of subsidy received will be pro-rated to only include the citizen children's portion of the subsidy.¹⁶⁶ Further, in most communities there are long waiting lists for public housing units and housing vouchers that can delay access to housing subsidies for eligible immigrant victims. The most common way VAWA and T visa victims gain access to public and assisted housing units is if they live in a subsidized housing unit with their perpetrator. Once the victim through VAWA or the T visa become eligible for housing assistance, they can remove their perpetrator from the unit through a civil protection order, and remain in the housing unit receiving the subsidy on their own behalf.¹⁶⁷ This legal eligibility landscape impacts this study's findings regarding VAWA and U visa victims access to public and assisted housing since 72% of the clients served by study participant agencies were U visa victims and 28% were VAWA self-petitioners.

The study data shows that VAWA self-petitioner clients are accessing public and assisted housing benefits. While 29% of VAWA and U visa clients before filing would *rarely or never* access public or assisted housing, this rate drops 53% to 14% once victims attain legal work authorization reflecting the VAWA self-petitioners who became eligible for public or assisted housing once their VAWA self-petitions were filed. *Compare Figure 49 with Figure 51.* The study results also provide evidence of victims living with their abusers in public or assisted housing. Data shows that 46% of immigrant victim clients *sometimes, usually or often* resided in public or assisted housing before filing their immigration case. *See Figure 49.* This rate drops to 37% at filing reflecting immigrant victims leaving abusive homes that had housing subsidies. *See Figure 50.* Due to VAWA self-petitioner eligibility for public and assisted housing post filing, greater percentages of VAWA self-petitioner victims *sometimes, usually, or often* have access to public or assisted housing units by the time they receive legal work authorization (40%) and lawful permanent residency (44%). *See Figures 51 and 52.* In a closer examination, the study data on VAWA and U visa clients who *usually or often* obtain subsidized housing showed an 85% increase between filing (14%) and lawful permanent residency (25%). *See Figures 50 and 52.* This result reflects participant agencies' effective advocacy for immigrant victims.

Study results show that VAWA and U visa eligible immigrant survivors who participate in emergency shelter programs can move out of the emergency shelter to transitional housing programs and ultimately to permanent housing. This occurs because of the support victim advocates provide to immigrant survivors. Such support builds resiliency. Access to work authorization plays an important role in helping survivors move from shelter and transitional housing programs to permanent housing, including housing that is not subsidized. That VAWA self-petitioners are eligible for public and assisted housing early in their immigration case process makes this result possible and reflects what could also

¹⁶⁴ Jordan Tacher & Leslye E. Orloff, *Trafficking Victim Benefits Eligibility Process*, NIWAP (Mar. 2, 2018), <https://niwaplibrary.wcl.american.edu/pubs/bchcrd-trafficking-victim-benefits-eligibility-process>.

¹⁶⁵ Katelyn Deibler & Leslye E. Orloff, *U Visa Timeline with Background Checks*, NIWAP (Apr. 9, 2019), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-timeline>.

¹⁶⁶ U.S. Department of Health and Human Services, *Services Available to Victims of Human Trafficking: A Resource Guide For Social Services Providers* 8, 11, 22-23, 28 (May 2012) <https://www.acf.hhs.gov/sites/default/files/documents/otip/traffickingservices.pdf>.

¹⁶⁷ For information on immigrant survivor access to public and assisted housing and to shelter and transitional housing, see *February 22, 2017: Immigrant Access to Federally Assisted Housing (Webinar and Materials)*, NIWAP (Feb. 22, 2017), <https://niwaplibrary.wcl.american.edu/february-22-2017-immigrant-access-federally-assisted-housing>.

be achieved by U visa victims if legislative reforms gave U visa victims that same access to the public benefits safety net that VAWA self-petitioners have.

Educational Benefits and Vocational Training

Immigrant victims are eligible to participate in vocational training programs and to enroll in colleges and universities without regard to their immigration status. The application process, admission, and enrollment to all post-secondary educational programs have no immigration restrictions.¹⁶⁸

Post-Secondary Educational Benefits: VAWA self-petitioners and their children become eligible for post-secondary educational grants and loans when victims receive prima facie determinations from the Department of Homeland Security (DHS) about 3 months after the filing their VAWA immigration case.¹⁶⁹ U visa victims and their children only become eligible for post-secondary educational grants and loans once they are granted lawful permanent residency.¹⁷⁰ Some states offer in-state tuition and state funded grants and/or loans to high school graduates who meet state specific eligibility criterion.¹⁷¹

Participant agencies reported a 597% increase in immigrant VAWA and U visa victims and their children *sometimes, usually and often* accessing post-secondary educational grants and loans from 6% before filing to 40% by the time both VAWA and U visa victims are eligible at lawful permanent residency. *See Figures 49 and 52.* Study responses also revealed that VAWA self-petitioners and their children started accessing these benefits *sometimes, usually, or often* after filing (14%) and after work authorization (25%). *See Figures 50 and 51.*

Vocational Training: In addition surveyed agencies reported that as victims' immigration cases progress more clients seek vocational education to prepare for better jobs, including jobs in the trades. Study results found that as VAWA and U visa victims' cases move through the immigration system, they are more likely to *sometimes, usually or often* seek vocational education rising from 12% at filing to 21% at work authorization and 27% by lawful permanent residency. There is a 132% increase from filing to work authorization.

Health Care

Most access to health care in the U.S. is subject to immigration restrictions under state or federal laws. The four health care options that are open to immigrant crime victims that do not have immigration restrictions are Victims of Crime Act funded reimbursement for health care expenses,¹⁷²

¹⁶⁸ *Aliens Who May Be Unlawfully Present in the United States and Their Access to Public Post Secondary Educational Institutions*, U.S. IMMIGR. & CUSTOMS ENF'T (Jul. 6, 2010), <https://niwaplibrary.wcl.american.edu/pubs/aliens-access-postsecondary-education>.

¹⁶⁹ Katelyn Deibler & Leslye E. Orloff, *U Visa Timeline with Background Checks*, NIWAP (Apr. 9, 2019), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-timeline>; Cecilia Olavarria et al., *Public Benefits Access for Battered Immigrant Women and Children, in Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants* (Kathleen Sullivan & Leslye Orloff eds., 2013), <https://niwaplibrary.wcl.american.edu/pubs/ch4-2-public-bens-access-battered-immigrants>.

¹⁷⁰ *2014-2015 Federal Student Aid Handbook*, U.S. DEP'T EDUC. (Jun. 6, 2014), <https://fsapartners.ed.gov/sites/default/files/2021-02/2014-2015%20Chapter%202%20-%20Citizenship.pdf>.

¹⁷¹ To learn what federal or state funded educational benefits victims qualify for in your state see NIWAP's public benefits map and state charts. *All State Public Benefits Charts and Interactive Public Benefits Maps*, NIWAP (Jun. 7, 2019), <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

¹⁷² For state-by-state charts on immigrant access to VOCA funded post-assault health care see, *Post-Assault Healthcare and Crime Victim Compensation for Immigrant Victims of Violence - Medical Coverage and Services for Immigrants*, NIWAP (Sep. 13, 2017), <https://niwaplibrary.wcl.american.edu/pubs/ch17-3-postassault-healthcare-compensation>.

emergency Medicaid,¹⁷³ healthcare provided by community and migrant health clinics,¹⁷⁴ and healthcare provided by Hill-Burton funded facilities.¹⁷⁵ All COVID-19 testing and treatment is funded by Emergency Medicaid and open to all persons without regard to immigration status.¹⁷⁶

Immigration restrictions on health care access govern which immigrant victims and immigrant families are eligible to purchase health care on federal and state health care exchanges. These laws also govern whether and when victims can receive subsidized health care under Medicaid, the Children's Health Insurance Program (CHIP), Medicare, or state funded health subsidy programs.¹⁷⁷ Under federal law, immigrants who are lawfully present are eligible to purchase healthcare insurance on the state exchanges.¹⁷⁸ Lawfully present immigrants include VAWA self-petitioners with prima facie determinations, T visa applicants with bona fide determinations, children with pending applications for Special Immigrant Juvenile Status (SIJS), and wait-list approved U visa applicants.¹⁷⁹

Whether immigrant survivors qualify for healthcare subsidies and state funded health insurance depends on:

- (1) Which immigration benefit the victim is applying for;
- (2) When the victim first entered the United States;
- (3) What state the victim resides in; and,
- (4) Whether the victim is an adult, a child, or is pregnant.

Interactive state public benefits map and state-by-state charts are available to assist professionals working with immigrant crime victims to determine whether and when an immigrant victim client qualifies to purchase health insurance on the healthcare exchanges and separately whether the abused immigrant client or their children qualify for subsidized healthcare.¹⁸⁰

Generally, within three months after filing a VAWA immigration case, a VAWA self-petitioner and any children in their application will be lawfully present for health care purposes. At that point, self-petitioners can purchase health insurance on the Affordable Care Act exchanges.¹⁸¹ Whether they are eligible for subsidized healthcare depends on the facts of their case and the four factors listed above.

¹⁷³ Emergency Medicaid covers the costs of COVID-19 testing and treatment. *Resources to Support Immigrant Survivors of Domestic Violence and Sexual Assault During the COVID-19 Pandemic*, NIWAP (May 8, 2020), <https://niwaplibrary.wcl.american.edu/other-resources-covid-19>.

¹⁷⁴ Catherine Longville & Leslye E. Orloff, *Programs Open to Immigrant Victims and All Immigrants Without Regard to Immigration Status*, NIWAP (May 22, 2014), <https://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>.

¹⁷⁵ *Hill-Burton Free and Reduced-Cost Health Care*, HEALTH RES. & SERVS. ADMIN. (Mar. 2021), <https://www.hrsa.gov/get-health-care/affordable/hill-burton/index.html>.

¹⁷⁶ See Healthcare section of *Resources to Support Immigrant Survivors of Domestic Violence and Sexual Assault During the COVID-19 Pandemic*, NIWAP (May 8, 2020), <https://niwaplibrary.wcl.american.edu/other-resources-covid-19>.

¹⁷⁷ Leslye E. Orloff et al., *Access to Health Care for Immigrant Victims of Sexual Assault*, in *Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault* (Leslye Orloff ed., 2013), <https://niwaplibrary.wcl.american.edu/pubs/ch17-accesshealthcare>;

Rocio Molina, *Eligibility Under the Affordable Care Act for Survivors of Domestic Violence, Trafficking, and Other Serious Crimes*, NIWAP (Jun. 23, 2014), <https://niwaplibrary.wcl.american.edu/pubs/victims-aca-healthcare-eligibility>; Carly Erickson & Leslye E. Orloff, *VAWA Self-Petitioner Victim Benefits under the Affordable Care Act (ACA)*, NIWAP (Jun. 18, 2014), <https://niwaplibrary.wcl.american.edu/pubs/vawa-healthcare-aca>; Carly Erickson & Leslye E. Orloff, *U-Visa Victim Benefits under the Affordable Care Act (ACA)*, NIWAP (Jun. 18, 2014), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-healthcare-aca>.

¹⁷⁸ *Medicaid and CHIP Coverage of "Lawfully Residing" Children and Pregnant Women*, DEP'T HEALTH & HUM. SERVS. (Jul. 1, 2010), <https://niwaplibrary.wcl.american.edu/pubs/pb-gov-hhslawfullyresidingmedicaid-07-01-10-also-in-qualified-immigrants>.

¹⁷⁹ *Id.*

¹⁸⁰ NIWAP has developed state-by-state public benefits charts and an interactive map that allows users to look up which immigrant victims qualify for which health care subsidies and other public benefits in each state. *Maps by Benefit*, NIWAP, <https://niwaplibrary.wcl.american.edu/interactive-public-benefits-map> (last visited Mar. 29, 2021).

¹⁸¹ Carly Erickson & Leslye E. Orloff, *VAWA Self-Petitioner Victim Benefits under the Affordable Care Act (ACA)*, NIWAP (Jun. 18, 2014), <https://niwaplibrary.wcl.american.edu/pubs/vawa-healthcare-aca>.

Self-petitioning children and pregnant women are the self-petitioners to whom the greatest number of states offer subsidized healthcare.

U visa victims do not become lawfully present for healthcare purposes until they are granted deferred action.¹⁸² It can take up to five years after the U visa case is filed to receive wait-list approval which is the point at which DHS grants U visa applicants deferred action.¹⁸³ Once a U visa victim is lawfully present, they become eligible to purchase health care on the Affordable Care Act exchanges. Whether lawfully present U visa victims and their children who are included in their U visa applications are granted access to state funded health care subsidies varies by state and is most commonly offered only to children and pregnant women with very limited access to subsidized health insurance access for adults.¹⁸⁴

Adult healthcare: Surveyed agencies reported a 65% reduction in the percent of their immigrant clients that *rarely or never* accessed adult health care. The rate declines from 33% before filing the victim's immigration case to only 12% unwilling to access adult healthcare after the victim receives work authorization and 8% unwilling after the victim attains lawful permanent residency. *Compare Figures 49 with Figures 51 and 52.* Fear of deportation and mistaken beliefs about how accessing subsidized healthcare may affect immigration relief may impact victims' decisions to pursue subsidized health care.¹⁸⁵ Advocates and attorneys working with immigrant victims need to learn more about health care options in their state and become more involved in correctly informing victims on immigrant victims' health care options.

The study data also shows that adult immigrant VAWA and U visa applicants are generally accessing health care later than they are legally entitled to do so. Among the study participants' clients, 28% are VAWA self-petitioners who are eligible to access adult health care shortly after filing their applications. However, the rate of victims *usually or often* accessing adult healthcare is only 14% after filing and only rises slightly 19% after work authorization. *Compare Figures 50 with Figure 51.* By the time VAWA and U visa victims become lawful permanent residents, all victims are healthcare eligible but only 33% *usually or often* access healthcare after attaining lawful permanent residency. *See Figure 52.*

Prenatal care: Similarly, study results reflect that immigrant VAWA and U visa applicants appear to be accessing prenatal care at lower rates than victims would be eligible for in most states. Although 22 states provide free prenatal care to all persons without regard to immigration status, only 21% of immigrant victim clients *usually or often* access prenatal care post-filing when VAWA self-petitioners are eligible. *See Figure 50.* At the lawful permanent residency stage, all VAWA self-petitioners and U visa victims are eligible for prenatal in 22 states but only 35% are accessing prenatal care after receiving lawful permanent residency. *See Figure 52.* This rate is particularly low given that immigrant victims qualify to receive prenatal care from community and migrant health clinics in

¹⁸² Carly Erickson & Leslye E. Orloff, *U-Visa Victim Benefits under the Affordable Care Act (ACA)*, NIWAP (Jun. 18, 2014), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-healthcare-aca>.

¹⁸³ Katelyn Deibler & Leslye E. Orloff, *U Visa Timeline with Background Checks*, NIWAP (Apr. 9, 2019), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-timeline>.

¹⁸⁴ *Maps by Benefit*, NIWAP, <https://niwaplibrary.wcl.american.edu/interactive-public-benefits-map> (last visited Mar. 29, 2021).

¹⁸⁵ For example, immigrant survivors may wrongly believe that accessing health care could have public charge implications for their immigration case which is legally incorrect. VAWA and U visa victims are exempt from public charge and health care is not considered in public charge determinations. Catherine Longville & Leslye E. Orloff, *Immigrant Crime Victims and Public Charge: Post-VAWA 2013*, NIWAP (Aug. 14, 2019), <https://niwaplibrary.wcl.american.edu/pubs/public-charge-ground-of-inadmissibility-and-immigrant-crime-victims>.

addition to the subsidies that may be available in victims' states. Advocates and attorneys can play an important role in identifying the prenatal care options that immigrant survivors can access in their states and assisting immigrant survivors in accessing prenatal care.

Child healthcare: In contrast, child healthcare and mental healthcare appear to be two areas of benefits that victims are accessing at better rates. Child victim applicants and children in VAWA and U visa applications are *usually or often* accessing health care at higher rates than adults. Children *usually or often* access healthcare at filing and work authorization (37%) compared to adult victims' healthcare access rates of 14% at filing and 19% at work authorization. *See Figures 50 and 51.* Children access health care at 42% at lawful permanent residency compared to 33% for adults at lawful permanent residency. *See Figure 52.*

The study data provides evidence of the impact that separation from abusers in domestic violence cases has on children's access to health care. Study participants report that 50% of their abused immigrant clients' children and abused immigrant children clients *usually or often* had access to child healthcare before victims filed their VAWA or U visa applications. *See Figure 49.* This likely reflects children losing access to health insurance provided by their parent who was the perpetrator of the abuse their mother suffered. This is an important finding that the family courts could remedy in protection orders, divorce, or custody cases by issuing orders requiring that the non-custodial abusive parent keep the children on the abusive parent's health insurance policy.

Mental healthcare: Study participants report that survivors are *sometimes, usually or often* accessing mental health care at a rate of 31% at filing rising slightly by 12% to over a third (35%) at work authorization and lawful permanent residency. *See Figures 50, 51 and 52.* The study asked agency participants to report on the most common reasons VAWA and U visa victims seek help from mental health professionals. *Figure 53* illustrates the top three reasons that immigrant victims are referred to mental health care providers:

- Client's request (91%);
- Due to behavior and functioning the client reported (91%);
- Clients' functioning issues reported by others (91%).

Figure 49: VAWA Self-Petitioner's and U Visa Victim's Willingness to Seek Housing, Health Care and Educational Benefits - Before Filing (n=52 agencies)



Figure 50: VAWA Self-Petitioner's and U Visa Victim's Willingness to Seek Housing, Health Care and Educational Benefits - Between Filing and Receipt of Work Authorization (n=52 agencies)

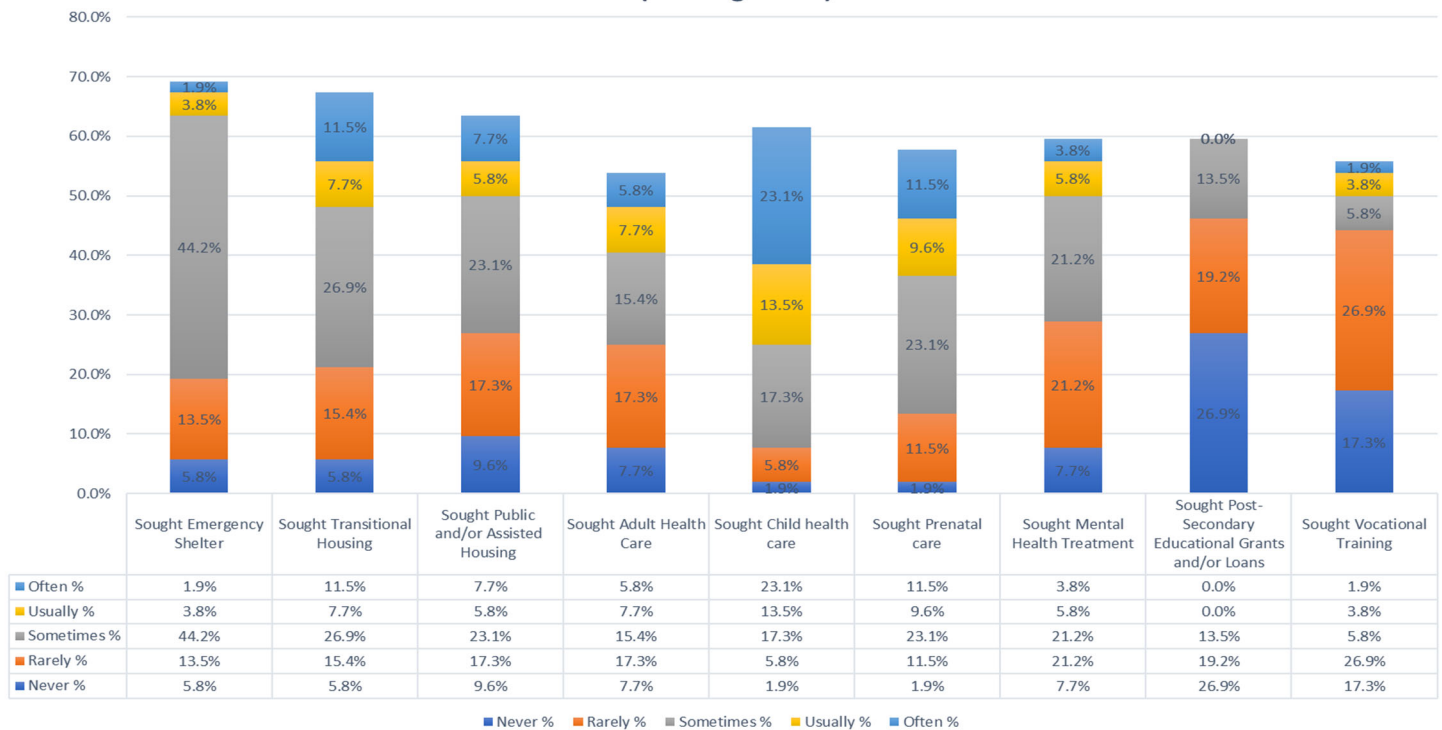


Figure 51: VAWA Self-Petitioner's and U Visa Victim's Willingness to Seek Housing, Health Care and Educational Benefits - After Receiving Work Authorization (n=52 agencies)

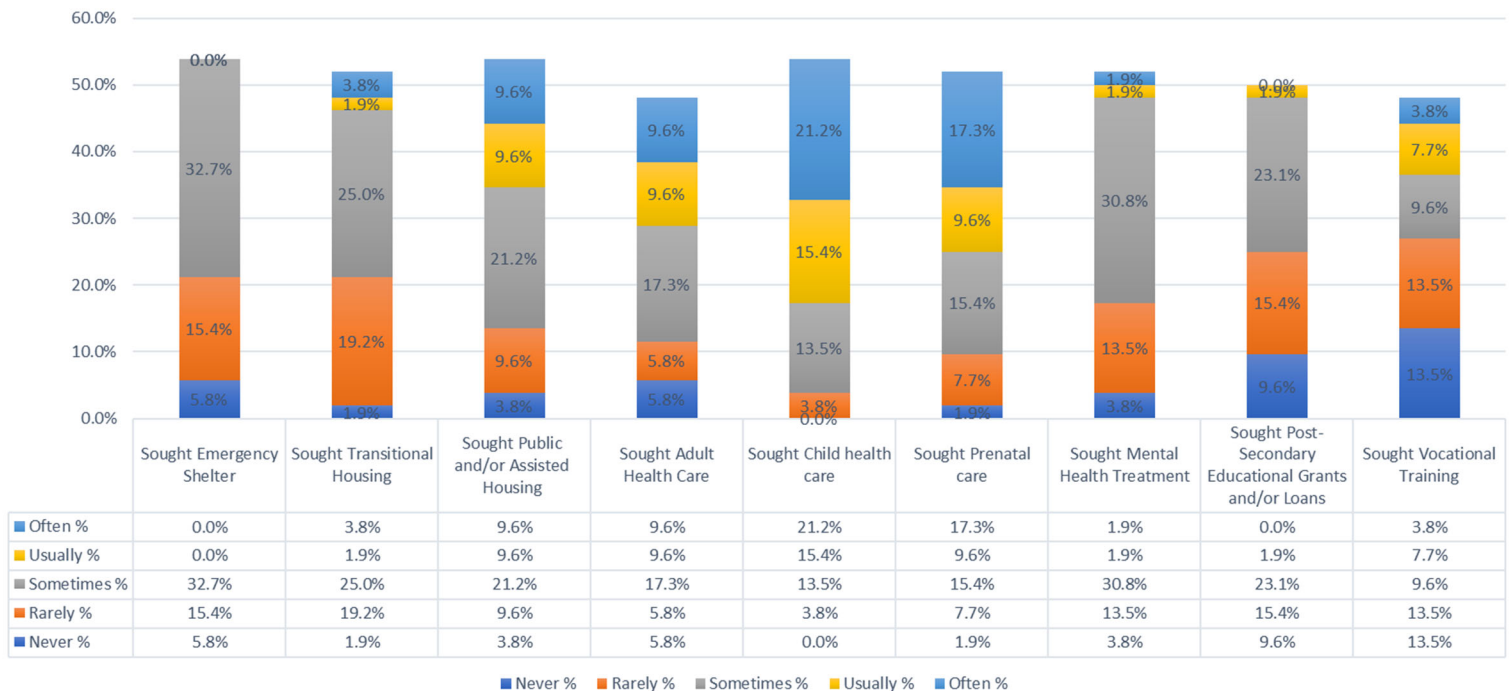


Figure 52: VAWA Self-Petitioner's and U Visa Victim's Willingness to Seek Housing, Health Care, and Educational Benefits - After Attaining Lawful Permanent Residency (n=52 agencies)

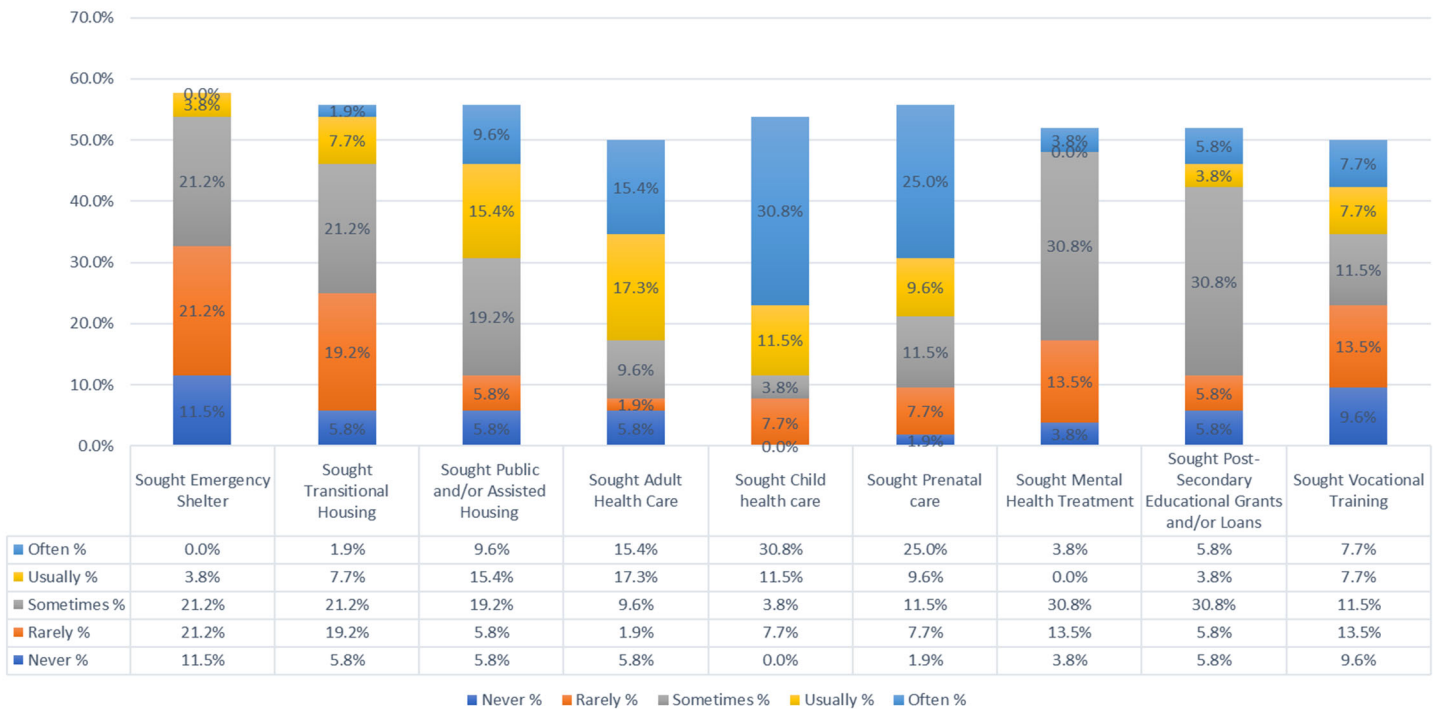
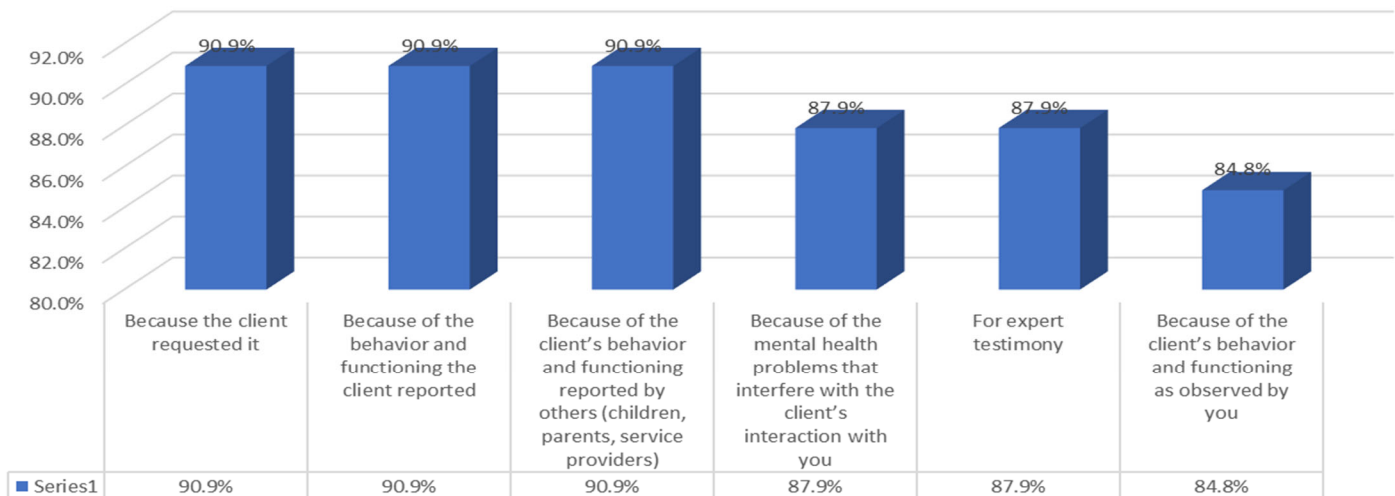


Figure 53: Common Reasons for Referring VAWA & U Visa victims to Seek Help From Mental Health Professionals (n=33 agencies)



Temporary Aid to Needy Families (TANF) and State Cash Assistance

TANF is one of the more difficult public benefits programs for immigrant survivors to access. U visa victims and their children only qualify 5 years after they have received lawful permanent residency, and VAWA self-petitioners must wait 5 years after becoming a qualified immigrant (three months after filing the VAWA self-petition) to qualify. A small number of states have elected to provide state funded TANF to immigrant VAWA and U visa victims or to offer all qualified immigrants 5 years of state funded TANF while immigrants await federal eligibility.¹⁸⁶

Immigrant victims are more likely to access TANF for their citizen children than for themselves. For those victims who can access TANF or state cash assistance, this study found that as VAWA and U visa victims gain access to legal work authorization their need to rely on TANF for support for their eligible citizen children gradually declines. There was an 11% decline in immigrant survivors whose children *sometimes, usually or often* received TANF from 35% at filing to 33% at work authorization and 31% at lawful permanent residency. *See Figures 54, 55, and 57.* However, findings show a slight increase of 12% in the low levels of immigrant VAWA and U visa victims who *usually or often* access state cash assistance from 14% at filing, to 17% at work authorization and 21% at lawful permanent residency. *See Figures 55, 56, and 57.* The extent to which abusers of VAWA and U visa victims who share a child in common with the victim fail to pay child support is a contributing factor as to why access to access TANF and state funded cash assistance is so important.¹⁸⁷

Subsidized Child Care

Child care funded by the Child Care Development Fund (CCDF) is open to all with no immigration restrictions when the child care program is:

- (1) A Head Start or Early Head Start program,
- (2) Subject to public educational standards, or
- (3) Eligible for subsidizing based on a non-profit charitable organization's determination.¹⁸⁸

TANF funded childcare is more restrictive and is only open for immigrant children who are lawful permanent residents or qualified immigrants. Like TANF eligibility requirements, children must wait for 5 years¹⁸⁹ after they become lawful permanent residents or qualified immigrant children to be eligible for TANF funded child care. States may elect to provide state TANF funded childcare during the five-year bar to federal TANF funded child care. Generally, one must be TANF eligible to be eligible for TANF funded childcare.

Since most victims will qualify for CCDF funded childcare and a smaller proportion will qualify for TANF funded childcare, the survey asked participating agencies to report on the extent to which immigrant victim clients and their children accessed subsidized childcare without distinguishing between the two programs. Study participant agencies reported a 59% decline in their VAWA and U

¹⁸⁶ See TANF section of state-by-state charts. *All State Public Benefits Charts and Interactive Public Benefits Maps*, NIWAP (Jun. 7, 2019), <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>; *State-Funded TANF Replacement Programs*, NAT'L IMMIGR. L. CTR. (Apr. 2020), https://www.nilc.org/issues/economic-support/guide_tanf/.

¹⁸⁷ National Conference of State Legislators, *Child Support and Domestic Violence* (November 28, 2017) <https://www.ncsl.org/research/human-services/child-support-and-domestic-violence.aspx>.

¹⁸⁸ GUIDE TO IMMIGRANT ELIGIBILITY FOR FEDERAL PROGRAMS, NAT'L IMMIGR. L. CTR. 116-117 (2002).

¹⁸⁹ See child care section of state-by-state charts. *All State Public Benefits Charts and Interactive Public Benefits Maps*, NIWAP (Jun. 7, 2019), <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

visa clients who *rarely or never* access subsidized childcare, from 43% before filing to 17% when victims attain legal work authorization. *See Figures 55 and 56.*

Access to subsidized childcare provides critical support¹⁹⁰ as immigrant victims separate from abusers, gain legal work authorization, and obtain better paying jobs with more benefits. *See Figures 74, 75, 76, 77 and 78.* With regard to immigrant victim clients who *sometimes, often or always* accessed subsidized childcare, study participants reported that as victims moved through the immigration case process, greater numbers gradually gained access to subsidized childcare. There was a 36% increase in immigrant VAWA and U visa victims who *sometimes, often or always* received subsidized childcare for their children, from 27% post-filing to 33% at work authorization and reaching 37% once victims gain lawful permanent residency. *See Figures 55, 56 and 57.* The data seems to support a conclusion that victim advocates, attorneys and government agency staff are informing victims about access to subsidized childcare. When advocates and attorneys have information about what childcare subsidies immigrant survivors qualify for, they are better able to assist all VAWA and U visa victims in applying for and gaining access to subsidized childcare. This impacts both immigrant survivors' economic security and the health and development of survivors' children.

Nutritional Assistance Programs

The U.S. Department of Agriculture's Women Infants Children (WIC) food program is designed to meet the nutritional needs of pregnant women and young children.¹⁹¹ Food banks, soup kitchens, and other nutritional assistance programs that distribute food locally are considered programs that are necessary to protect health and safety.¹⁹² Both of these types of food assistance programs are open to all persons facing food insecurity without regard to immigration status.¹⁹³ In contrast, access to the federally funded Supplemental Nutrition Assistance Program (SNAP) is limited to qualified immigrants including VAWA applicants, lawful permanent residents, human trafficking victims who are under age 18, elderly, and disabled persons. A small number of states offer some state-funded food assistance to limited groups of immigrants.¹⁹⁴ This survey asked three separate questions on the extent to which immigrant survivor clients were accessing:

- Nutrition assistance programs: (e.g. soup kitchens, food banks, school lunch programs) – Agencies participating in the study reported a 40% decline in the numbers of VAWA and U visa clients who were unwilling (*rarely or never*) to seek help from food assistance programs, from 29% before filing to 17% after work authorization and 15% by lawful permanent residency. *See Figures 54, 56, and 57.* The data also reflects a small but gradual increase of VAWA and U visa victims who *usually or often* receive help from nutrition assistance programs from 12% post-filing to 15% at work authorization and 17% after lawful permanent residency. *See Figures 55, 56, and 57.*

¹⁹⁰ *Subsidized Child Care*, CHILD CARE L. CTR., <https://www.childcarelaw.org/what-we-do/subsidized-child-care/> (last visited Apr. 8, 2021).

¹⁹¹ 42 U.S.C. § 1786 (2018); Women, Infants, and Children (WIC), U.S. DEP'T OF AGRIC. FOOD & NUTRITION SERV., <https://www.fns.usda.gov/wic/#:~:text=The%20Special%20Supplemental%20Nutrition%20Program,to%20age%20five%20who%20are>

¹⁹² Catherine Longville & Leslye E. Orloff, *Programs Open to Immigrant Victims and All Immigrants Without Regard to Immigration Status*, NIWAP (May 22, 2014), <https://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>.

¹⁹³ *Id.*; Tracy Vericker et al., *Effects of Immigration on WIC and NSLP Caseloads*, URB. INST. 1-2 (Sep. 2010),

<https://www.urban.org/sites/default/files/publication/29156/412214-Effects-of-Immigration-on-WIC-and-NSLP-Caseloads.PDF>.

¹⁹⁴ *State-Funded Food Assistance Programs*, NAT'L IMMIGR. L. CTR. (Apr. 2020), https://www.nilc.org/issues/economic-support/state_food/. Look up what is available to immigrant survivors in your state. *All State Public Benefits Charts and Interactive Public Benefits Maps*, NIWAP (Jun. 7, 2019), <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

- WIC: Study respondents reported a 62% decline in the numbers of their VAWA and U visa clients who were *rarely or never* willing to access WIC nutritional assistance for pregnant women and under 5-year-old children from 15% before filing the victim's immigration case to 6% after victims received work authorization. *See Figures 54 and 56*. There was no change reported in the numbers of VAWA and U visa clients who *usually or often* received WIC nutritional assistance. It remained steady at 35% from before filing to receipt of lawful permanent residency. *See Figures 54 and 57*. These findings are consistent with the Urban Institute Research finding that WIC was one of the more accessible nutrition assistance programs for immigrant families.¹⁹⁵
- SNAP: Study participant agencies are victim advocates when they help immigrant survivors get their children access to food through the SNAP program including both citizen children and children included in the survivors' VAWA self-petition. After immigrant victims file VAWA self-petition cases, the study data shows a 58% decline in the number of children of immigrant survivors who *rarely or never* receive SNAP, declining from 23% before filing to 10% at work authorization and lawful permanent residency. *See Figures 54, 56, and 57*. The study also found a slight increase of 18% in immigrant clients' children who *usually or often* receive SNAP assistance from 31% at filing to 36% upon receipt of lawful permanent residency. *See Figures 55 and 57*.

Victim Services and Assistance and Legal Assistance

Legal Services: Immigrant victims of domestic violence, sexual assault, child abuse, human trafficking, and other U visa listed criminal activities are eligible for legal aid and legal assistance from all organizations offering legal services without immigration restrictions.¹⁹⁶ Study participant agencies reported that immigrant VAWA and U visa applicants have an ongoing need for legal services assistance not limited to the victim's immigration case. Representation is needed particularly for protection order, custody, divorce, child support, and spousal support cases. *See Figures 45, 46, 47 and 48*. As victims move through the immigration case process and family matters are resolved by courts through protection orders and orders granting immigrant victims custody, visitation, and support, a victim's needs for legal representation over time lessen and focus more on enforcing the court orders. The study found a 28% reduction in victims who *sometimes, usually or often* need legal assistance from 59% before filing to 42% at work authorization and lawful permanent residency. *See Figures 54, 56, and 57*.

Victims' services: Victims of Crime Act (VOCA) funded assistance for crime victims is open to all persons without regard to immigration status.¹⁹⁷ The types of financial costs VOCA victim assistance covers vary by state and often includes, for example:¹⁹⁸

¹⁹⁵ *Effects of Immigration on WIC and NSLP Caseloads*, URB. INST. 1-2 (Sep. 2010),

<https://www.urban.org/sites/default/files/publication/29156/412214-Effects-of-Immigration-on-WIC-and-NSLP-Caseloads.PDF>.

¹⁹⁶ Cheryl Zalenski, *The Need for Pro Bono Assistance to Unaccompanied Immigrant Children*, NAT'L LEGAL AID & DEF. ASS'N CORNERSTONE, Apr. 2015, at 14.

¹⁹⁷ *See* Victims of Crime Act Victim Assistance Program, 81 Fed. Reg. 44,515, 44,522 (Jul. 8, 2016) (to be codified at 28 C.F.R. pt. 94). The only state that places any immigrant restrictions on access to VOCA assistance to victims is Alabama.

¹⁹⁸ For details on each state's VOCA assistance program for victims and immigrant access eligibility see, *Post-Assault Healthcare and Crime Victim Compensation for Immigrant Victims of Violence - Medical Coverage and Services for Immigrants*, NIWAP (Sep. 13, 2017), <https://niwaplibrary.wcl.american.edu/pubs/ch17-3-postassault-healthcare-compensation>.

- Out-of-pocket expenses (e.g. changing locks, installing security cameras, crime scene cleanup, replacing damaged property);
- Physical and mental healthcare costs, prescriptions, and rehabilitation related to healing following crime victimization or abuse;
- Moving expenses necessary due to the crime;
- Travel costs associated with court appearances, meeting with law enforcement, or medical or mental health treatment; and
- Replacement costs for work victims can no longer perform (e.g. housekeeping or childcare costs).

Since all victim services provide help to crime victims that is necessary to protect life and safety all crime victim assistance funding and services are exempt from immigration restrictions. This study asked about three different forms of victim assistance to access immigrant VAWA and U visa victims' access to these important services—victim services, social services for crime victims, and VOCA funded crime victim assistance paid to reimburse victims costs associated with having suffered and the process of healing from crime victimization.

As it pertains to victim services, this study found that victims' services and social services were being used at higher rates than VOCA victims' assistance funding. VAWA or U visa immigrant victims *usually or often* sought the following services at different points in time in the victim's immigration case process: (See Figures 54, 55, 56, and 57)

- Before filing: victim assistance (35%), social services (31%), and VOCA (10%);
- After filing: victim assistance (23%), social services (19%), and VOCA (6%);
- At work authorization: victim assistance (15%), social services (17%), and VOCA (2%);
- After lawful permanent residency: victim assistance (14%), social services (15%), and VOCA (2%).

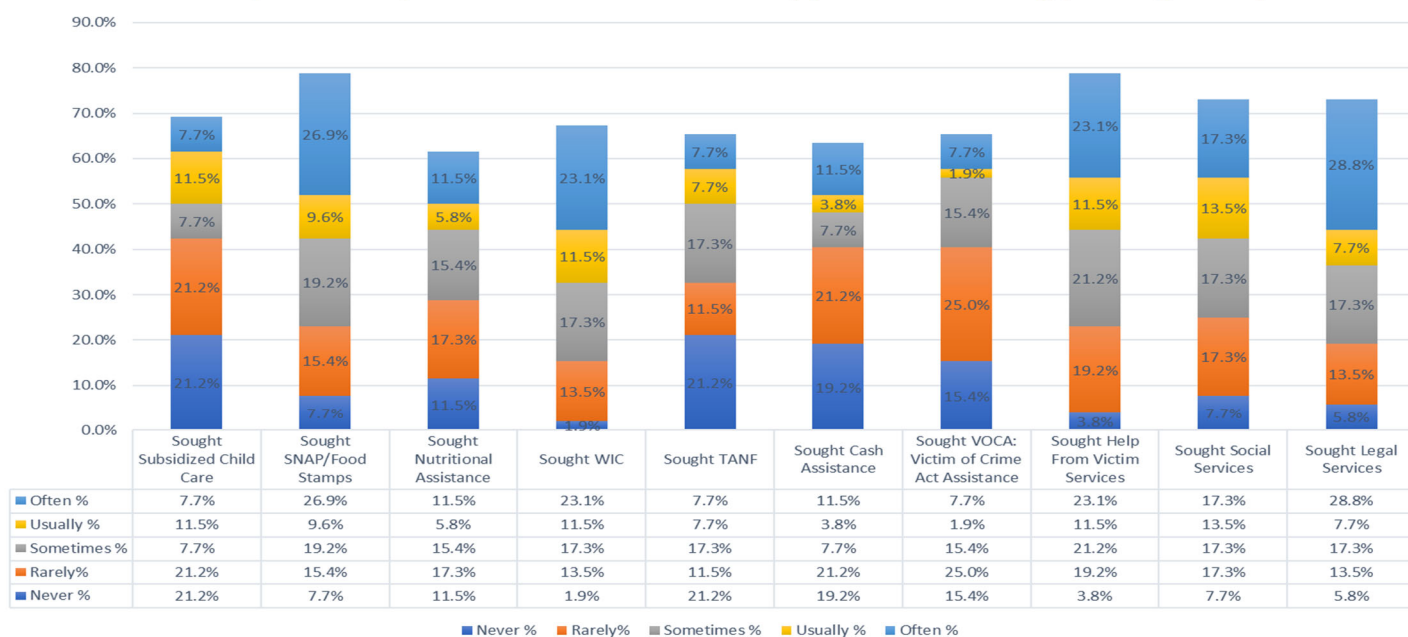
The findings of this study demonstrate that an immigrant victim's need for victim assistance and social services decline as victims gain self-sufficiency, economic independence, and resilience, which can be supported by the findings in this study's data. However, it is clear that VAWA and U visa victims receiving victim services and social services are not being guided toward the VOCA financial assistance for which they are eligible.¹⁹⁹

It appears that VOCA funded victim assistance is being underutilized by VAWA and U visa victims of domestic violence, child abuse, sexual assault, human trafficking, and other crimes. Participating agencies reported a high proportion of immigrant VAWA and U visa victims *rarely or never* accessing VOCA victim assistance. Before filing, 40% *rarely or never* sought VOCA assistance. See Figure 54. This rate of victims who *rarely or never* seek VOCA declines to 32% at filing of the VAWA or U visa case, then to 19% at work authorization. See Figures 55 and 56. However, the rate of VAWA or U visa victims who will *rarely or never* seek VOCA rises again to 23% at lawful permanent residency. See Figure 57.

¹⁹⁹ Letter from Leslye E. Orloff, Director of NIWAP, to Rafael Madan, General Counsel at U.S. Department of Justice (Oct. 2, 2015) (on file with author), <https://niwaplibrary.wcl.american.edu/wp-content/uploads/NIWAP-VOCA-AL-NV-Survey-Memo-10.1.15-FINAL.pdf> (Note that since the writing of this memo Nevada passed legislation granting immigrant victims access to VOCA funded victim assistance); *Assemble Bill No. 122-Assemblywoman Benitez Thompson*, <https://niwaplibrary.wcl.american.edu/pubs/nv-voca-ab122> (last visited Apr. 8, 2021).

These VOCA findings are concerning because all U visa victims and 97% of VAWA self-petitioners²⁰⁰ that the study participant agencies serve are also crime victims suffering battering, child abuse, stalking, and/or sexual assault. *See Figure 19.* When victim advocates and attorneys are knowledgeable about immigrant victim eligibility for VOCA assistance, they can play a central role in both informing VAWA and U visa victims about their eligibility and assisting them in accessing many types of assistance.²⁰¹ It is important to train victim advocates and attorneys on immigrant victim eligibility and the process of applying for VOCA assistance in their states. This training coupled with developing and distributing language accessible brochures on VOCA²⁰² could result in greater numbers eligible VAWA and U visa victims accessing VOCA victim assistance.

Figure 54: VAWA Self-Petitioner's and U Visa Victim's Willingness to Seek Victim & Legal Services, Child Care, Nutritional and Economic Support - Before Filing (n=52 agencies)



²⁰⁰ The only VAWA self-petitioners who may not be eligible for VOCA assistance might be the 3.2% of VAWA self-petitioners who suffered extreme cruelty and no other criminal activity. *See Figure 19.*

²⁰¹ Research has found that when victim advocates and attorneys do not know that immigrant victims are eligible to access a program (the research was examining transitional housing), that lack of knowledge impedes immigrant victim access to programs they are legally eligible to receive. Meaghan Fitzpatrick et al., *Access to Emergency Shelters and Transitional Housing for Battered Immigrants and Immigrant Victims of Crime*, NIWAP 13 (Jun. 3, 2014), <https://niwaplibrary.wcl.american.edu/pubs/access-shelters-housing>.

²⁰² Benish Anver et al., *Translation Requirements for Vital Documents, Intake and Notice of LEP Assistance for DOJ and HHS Grantees1 Serving Immigrant Crime Victims*, NIWAP (Mar. 9, 2014), <https://niwaplibrary.wcl.american.edu/pubs/translation-vital-docs>.

Figure 55: VAWA Self-Petitioner's and U Visa Victim's Willingness to Seek Victim & Legal Services, Child Care, Nutritional and Economic Support - Between Filing and Receipt of Work Authorization (n=52 agencies)

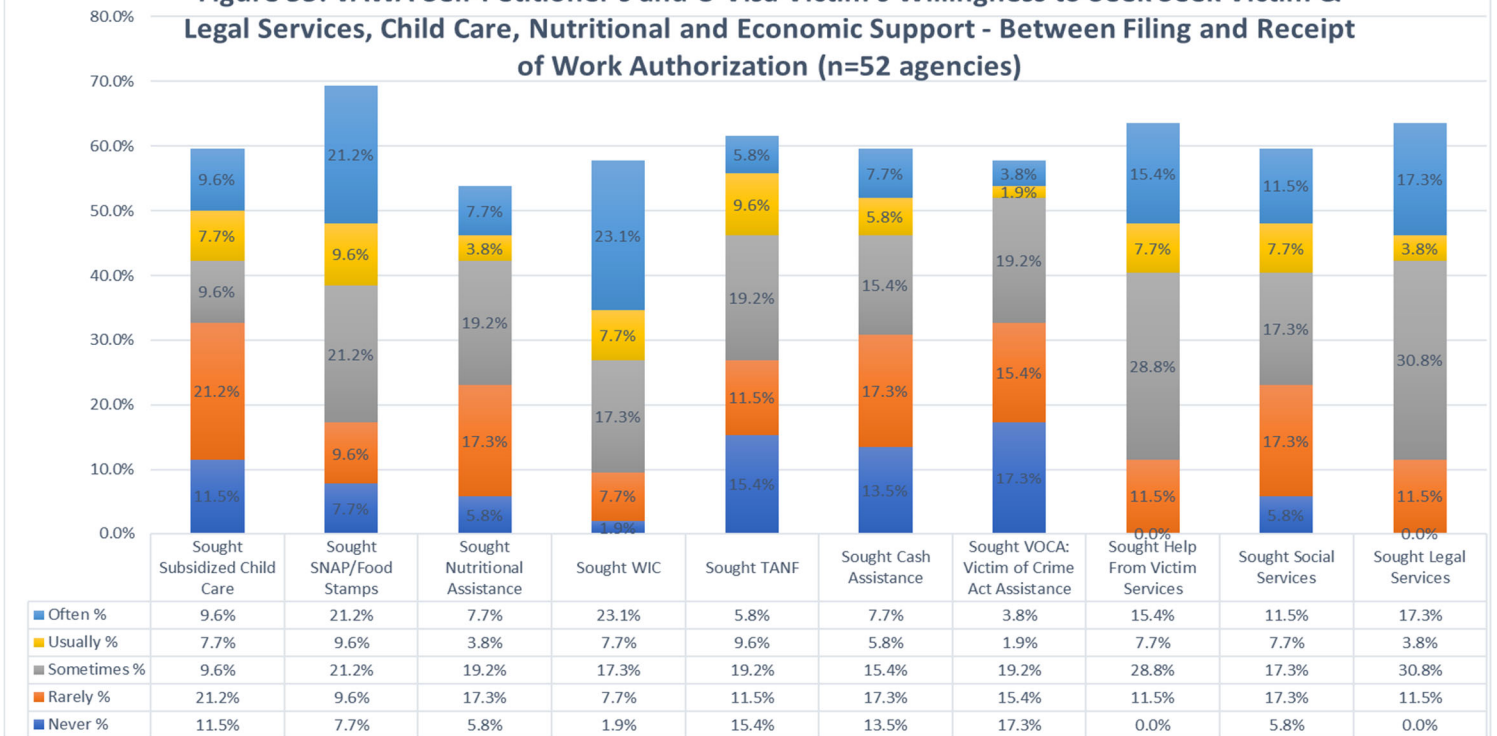


Figure 56: VAWA Self-Petitioner's and U Visa Victim's Willingness to Seek Victim & Legal Services, Child Care, Nutritional and Economic Support - After Receiving Work Authorization (n=52 agencies)

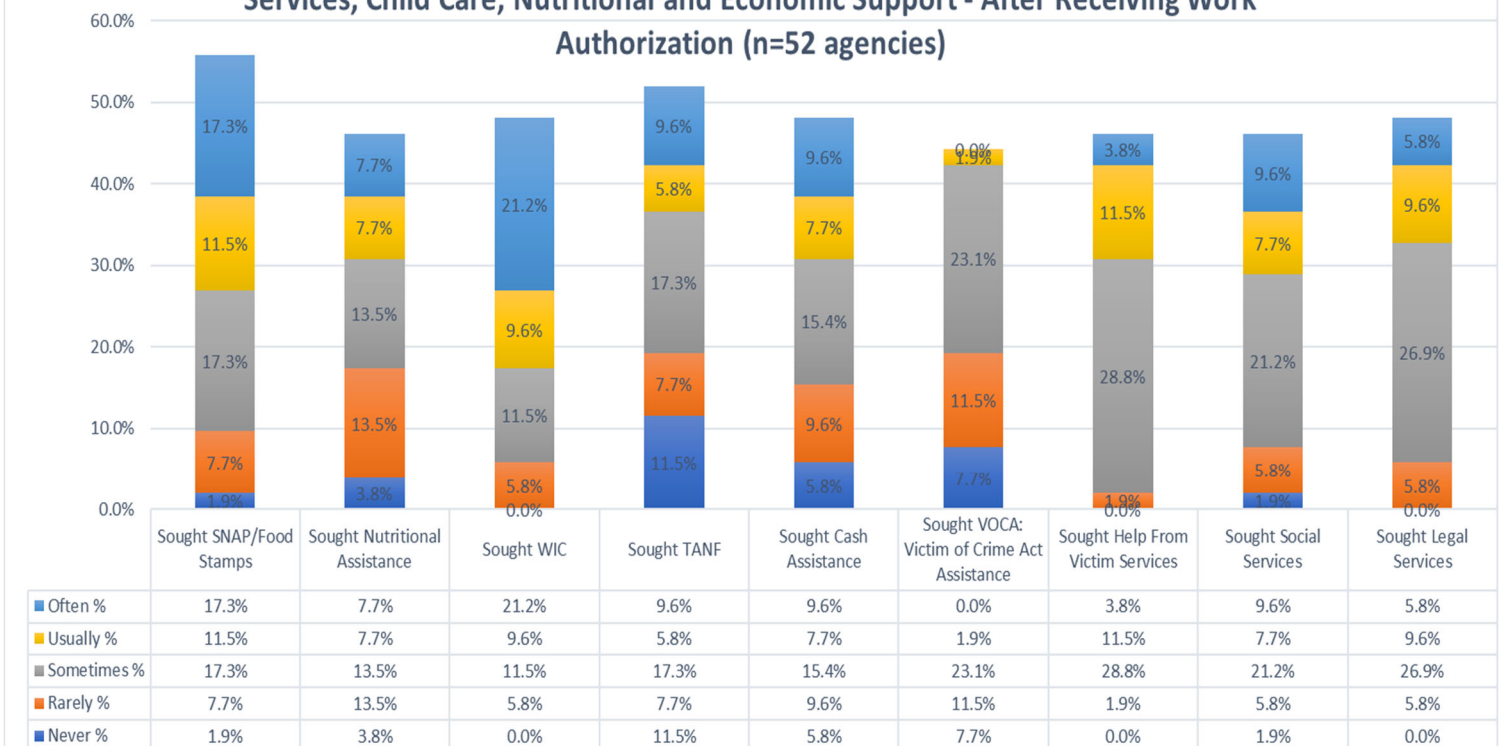
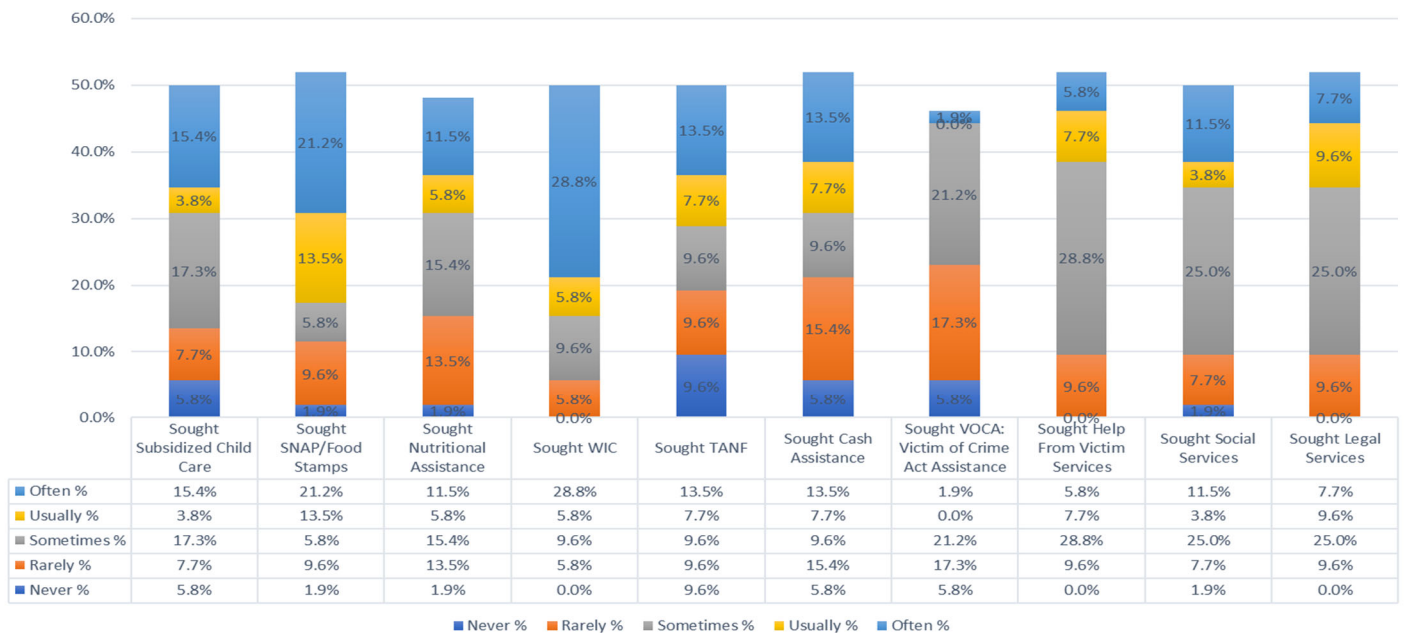


Figure 57: VAWA Self-Petitioner's and U Visa Victim's Willingness to Seek Victim & Legal Services, Child Care, Nutritional and Economic Support- After Attaining Lawful Permanent Residency (n=52 agencies)



Voices: Barriers Immigrant Victims Encounter in Access Public Benefits and Services Victims are Eligible to Receive.

In addition to seeking quantitative data from study participant agencies about their VAWA and U visa clients' experiences, the survey asked participants to describe the barriers encountered by some of their clients who qualified for forms of relief but could not obtain those services. Below are quotes from victim advocates and attorneys:

- California, Domestic Violence Program (2019)*

"In the case of victim's compensation, one of my clients had a living situation where they were renting from an individual that was renting an apartment from another landlord. Victim's compensation documents that were required for relocation support required my client to have the landlord fill it out even though the rental agreement wasn't between them and the landlord.... This type of rental practice is quite common in the area, due to the high costs of rent."
- Louisiana, Domestic Violence Program (2019)*

"[There] [were] paid attorneys taking advantage of their clients, [and] not following up with their cases."
- Delaware, Legal Services Provider (2016)*

"Welfare office staff [would] wrongfully refus[e] to accept application for benefits due to their erroneous interpretation of qualified immigrants and families [because of] due process suit pending against state welfare agency for...barriers."

- *Texas, Immigration Attorney* (2016).

“CPS called several times on cases of child abuse, but never removed child or initiated any legal assistance for child presumably because abused child was an immigrant and not in their jurisdiction...”

“Women who were at battered women's' shelters and never received any orientation or legal assistance and were not even explained that they qualified for a legal remedy as a result of victimization in the U.S.”

“In one case, [mother] received assistance to bury her child, but no one put the puzzle pieces together that she qualified for a U Visa as a result of the death of her horribly abused United States Citizen toddler at the hands of his uncle.”

- *Minnesota, Legal services organization* (2016).

“The extremely long waiting periods for the U Visa processing and for victims of domestic violence over many years, it was hard to remember exactly when they reported or dealing with late reporting.”

VIII. **VAWA and U Visa Victims' Engagement With Family, Friends and Community**

Engagement with Friends, Family and Community

This section reports the data provided by 37 agencies reporting on all of their VAWA and U visa clients' engagement and involvement with their communities as the survivors moved through the their immigration case. This study found that as VAWA self-petitioners and U visa victims progress through the immigration process they become more engaged with their friends, families and communities. For many, achieving work authorization is a crucial point at which victims can finally leave abusive homes and workplaces. The study results reveal that the biggest changes occur when victims receive work authorization. *See Figures 58, 59 and 60.* Highlights include:

- **Interactions with friends:** Percentage of immigrant survivors who *rarely or never* interacted with their friends dropped 78% from 25% *rarely/never* seeing friends at filing to 5% at work authorization and even fewer 3% by lawful permanent residency. At the other end of the spectrum, findings showed that immigrant survivors who *usually or almost always* engaged with friends also increased by 48% from 27% at filing to 41% at work authorization. Victims who regularly saw their friends continued to rise to 51% by lawful permanent residency representing a total increase since filing of 89%.
- **Engagement with family members:** Similar changes were reported with regard to victims' engagement with their family members. The percent who had been cut off, those who *rarely or never* saw or speak to their family members, was 20% at filing. The percent dropped 72% to very low levels: 5% at work authorization and 3% at lawful permanent residency.
- **Involvement with the abuser's family members:** Study participants report reductions in the percentages of their immigrant victim clients who *sometimes, often or almost always* continued to be involved with their abusers' family members. There was a 50% drop from

filing 38% to work authorization 18.9% and by lawful permanent residency this involvement reached a low of 16%.

- Engagement with people outside of the abuser's family: The percentage of immigrant victim clients that *sometimes, often or almost always* engaged with persons outside of the abuser's family increased from 20% at filing to 35% at work authorization and increased again slightly to 38% at lawful permanent residency (total of 80% increase).

Engagement with Survivor's Ethnic Community

This study found that as a survivor's immigration case progressed, immigrant victims' engagement with their ethnic communities increased. The biggest changes occurred after victims received work authorization. The point of receiving legal work authorization is when many victims are able to leave abusive homes and workplaces where they are often extremely isolated, particularly from their ethnic communities. Engagement and reengagement with victims' ethnic communities jumped 1,354% from 3% at filing to 37.8% after work authorization. This engagement continued to improve through lawful permanent residency reaching 43%. *See Figures 58, 59, and 60.*

Victim's Engagement with Their Communities

The study also found improvements in victims' involvement with their community at large. Study participant agencies reported a decrease in the extent to which their immigrant VAWA and U visa victim clients *rarely or never* established community ties, participated in community activities, volunteered, or engaged in women's organizations: (*Comparing Figures 58, 59 and 60*).

- Community ties and participation: The percentage of immigrant survivor VAWA and U visa applicants who *rarely or never* established or reestablished community ties and participation fell 77% from 58% at filing to 14% at work authorization. *See Figures 58 and 59.*
- Volunteering: Participation in volunteer activities in the community increased as victims progressed from 18% of victims *sometimes, often or almost always* being involved in volunteering in their communities at filing, to 22% at work authorization, and almost a quarter (24%) at lawful permanent residency, a total increase of 33%. *Comparing Figures 58, 59 and 60.*
- Women's organization involvement: Involvement with women's organizations in survivors' communities increased as well with the proportion of immigrant survivors who *rarely or never* engaged with women's organizations dropping 31% from 51% *rarely or never* involved at filing, to 35% at work authorization, and 32% at lawful permanent residency. *Comparing Figures 58, 59 and 60.*
- Faith communities and religious activities: Immigrant survivors were most involved with religious activities, closely followed by engagement with their faith communities. Findings show the highest levels of engagement relative to the other forms of community engagement at the filing stage. Participation in religious activities continued and grew

slightly as victims moved through the immigration case process. The proportion of immigrant survivor clients *usually or almost always* participating in religious activities grew from 36% at filing to 38% at work authorization and 41% when victims reached lawful permanent residency reflecting a total increase of 11%. *See* Figures 58, 59 and 60. The percentage of immigrant survivor clients at the time of filing who were *usually or almost always* engaged with their faith communities was 31.2%. This faith community engagement grew 38.5% and increased to 43.2% by lawful permanent residency. *See* Figures 58 and 60.

- **Neighbors and Neighborhood Associations:** In contrast, the study finds a different experience relative to engagement with neighbors and neighborhood associations over the course of VAWA and U visa immigration cases. The percentage of immigrant survivors who are *sometimes, often or almost always* engaged with their neighbors started relatively high (53.3%) at the time of filing the victim's immigration case. *See* Figure 58. This is often the point when domestic violence victims are often still living with their abusers. Once immigrant survivors gain work authorization, a majority of them will separate or will have already separated from their abusers.²⁰³

Ordinarily, a battered immigrant can separate from her abuser either by leaving the family home or by obtaining a civil protection order to remove the perpetrator from the family home.²⁰⁴ At this stage, victims need help with safety planning to determine whether the victim can remain in the family home with a protection order. Other safety plans may include that she leave the family home and move to a location that is separate from and unknown to her abuser. When victims leave the family home, they often sever ties with their neighbors as well.

This reality could explain why the findings show a 54% drop to 24% of victims *sometimes, often or almost always* engaging with neighbors and neighborhood associations when the victim is granted work authorization. *See* Figure 59.

As victims establish lives living separate from their abusers, they establish ties with neighbors and participate in neighborhood associations in their new neighborhoods or they continue to maintain relationships with neighbors when they remain in the family home after the abuser is removed. For these reasons, by the time VAWA and U visa victims gain lawful permanent residency, VAWA and U visa victims are *sometimes, often and almost always* engaged in relationships with neighbors at a rate of 46%. *See* Figure 60.

²⁰³ 69.7% of VAWA self-petitioners separate from their abusive husbands/parents once the victim receives work authorization or before p. 21. 63.4% of U visa applicants do not separate from their abusive partners until they gain work authorization and only another 16% are able to separate before that time. Thus for U visa victims a total of 79.4% separate before or once they receive work authorization. Krisztina E. Szabo et al., *Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants*, NIWAP 21 (Feb. 12, 2014), https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12_.

²⁰⁴ For a discussion of civil protection order provisions that remove the perpetrator from the family home, see Catherine F. Klein & Leslye E. Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*, 21 HOUSTON L. REV. 801 (1993). For an up-to-date state by state summary of protection order provisions that remove the abuser from the family home, see *Domestic Violence Restraining Order*, WOMENSLAW, <https://www.womenslaw.org/laws/general/restraining-orders> (last visited Apr. 9, 2021).

Figure 58: VAWA Self-Petitioner's and U Visa Applicant's Engagement With Family and Community - Before Work Authorization (n=37 agencies)

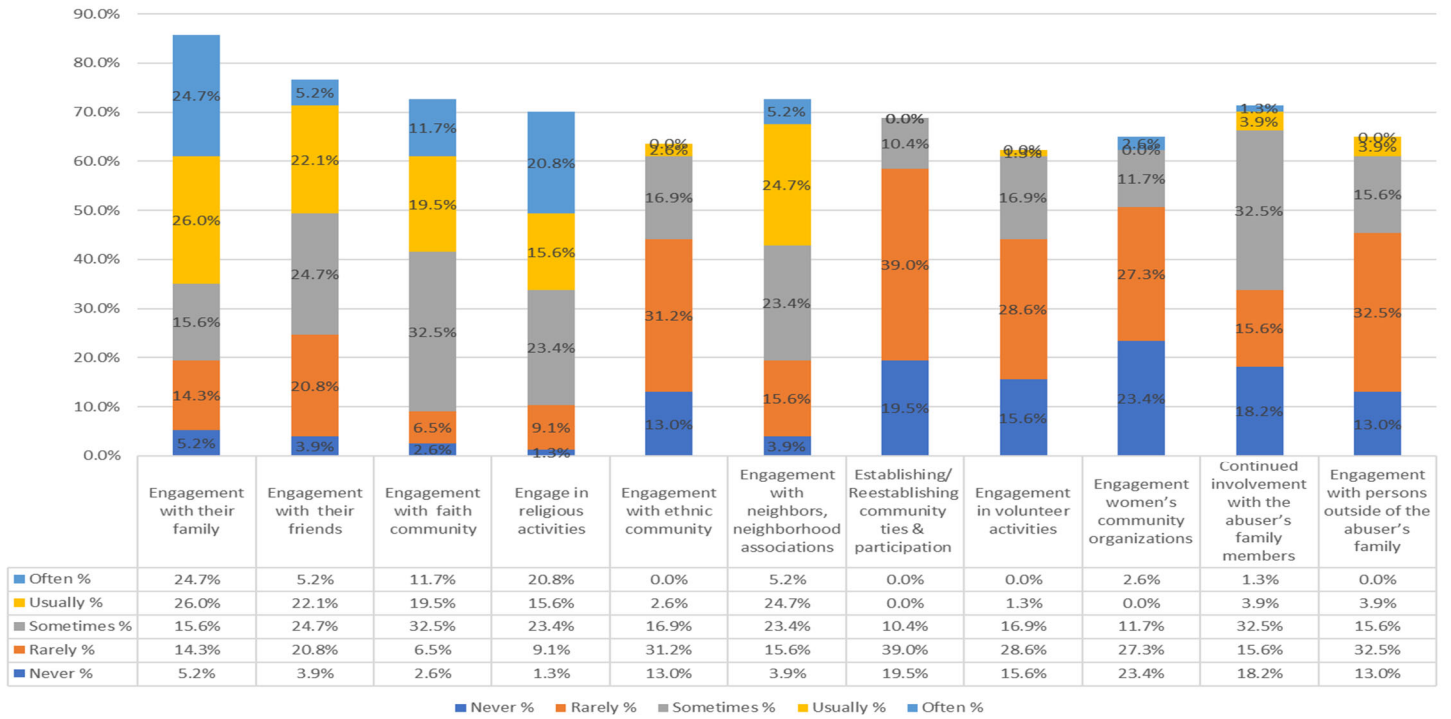


Figure 59: VAWA Self-Petitioner's and U Visa Applicant's Engagement With Family and Community - After Work Authorization (n=37 agencies)

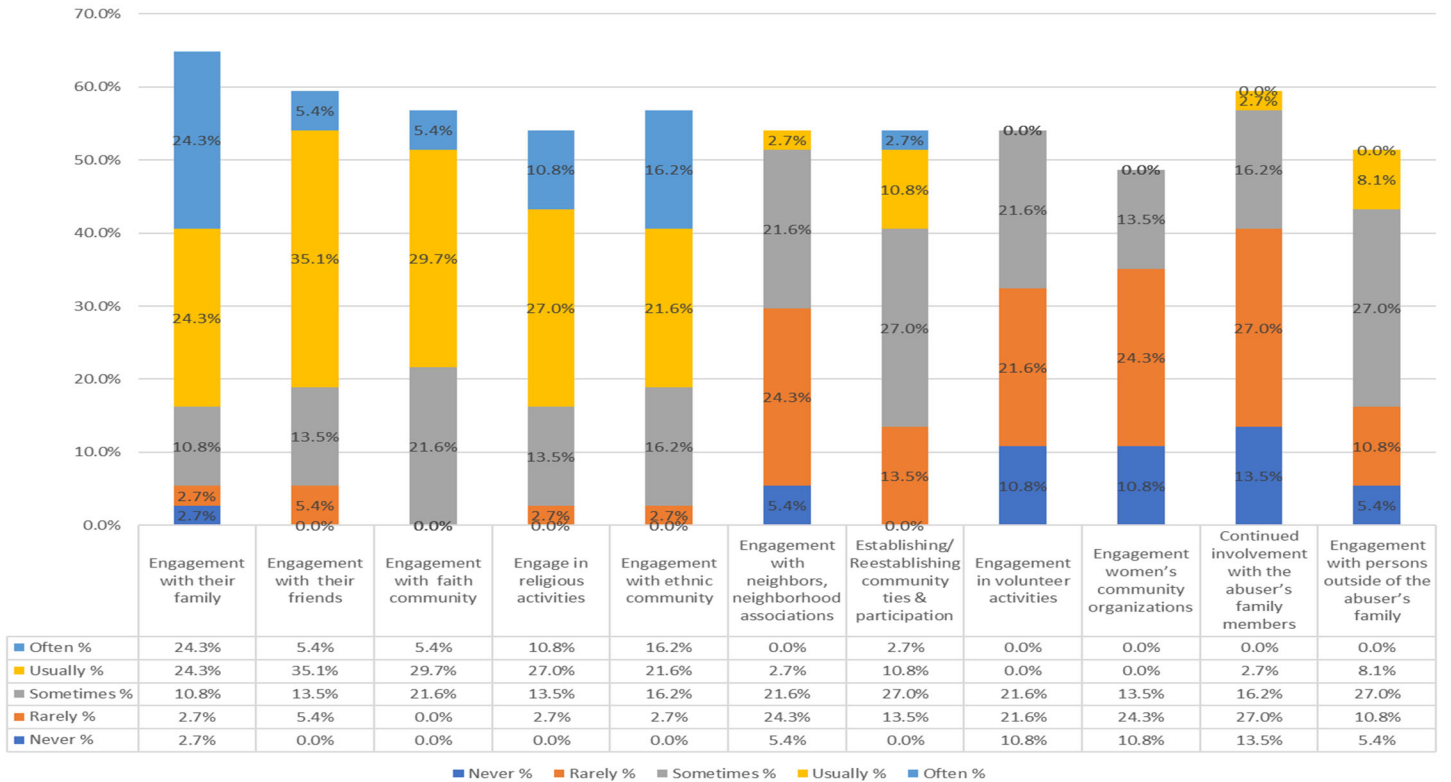
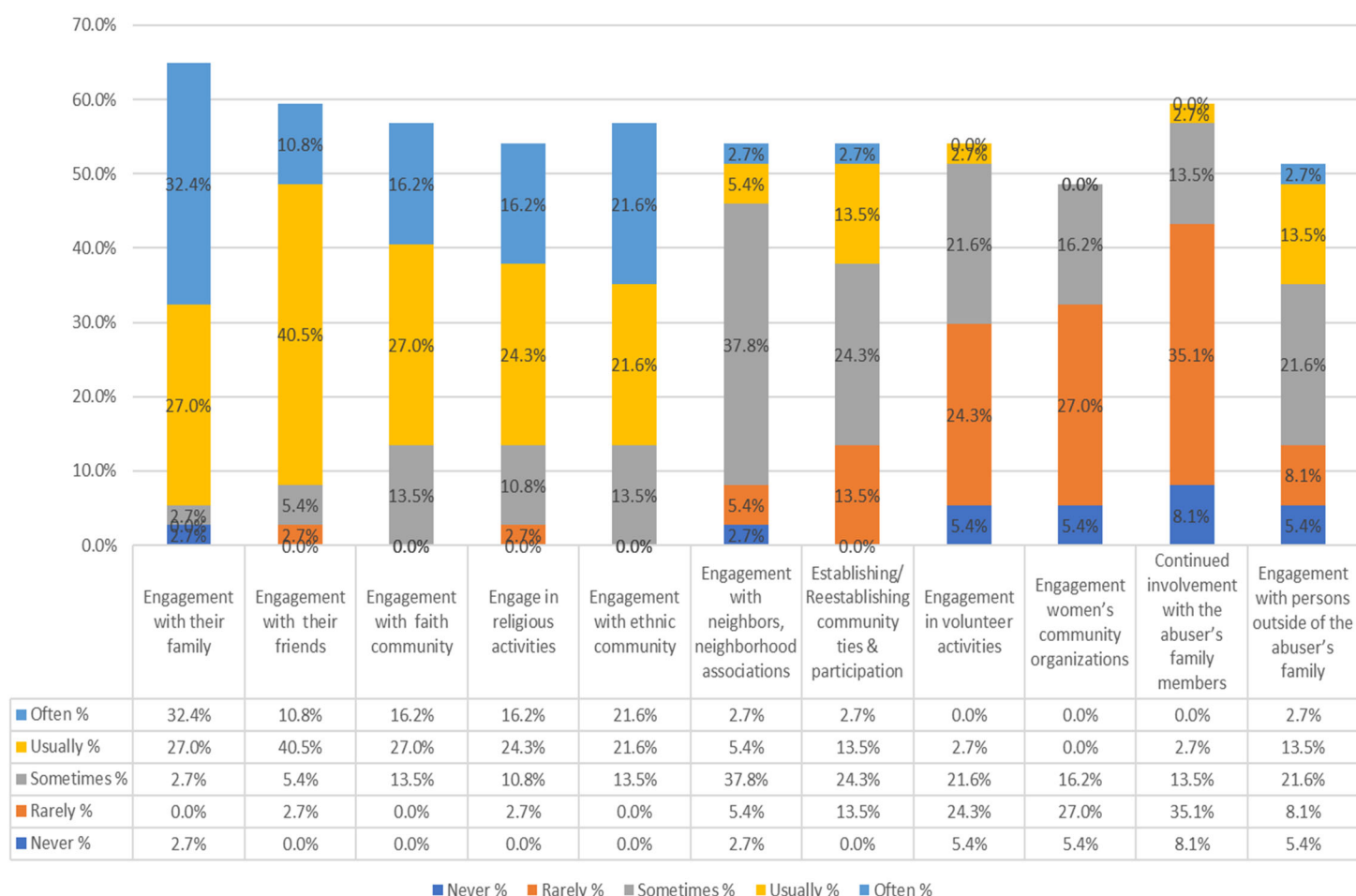


Figure 60: VAWA Self-Petitioner's and U Visa Applicant's Engagement With Family and Community - After Attaining Lawful Permanent Residency (n=37 agencies)



IX. VAWA and U Visa Victims Helping Other Crime Victims, Obtaining Preventative Healthcare, and Being Involved in Children's Education and Social Activities

A total of 37 agencies also reported on how their VAWA and U visa clients reached out offer help and support to other victims in their communities, the extent to which they sought preventative health case and their involvement in their children's education and activities. The first part of this section discusses VAWA and U visa victims' role in helping other immigrant women crime victims. Next is a discussion of immigrant survivors' willingness to seek preventative healthcare for themselves. This section concludes with an examination of changes in a survivor's engagement with their children's schools during the immigration process.

Helping Other Crime Victims

Prior research has documented the extent to which immigrant crime victims learn about U.S. legal protections from other immigrant women, including other immigrant crime victims.²⁰⁵ This study sought to learn about when and to what extent do immigrant survivors who file VAWA or U visa applications engage in assisting other crime victims in learning about their legal options and help-seeking.

Study participants reported that their VAWA and U visa clients *sometimes, often or almost always* increased their engagement in activities that helped other crime victims when victims attained work authorization. There was a 51% increase in victims' involvement in helping other crime victim between filing (14%) and receipt of work authorization (22%). *See Figures 61 and 62.* Study participant attorneys and victim advocates reported that almost a quarter (24%) of the VAWA and U visa victims they worked with were *sometimes, often or almost always* involved in helping other crime victims by the time their clients obtained lawful permanent residency. *See Figure 63.*

Seeking Preventative Health Care for Themselves

The section accompanying *Figures 49, 50 and 51* earlier in this article included a detailed discussion of the fact that all persons without regard to immigration status can access healthcare from community and migrant health clinics. Also discussed is when and how VAWA and U visa applicants become eligible to purchase health insurance and whether and when they can receive subsidized health care. For those victims without employer sponsored health care, they must wait until they attain legal presence to qualify for health insurance on the state health care exchanges.²⁰⁶ VAWA self-petitioners become lawfully present when they receive prima facie determinations about 3 months post-filing. U visa victims become lawfully present when they gain wait-list approval which includes deferred action and work authorization. This section of the study focuses specifically on victims' willingness when legally eligible to seek preventative health care for themselves.

Participating agencies reported that more than a third (38%) of VAWA and U visa clients' *sometimes, often or almost always* accessed preventative medical care after the victim filed their VAWA or U visa immigration case. *See Figure 61.* This rate stayed constant with 38% seeking preventative health care by work authorization. *See Figure 62.* This percentage rose 36% to exceed half (51%) of all VAWA and U visa clients by the time the victim attained lawful permanent residency. *Compare Figures 61 and 63.* Later in this report we discuss the findings that many (43%) of VAWA and U visa victims gained employer sponsored health care after they receive work authorization. *See Figure 77.*

The complexities of how immigrant survivors become eligible to obtain health care for themselves and their children explains why it is not until many applicants attain lawful permanent residency that immigrant VAWA and U visa survivors *sometimes, often or almost always* access preventative health care at rates of 51%. *See Figure 63.* This rate of preventative health care access is

²⁰⁵ See generally Mary Ann Dutton et al., *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. POVERTY L. & POL'Y 245 (2000); Michael Runner et al., *Intimate Partner Violence in Immigrant and Refugee Communities: Challenges, Promising Practices and Recommendations*, ROBERT WOOD JOHNSON FOUND. 16-23 (Mar. 2009), http://www.futureswithoutviolence.org/userfiles/file/ImmigrantWomen/IPV_Report_March_2009.pdf (containing examples of women helping other women).

²⁰⁶ See Rocio Molina, *Eligibility Under the Affordable Care Act for Survivors of Domestic Violence, Trafficking, and Other Serious Crimes*, NIWAP (Jun. 23, 2014), <https://niwaplibrary.wcl.american.edu/pubs/victims-aca-healthcare-eligibility>.

impacted by the limitations on access to health insurance and subsidized health care for many immigrant crime victims. Although any uninsured person, including crime victims and immigrants, can access preventative health care at community and migrant health clinics,²⁰⁷ many victims are unaware of this possibility. Victim advocates, attorneys, and victim witness staff at police and prosecutors' offices can play an important role in educating and assisting VAWA and U visa clients in accessing the preventative healthcare for which each individual victim qualifies.

Immigrant Survivor Parents' Engagement with Children's School

Research has found that parent engagement in their children's school correlates with healthier outcomes for the children who are students. Parent involvement is also closely linked to better student behavior, higher academic achievement, and children having enhanced social skills.²⁰⁸ Parent engagement makes it more likely that children and adolescents will avoid unhealthy behaviors, such as sexual risk behaviors and substance use.²⁰⁹ A parent's involvement in their children's learning is a form of preventative care that fosters children's psychoeducational development plays a vital role in the development of health compared to unhealthy relationships.²¹⁰ This study asked study participants to report on VAWA and U visa victims' engagement in their children's schools, social development, and after-school activities as well as victims' social relationships with other parents. *See, Figures 61, 62, 63.*

Engagement with children's schools

VAWA and U visa victim's ability to engage with their child's school increases significantly once the victim attains legal work authorization. Study participants report that VAWA and U visa victim clients being *often or usually* engaged with their children's schools rises precipitously by 662% from only 4% at filing, to 30% at work authorization. Compare, *Figures 61 and 62*. Almost half (49%) of VAWA and U visa applicants at work authorization and over half (51%) at lawful permanent residency are *sometimes, often or usually engaged* with their children's schooling. *See Figures 62 and 63.*

Involvement in activities that facilitate children's social development

VAWA and U visa applicants are also involved in activities that enhance their children's social development and relationships with other children and families. Participant agencies reported that immigrant survivors are *often or usually* involved in efforts to facilitate their children's social development increasing 142% between filing (8%) to 19% at receipt of work authorization. *See Figures 61 and 62*. By lawful permanent residency, involvement in children's social development reached 30%. *See Figure 63*. Examining VAWA and U visa applicants who were reported to be *sometimes, often or usually* facilitating children's social development, the study also found a jump from under a third (33%)

²⁰⁷ Catherine Longville & Leslye E. Orloff, *Programs Open to Immigrant Victims and All Immigrants Without Regard to Immigration Status*, NIWAP (May 22, 2014), <https://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>.

²⁰⁸ Joyce L. Epstein, Steven B. Sheldon, Present and Accounted for: Improving Student Attendance Through Family and Community Involvement, *The Journal of Educational Research*, pg. 308-318 (2002); Xitao Fan, Michael Chen, Parental Involvement and Students' Academic Achievement: A Meta-Analysis, *Educational Psychology Review* pg. 1-22 (2001).

²⁰⁹ *Parent Engagement in Schools*, CTR. DISEASE CONTROL & PREVENTION (Aug. 7, 2018), https://www.cdc.gov/healthyyouth/protective/parent_engagement.htm#:~:text=Research%20shows%20that%20parent%20engagement,risk%20behaviors%20and%20substance%20use.

²¹⁰ Michael D Resnick, Peter S Bearman, Robert W Blum, Kari E Bauman, Kathleen M Harris, Jones J., Protecting Adolescents From Harm, *Journal of the American Medical Association*, pg.823-832 (1997); David J. Hawkins, Richard F. Catalano, Rick Kosterman, Robert Abbott, Karl G. Hill, Preventing Adolescent Health-Risk Behaviors by Strengthening Protection During Childhood, *Archives of Pediatrics & Adolescent Medicine*, pg. 226-234 (1999).

at filing to 51% at work authorization and lawful permanent residency. *Compare Figures 61, 62, and 63.*

Engagement in children's after school activities and sports

Study participant agencies reported a 108% increase from filing (16%) to lawful permanent residency (32%) in VAWA and U visa applicant parents who are *often or usually* engaged in their children's after school activities and sports. *Compare Figures 61 and 63.* Interestingly, immigrant victim parents who were *often or usually* engagement in children's after school activities increased only slightly by 21% between filing (16%), and work authorization (19%). *See Figures 61 and 62.* The small increase at work authorization could be a reflection of the fact that many immigrant survivors separate from their abusers when they obtain work authorization, and the process of separation can affect an immigrant survivor parents' ability to participate in children's after school activities as they rebuild their lives post separation.

Developing social relationships with other parents

As immigrant survivors moved through their immigration cases, victims also became more involved in developing social relationships with other parents. At filing, 20% of immigrant victims were reported to *rarely or never* be involved in relationships with other parents. This dropped to 8% by work authorization and 5% by lawful permanent residency resulting in a total decline of 72% in immigrant victim parents who *rarely or never* developed relationships with other parents. *Compare Figures 61, 62, and 63.* The study also found that the proportion of VAWA and U visa parent clients who *sometimes, often or usually* were engaged in social relationships with other parents remained relatively steady at just under half (48%) at filing, 46% at work authorization, and 49% at lawful permanent residency. The slight decline at work authorization may be a result of victims separating from their abusers and needing time to rebuild their lives.

Figure 61: VAWA Self-Petitioner's and U Visa Applicant's Engagement With Victim Services and Children's School - Before Work Authorization (n=37 agencies)

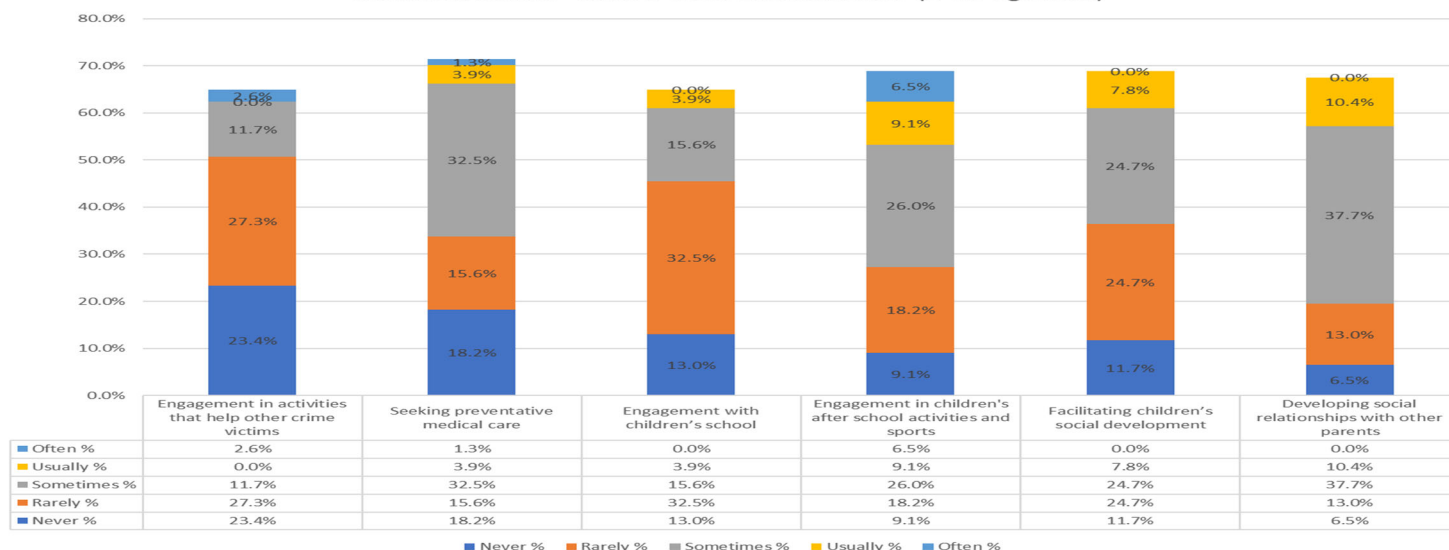


Figure 62: VAWA Self-Petitioner's and U Visa Applicant's Engagement With Victim Services and Children's School- After Work Authorization (n=37 agencies)

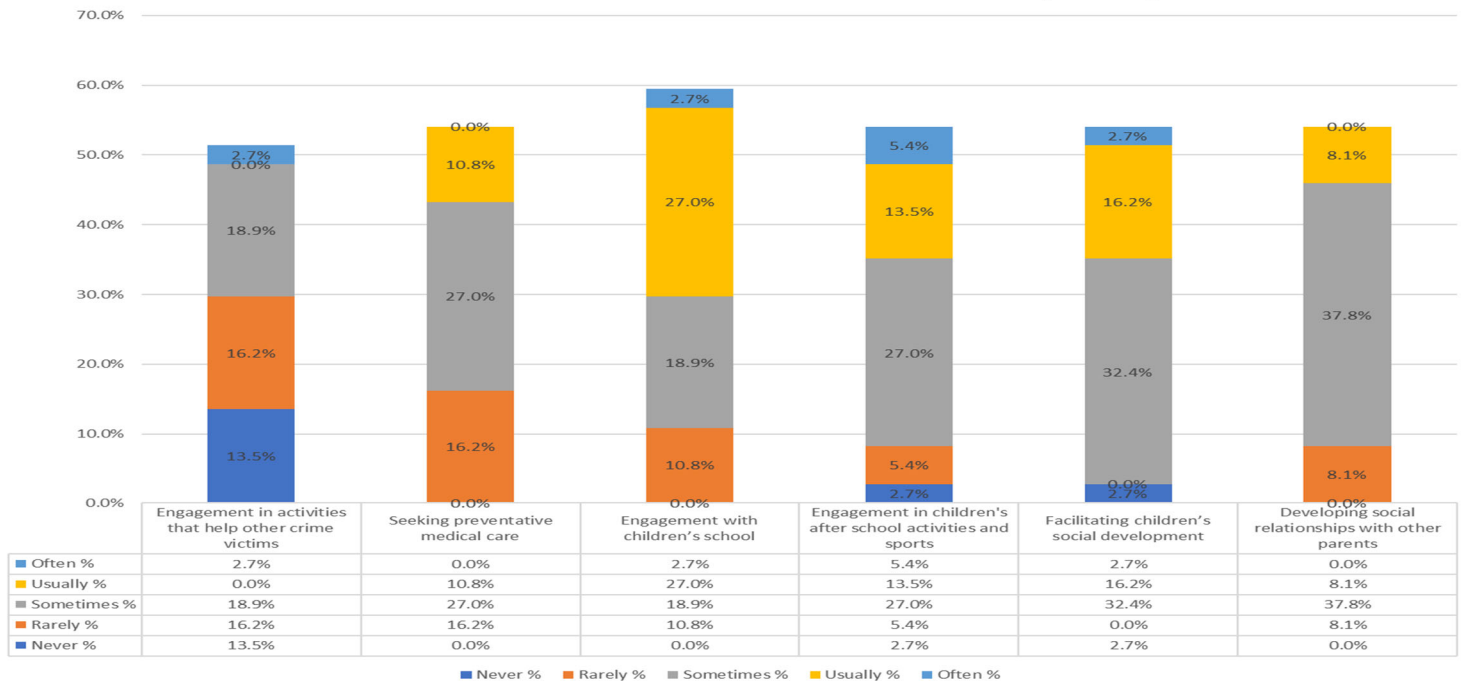
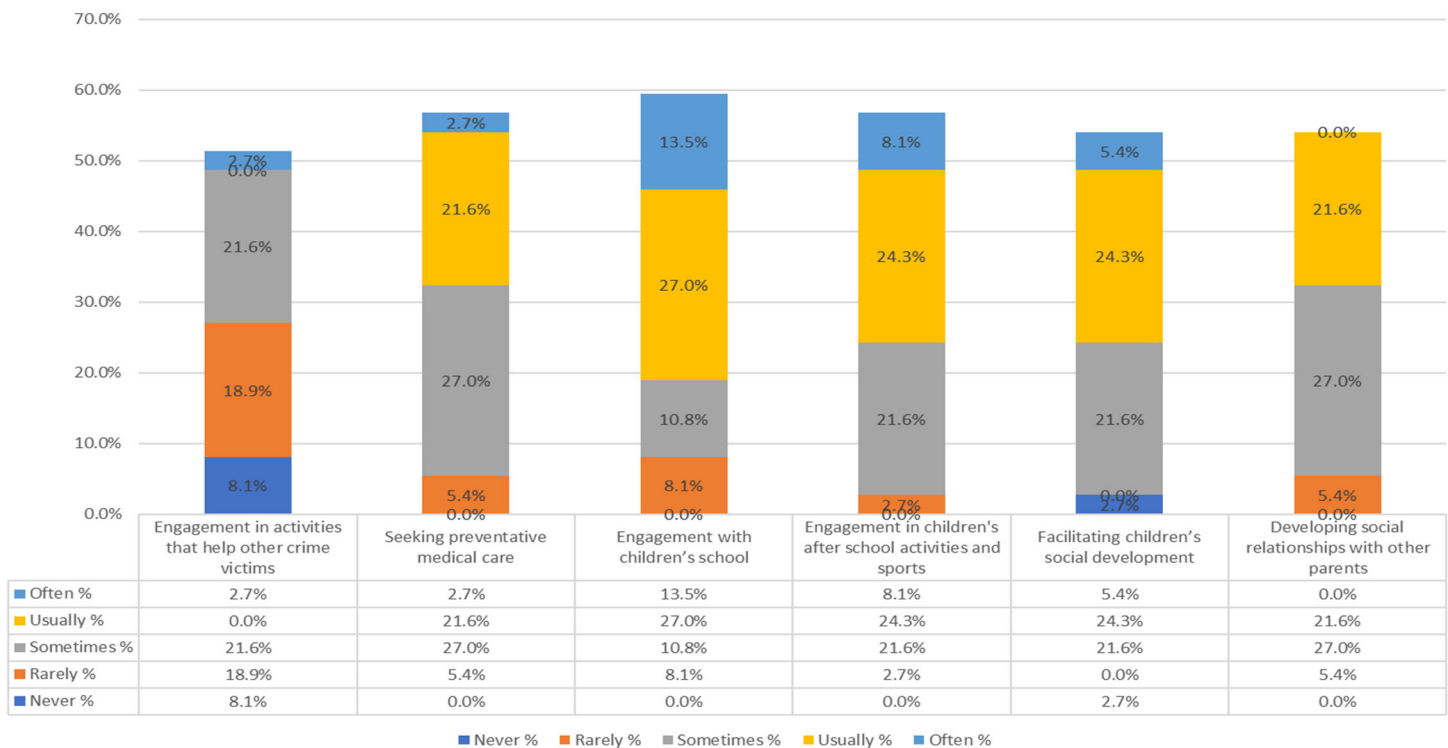


Figure 63: VAWA Self-Petitioner's and U Visa Applicant's Engagement Victim Services and Children's School- After Attaining Lawful Permanent Residency (n=37 agencies)



X. Immigrant Survivors' Own Education and Job Related Activities

Study participant agencies (37), also reported about their VAWA and U visa applicant clients' pursuit of educational opportunities and involvement in job related unions, trade, or other professional organizations. Pursuing educational opportunities enhance victims' earning capacity. Legal work authorization augmented by educational or training achievements increases VAWA and U visa victim parents' ability to provide for their children without the dangers and instability that comes with having to rely on their abuser's child support payments, which may not arrive or not be paid consistently.²¹¹

It is also important to note that in reviewing the study findings on education, 9% of VAWA self-petitioner clients who were abuse victims filing self-petitions on their own behalf were children (under 21-years-old) and 5% of U visa cases were filed by under 21-year-old child abuse victims. This portion of child victims who were filing for VAWA or U visa relief may explain some, but not all, of the positive findings on pursuit of higher education discussed below. This information is also relevant for the question regarding participation in the U.S. military of VAWA and U visa clients.

High School Diplomas and Adult Education

As VAWA and U visa victims move through the immigration case process, this study found that increasing numbers of victim clients *sometimes, often or usually* complete high school, attain GEDs, or participate in adult education classes.

- High School Graduation: Study participants reported a 62% increase in immigrant victim who *sometimes, often or usually* complete high school from 23% at filing to 32% after receipt of lawful permanent residency and 38% by lawful permanent residency. *See Figures 64, 65 and 66.*
- Attained GED: Among VAWA and U visa clients who did not complete high school, increasing numbers return to school to complete their high school Graduate Equivalency Degrees (GED). Almost a quarter (23%) *sometimes, often or usually* seek GEDs after filing their VAWA or U visa immigration case. *See Figure 64.* This rate increases to 35% after work authorization, a 50% increase. *See Figures 64 and 65.* By the time immigrant victim clients attain lawful permanent residency, 49% are seeking GEDs. This amounts to a 108% increase since filing. *See Figures 64, 65, and 66.*
- Adult education classes: Study participants also reported increases in their clients' involvement in adult education classes with clients *sometimes, often or usually* participating in adult education classes increasing 86% from filing (25%) to lawful permanent residency (46). *See Figures 64 and 66.* The rate at which victims *sometimes, often or usually* were engaged in adult education increased by 53% from filing (25%) to work authorization (38%). *See Figures 64 and 65.* As reflected in Figures 90, 91, and 92 a good portion of this adult education involved VAWA and U visa victims taking English as a Second language classes.

²¹¹ Colorado General Assembly, Legislative Declaration, Colo. Rev. Stat. § 13-14-100.2 ("The general assembly further finds and declares that domestic abuse is not limited to physical threats of violence and harm but also includes mental and emotional abuse, financial control, document control, property control, and other types of control that make a victim more likely to return to an abuser due to fear of retaliation or inability to meet basic needs.") <https://www.ncsl.org/research/human-services/child-support-and-domestic-violence.aspx>

Involvement in Vocational Training, Certificate Programs and in Obtaining Licenses

Study participants were asked to report on clients who pursued vocational training, participated in certificate programs, or obtained professional licenses. Participant agencies reported that their VAWA and U visa clients were *sometimes, often or usually* involved in vocational education at a rate of 56% at filing. *See Figure 64*. This declined 32% to 38% by the time victims attained lawful permanent residency. *See Figures 64 and 66*. The study responses indicated that this drop in vocational education may be attributed to victims attaining full time employment with benefits and to significant increases in VAWA and U visa victims *sometimes, often or usually* attaining Associates Degrees from community colleges. *See Figures 77 and 78*.

Associates and Bachelor's Degrees

To get a more complete picture of VAWA and U visa victim's educational attainment, the survey asked participants to provide information about their immigrant victim clients who sought post-secondary education—Associates Degrees and Bachelor's Degrees.

- Associates degrees from community colleges: Study participants reported a significant increase of 137% in VAWA and U visa clients who were *sometimes, often or usually* pursuing Associates degrees from community colleges from filing (9%) to work authorization (22%) with an additional increase to 27% at lawful permanent residency. *See Figures 64, 65, and 66*.
- Bachelor's degrees and advanced degrees from colleges and universities: Similarly, there was an increase in the immigrant victims *sometimes, often, or usually* attaining Bachelor's degrees rising 315% from 4% at filing to 16% at work authorization. *See Figures 64 and 65*. Study respondents reported that the rate at which VAWA and U visa victims *sometimes, often or usually* sought Bachelors' degrees rose to over a quarter (27%) at lawful permanent residency. *See Figure 66*. It is also important to note that study participants reported that 19% of their VAWA or U visa clients were pursuing advanced degrees by lawful permanent residency. *See Figure 66*.

Joining the U.S. Military

Participating agencies were asked to report on their VAWA and U visa clients who joined the military. The response identifies that, in large part, children benefited from VAWA and U visa applications either as child abuse or survivors of crime themselves, or because they were included in a self-petition or U visa case filed by their immigrant parent. *Figure 66* reveals that 8% of VAWA self-petitioners and U visa victims or the children they included in their applications *sometimes* joined the U.S. military after attaining lawful permanent residency.

Participating in Unions, Trade Associations and Professional Organizations

Lastly, the survey asked participating organizations to report on working VAWA and U visa and asked the organizations to describe the extent to which their immigrant victim clients were *sometimes*,

often or usually joining unions, trade associations, and professional organizations at different point in victims' immigration case process.

- **Union membership:** There were no reports of union membership until VAWA and U visa victims attained legal work authorization. At the point of legal work authorization, 11% *sometimes, often or usually* joined a union. The number rose to 27% by lawful permanent residency. See Figures 64, 65, and 66.
- **Trade association membership:** Only a small percentage of immigrant survivor clients *sometimes, often or usually* were members of trade associations after filing the victims VAWA or U visa immigration case (14%). See Figure 64. This increased to 14% at work authorization and 19% by lawful permanent residency. See Figures 65 and 66.
- **Professional organizations:** As with trade associations, very few (3%) VAWA and U visa clients were *sometimes, often or usually* members of professional organizations at filing. See Figure 64. This increased slightly to 5% by work authorization and greatly increases to 27% by lawful permanent residency. See Figures 65 and 66.

Figure 64: VAWA Self-Petitioner's and U Visa Applicant's Engagement With Education and Job Related Activities - Before Work Authorization (n=77 agencies)

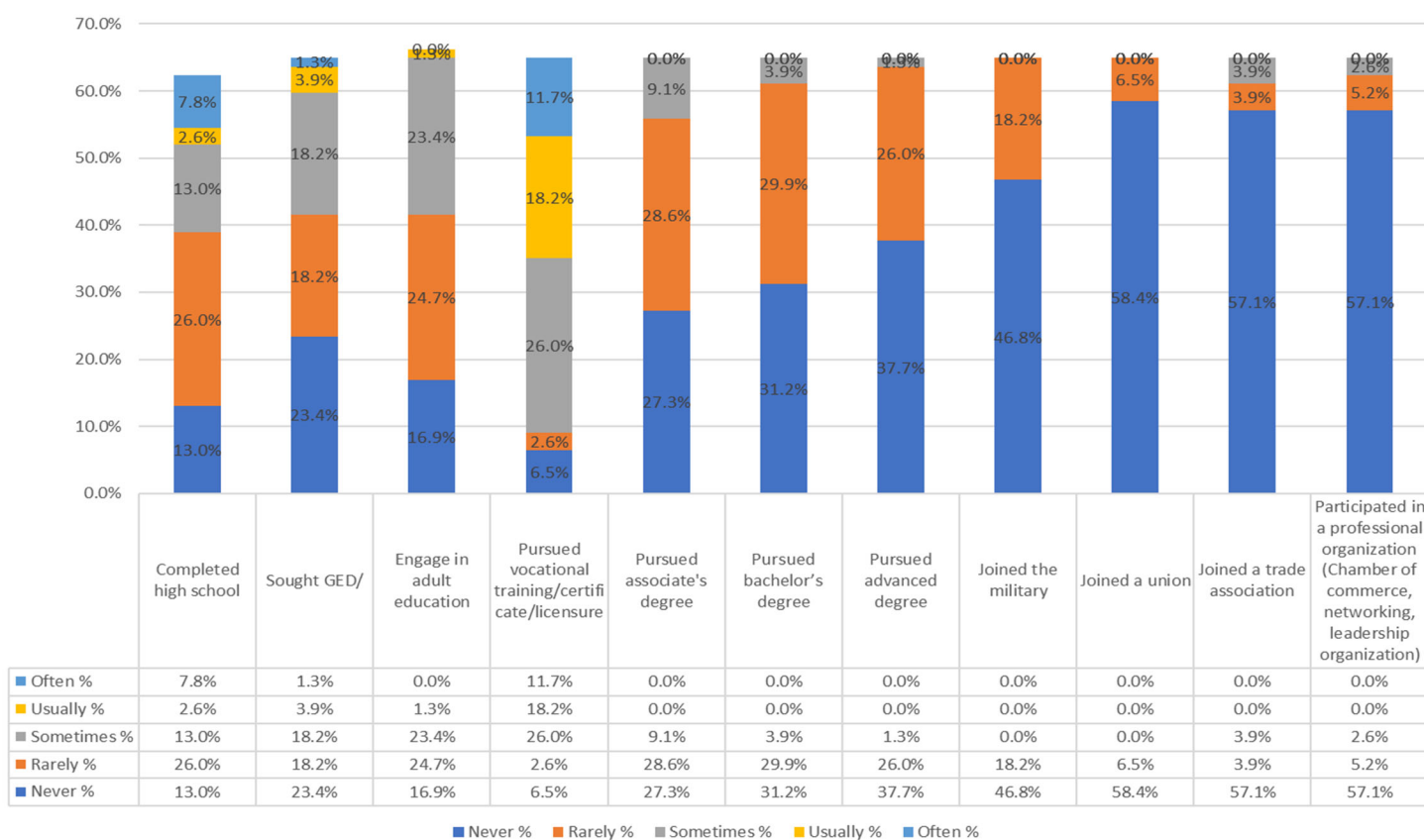


Figure 65: VAWA Self-Petitioner's and U Visa Applicant's Engagement With Education and Job Related Activities- After Work Authorization (n=37 agencies)

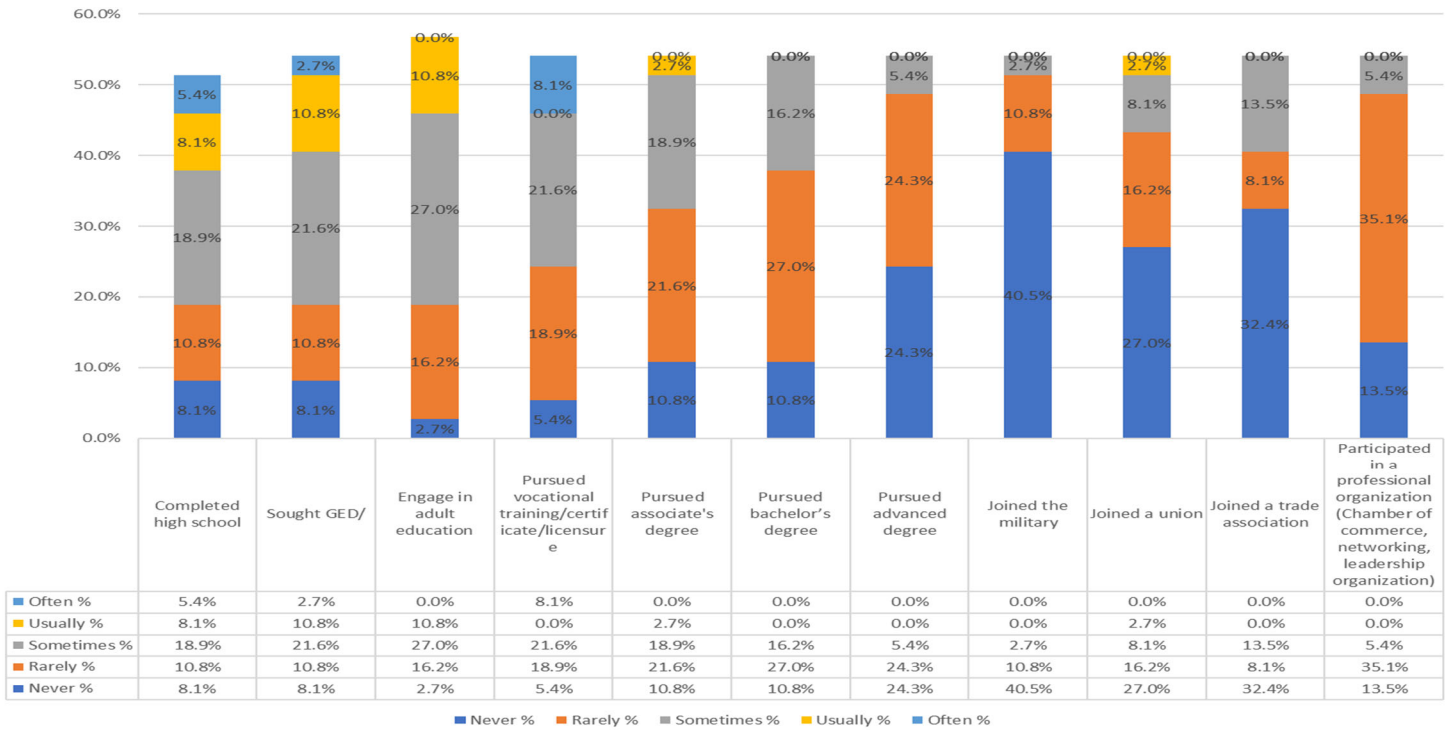
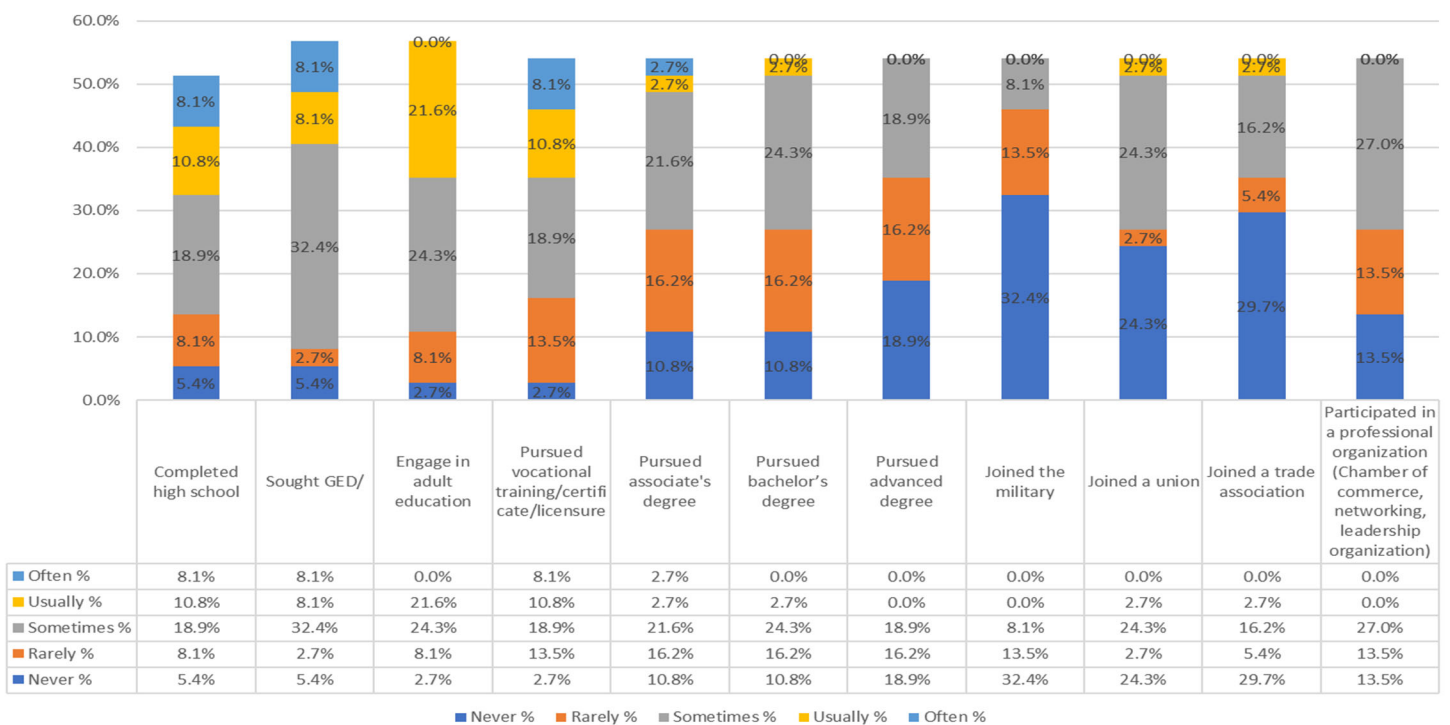


Figure 66: VAWA Self-Petitioner's and U Visa Applicant's Engagement Education and Job Related Activities- After Attaining Lawful Permanent Residency (n=37 agencies)



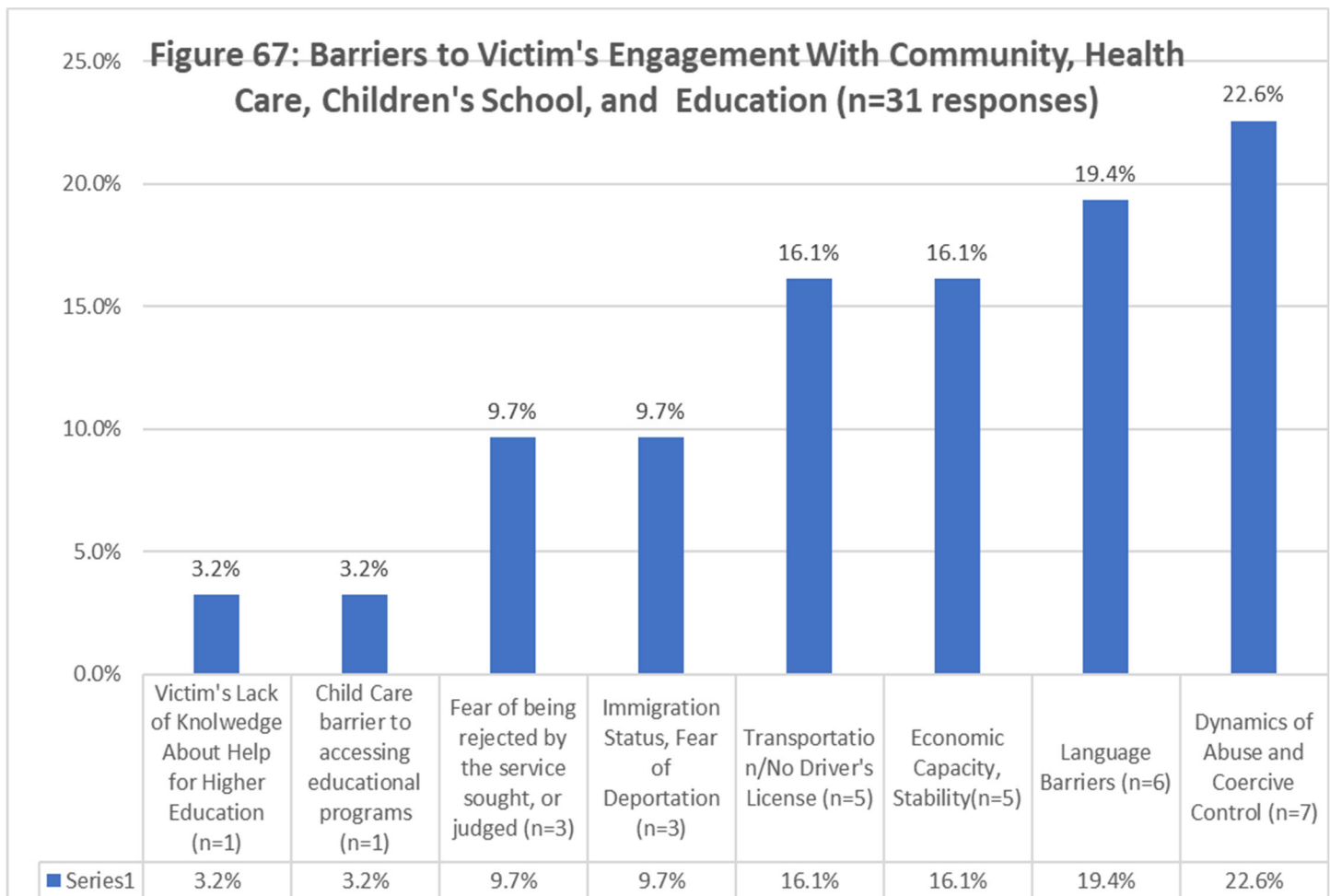
Barriers to Victims Engagement in Their Communities and in Their Children's Schools

The survey asked agency survey participants to report on what barriers their VAWA and U visa clients encountered that interfered with or deterred victims' community engagement, involvement in their children's school, and educational activities. This question asked participants to describe two examples of the barriers that their clients encountered.

Participating agencies (n=31) provided qualitative responses that were categorized, sorted, and reported in graph form in *Figure 67*. The three biggest barriers most reported at 19% (n=6) were:

- The dynamics of abuse and the abuser's coercive control;
- Economic abuse and poverty; and
- Language barriers.

The next two most significant barriers discussed lack of access to transportation (16%, n=5) and fear of being judged or rejected by the person from whom the victim was seeking services (13%, n=4). See *Figure 67*.



XI. VAWA and U Visa Victims' Involvement in Their Children's Schooling, Education, Extra-Curricular Activities and Children's Well-Being

In this section, this study identifies some of the ways in which children benefit when their mother is a VAWA or U visa applicant. The study recognizes the importance of protecting both immigrant victim parents and children during the VAWA and U visa application case process. This section opens with an overview of some key facts the ways in which trauma and exposure to violence can impact child development and how separation can affect children. Next, this section discusses the categories of children who receive protection when their immigrant victim mothers file for immigration relief under the VAWA and U visa programs. This section continues with the results of survey questions documenting how the VAWA and U visa case process benefits children of VAWA and U visa applicants. *See Figures 68, 69 and 70.* Finally, this section concludes with a report on the findings of this study on measures of children's well-being. *See Figures 71, 72 and 73.*

Effects of Trauma on Children's Development and Protections from a Parent's Resilience

As this report examines how the VAWA and U visa immigration case process affects children in immigrant families where abuse is occurring, it is important to remember that children's lives are affected by trauma, domestic violence and child abuse. This study collects data from service providers on immigrant victims and their children whose lives change dramatically as victims move through the immigration case process, with many if not most victims ultimately separating from their abusers.

As reported earlier, 53% of VAWA and U visa victim clients of study participant agencies have a child in common with the perpetrator of abuse, and in 10% of cases there are stepchildren or children of the abuser living in the victim's household. *See Figure 33.* Many battered immigrant victims filing VAWA and U visa applications ultimately separate from their abusers. In families that include the victim's children, stepchildren, or other children of the abuser, children are separated from their half-siblings, stepsiblings, and other children of the abuser that they have been growing up with. These separations can be devastating and can cause or contribute to chronic trauma.

When domestic violence victims with children separate from abusers with whom they share children in common this can be a difficult and traumatic time for children who become filled with conflicting emotions. In addition to some children being the direct victims of abuse at the hands of abusive parents, stepparents, or other family members, many children also suffer from a variety of mental health and well-being issues growing up in homes of domestic violence. Protective parents can be active barriers to childhood adversity²¹².

This study found that child victims are accessing healthcare at higher rates than adult victims, especially at work authorization. *See Figures 50, 51 and 52.* While higher rates of child healthcare access are beneficial for children, in the end lack of access to adult health care affects the well-being of immigrant survivor mothers and the well-being of children. This is one example in which earlier and more predictable access to work authorization within 6 months of VAWA and U visa victims filing their immigration cases benefits immigrant survivors and their children's well-being.

²¹² Centers for Disease Control and Prevention, Adverse Childhood Experiences: Risk and Protective Factors (January 5, 2021) <https://www.cdc.gov/violenceprevention/aces/riskprotectivefactors.html>

Benefits for Applicants Children of VAWA and U Visa Cases

When immigrant crime victim mothers gain access to legal immigration status, they receive a whole host of protections such as protection from deportation, legal work authorization, and greater access to health care and other public benefits. These opportunities help mothers and children heal from the effects of the abuse. In the end, a child's well-being is dependent upon a parent or caregiver. Having an immigration process that includes predictable early access to work authorization ultimately brings about change not only for the adult victim, but the child victim as well. Both depend on one another to thrive.

There are two types of children that are affected when their immigrant survivor mother applies for VAWA and U visa immigration relief:

- Immigrant children who are included in their mother's immigration application that receive immigration relief along with their mother and gain greater access to benefits and services.
- U.S. born children who benefit from their mother's ability to secure legal immigration status.

To learn more about how children are impacted by VAWA and U visa victims' immigration cases, the report sought information from responding agencies about the children they assisted. In this study, VAWA self-petition, cancellation, and suspension applicants had an average of 2.6 children. U visa applicants had an average of 2.9 children. Overall, immigrant victim applications for VAWA (3,220) and U visa (7,951) relief (*See Figure 7*) benefited the following approximate numbers of children, including citizen children and children included in the victims' immigration applications:

- VAWA: 8,372 children
- U visa: 23,058 children

Seventeen (17) agencies responded to questions regarding the impact on children as victims' (their parents' and in some cases their own) immigration cases moved through the immigration process.

Child's Grade Improvement

Agencies reported that children's school grades *often or almost always* improved as the child's mother moves through the immigration process and children become more stable and secure. The improvements over time are substantial. The proportion of VAWA and U visa survivors whose children's grades *often or almost always* improve are 24% at filing, rising to 30% after VAWA and U visa applicants receive protection from deportation and work authorization, and reach 65% by the time victims attain lawful permanent residency. This is a total increase of 175% from filing to work authorization. (*Compare Figures 68, 69, and 70*).

After School Activities

The study inquired about applicant's children and their level of participation in two types of after-school activities—those that support academic achievement and participation in sports. Notably, study findings show marked 299% increases in children *often or almost always* participating in both of

these after school activities. *Compare Figures 68, 69, and 70.* When mothers receive work authorization the proportion of immigrant victims' children who are *often or almost always* involved in a range of after school activities increases by 49%, from 12% post filing to 18% at work authorization. *See Figures 68 and 69.* By the time VAWA and U visa victims attain lawful permanent residency 47% of their children are *often or almost always* engaged in these after school activities. *See, Figure 70.*

Childhood Socialization

Study responding agencies reported on the extent to which children were more active socially with their friends at various stages of the victim's immigration case process. The data shows a 201% increase in children *often or almost always* being socially active with their friends from filing 18% to lawful permanent residency 53%. *See Figures 68 and 70.* The largest part of this change occurs at the time when VAWA and U visa victim parents receive work authorization (35%) compared to post filing (18), a 101% increase. *See Figures 68 and 69.*

Childhood Discipline

Participant agencies were asked to report on the extent to which children of VAWA and U visa applicant clients experienced fewer disciplinary problems at school. The study responses demonstrate a 125% increase in the numbers of VAWA and U visa victims' children who *often or always* had fewer disciplinary problems in school from 24% post filing to 54% at lawful permanent residency. *See Figures 68 and 70.* The data also revealed a 25% decrease in the numbers of VAWA and U visa victims' children who reported fewer disciplinary problems at school from filing (24%) to work authorization (18%). *See Figures 68 and 69.* One explanation for this occurrence could be that many battered immigrant victims remain in abusive homes until they receive work authorization. Abused mothers often separate from their abusers after work authorization. Separation's impact on the child could possibly be contributing to the rise in disciplinary problems amongst children. *Compare Figures 68 and 69.*

Figure 68: Engagement of VAWA Self-Petitioners and U Visa Applicant's Children in School-Between Filing and Work Authorization (n=17 agencies)

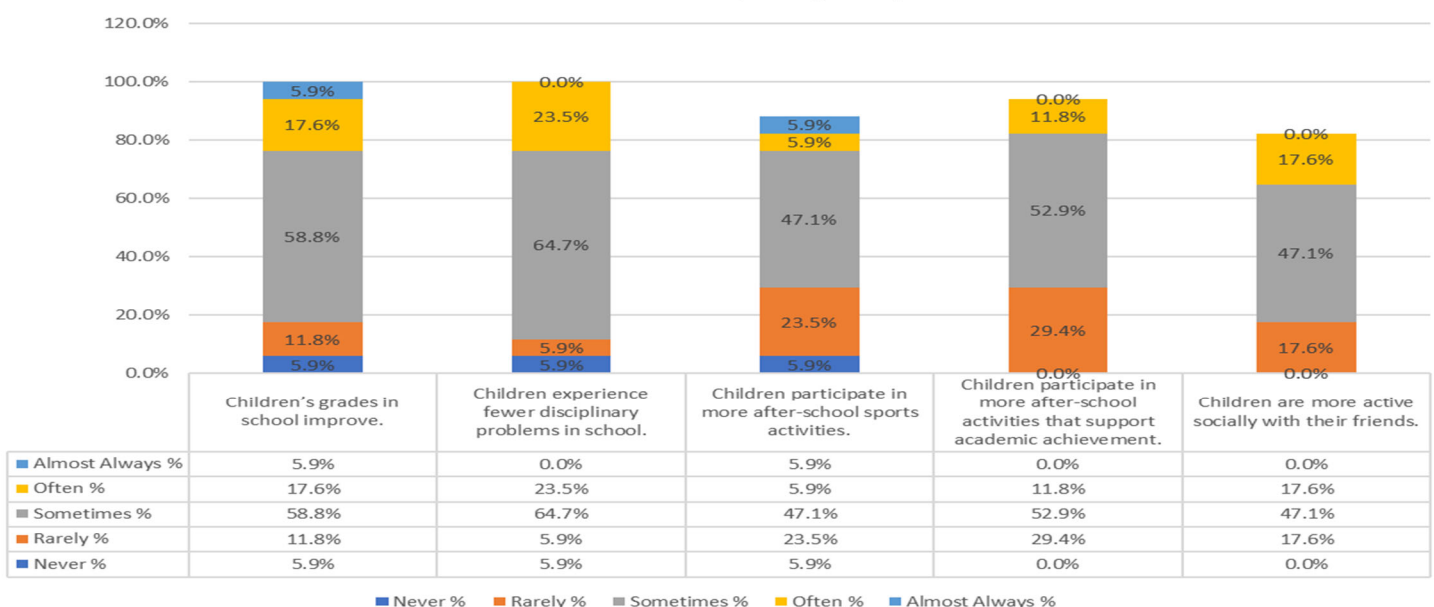


Figure 69: Engagement of VAWA Self-Petitioners and U Visa Applicant's Children in School-After Work Authorization (n=17 agencies)

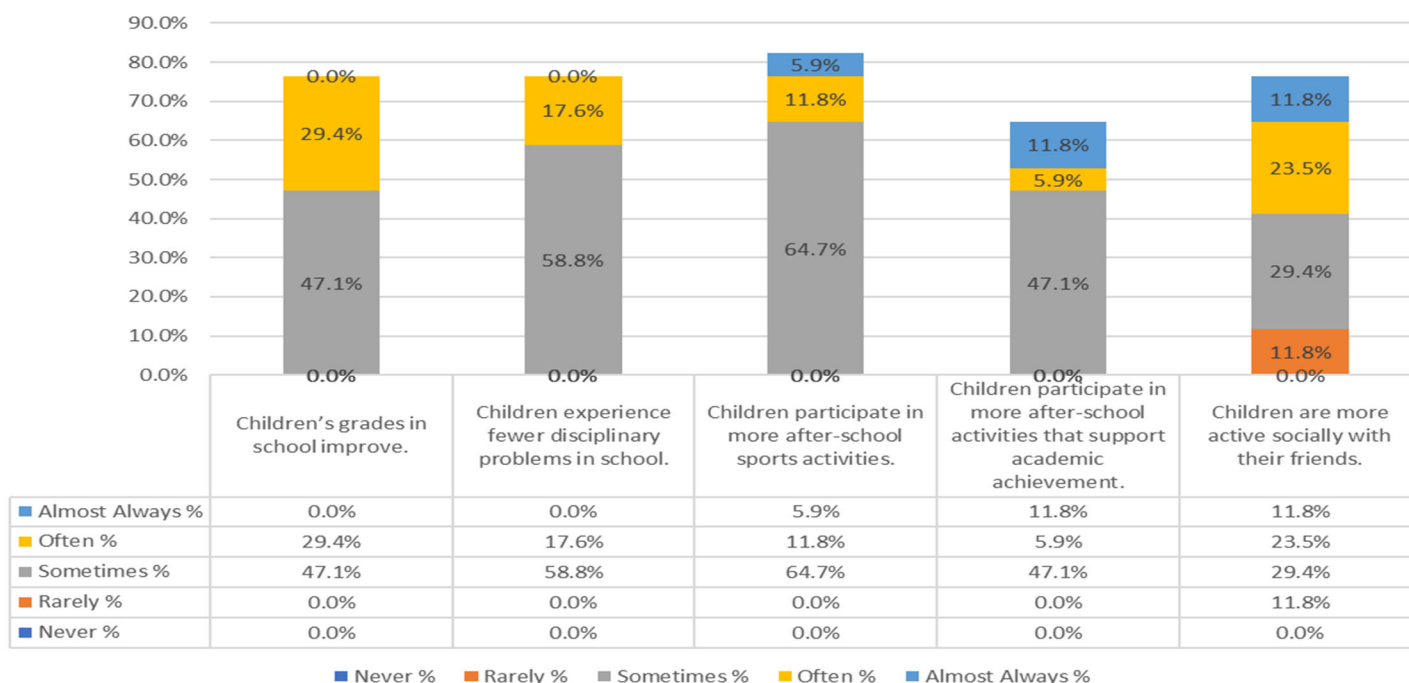
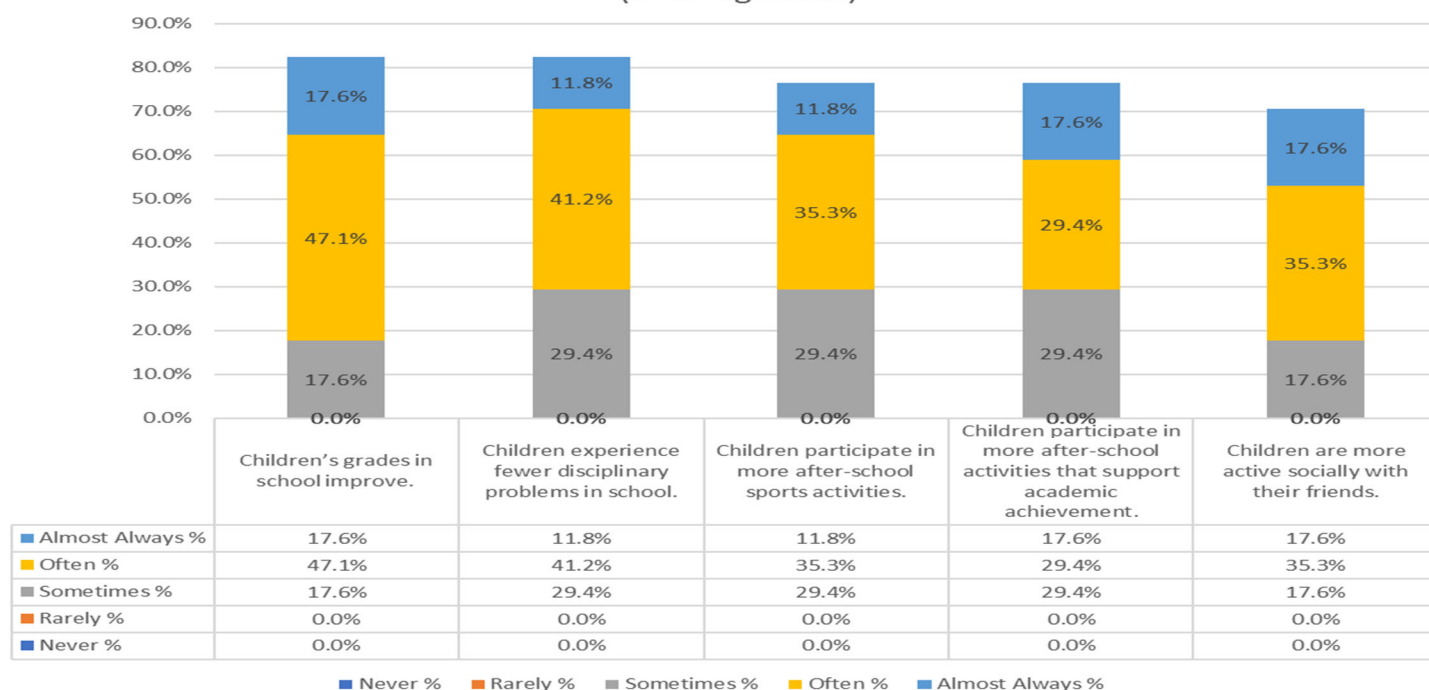


Figure 70: Engagement of VAWA Self-Petitioners and U Visa Applicant's Children in School- Attaining Lawful Permanent Residency (n=17 agencies)



Children's Well-Being

Study responses reveal that over the course of a victim's immigration case, there were significant increases in the percentage of VAWA and U visa victims whose children *often or almost-always* experienced improvements on all measures of well-being by lawful permanent residency compared to when the children's mothers filed for immigration relief. *Compare Figure 71 and 73.*

- Children more actively pursued their personal interests: Study data reflect a rise of 201% in children of VAWA and U visa victims *often or almost always* pursuing their personal interests from 18% at filing to 53% at lawful permanent residency with 134% of that increase occurring by work authorization (41%). *See Figures 71, 72, and 73.*
- Slept better: The proportion of immigrant victims' children reporting to *often or almost always* be sleeping better improved 120% by lawful permanent residency compared to filing. With 29% at filing to 41% after work authorization and reaching 65% at lawful permanent residency. *See Figures 71, 72, and 73.* At lawful permanent residency, 18% of children *almost always* slept better. *See Figure 73.*
- Eating better: Participant agencies reported that VAWA and U visa clients' children were *often or almost always* eating better, increasing from 29% at filing to 35% after work authorization and reaching 59% at lawful permanent residency (100% total increase). *See Figures 71, 72, and 73.* The data also reveals that almost a quarter (24%) of children were reported to *almost always* be eating better when by the time their immigrant parents gained lawful permanent residency. *See Figure 73.*
- More talkative: Children of immigrant VAWA and U visa applicants *often or almost always* became more talkative as their mother's immigration case progressed increasing 80% by lawful permanent residency: 29% at filing increasing, 35% after work authorization, and 53% at lawful permanent residency. 29.4% of children were *almost always* more talkative at lawful permanent residency. *See Figure 73.*
- Less aggressive: Participating agencies reported that their VAWA and U visa clients' children were *often or almost always* less aggressive. The study found an 80% increase from filing and work authorization (both 29%) to 53% at lawful permanent residency. 24% of children at lawful permanent residency were *almost always* less aggressive. *See Figures 71, 72, and 73.*
- Actively mediating: Responses showed a 100% increase in VAWA and U visa victims' children *often or almost always* getting involved in actively mediating disputes: from a small percentage of 6% at filing and work authorization rising to only 12% at lawful permanent residency. *See Figures 71, 72, and 73.*
- Improved interactions with adults: Although participating agencies reported an overall 101% increase in VAWA and U visa victims' children that were *often or almost always* interacting better with adults from 18% after filing to 35% at lawful permanent residency,

children's *often or almost always* improved interactions with adults declined slightly to 12% after work authorization. See Figures 71, 72, and 73. This decline could be evidence of the difficulties children have during the period when their mothers are separating from the abuser and leaving abusive homes.

Figure 71: The Well-Being of VAWA Self-Petitioners and U Visa Applicant's Children-Between Filing and Work Authorization (n=17 agencies)

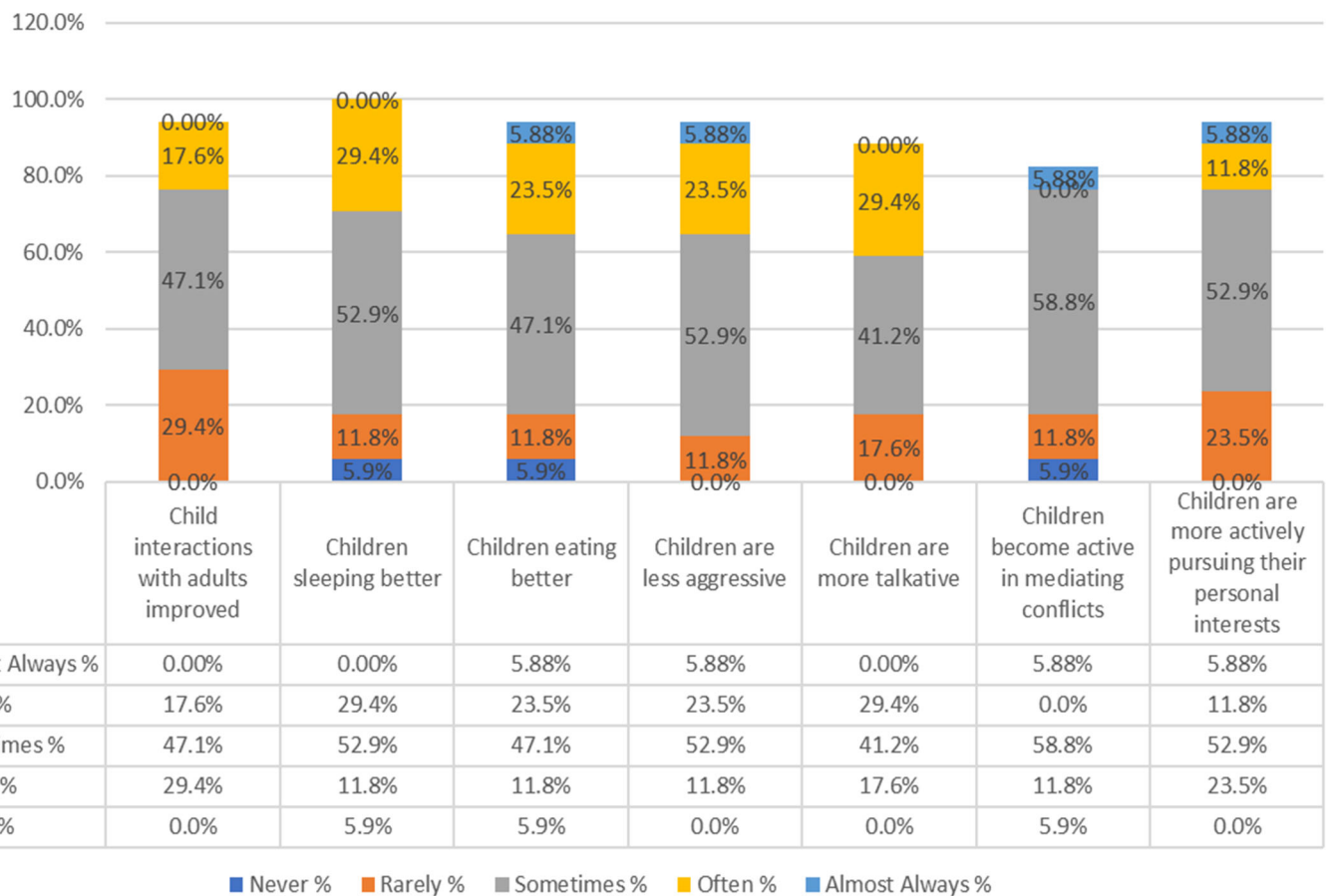


Figure 72: The Well-Being of VAWA Self-Petitioners and U Visa Applicant's Children -After Work Authorization (n=17 agencies)

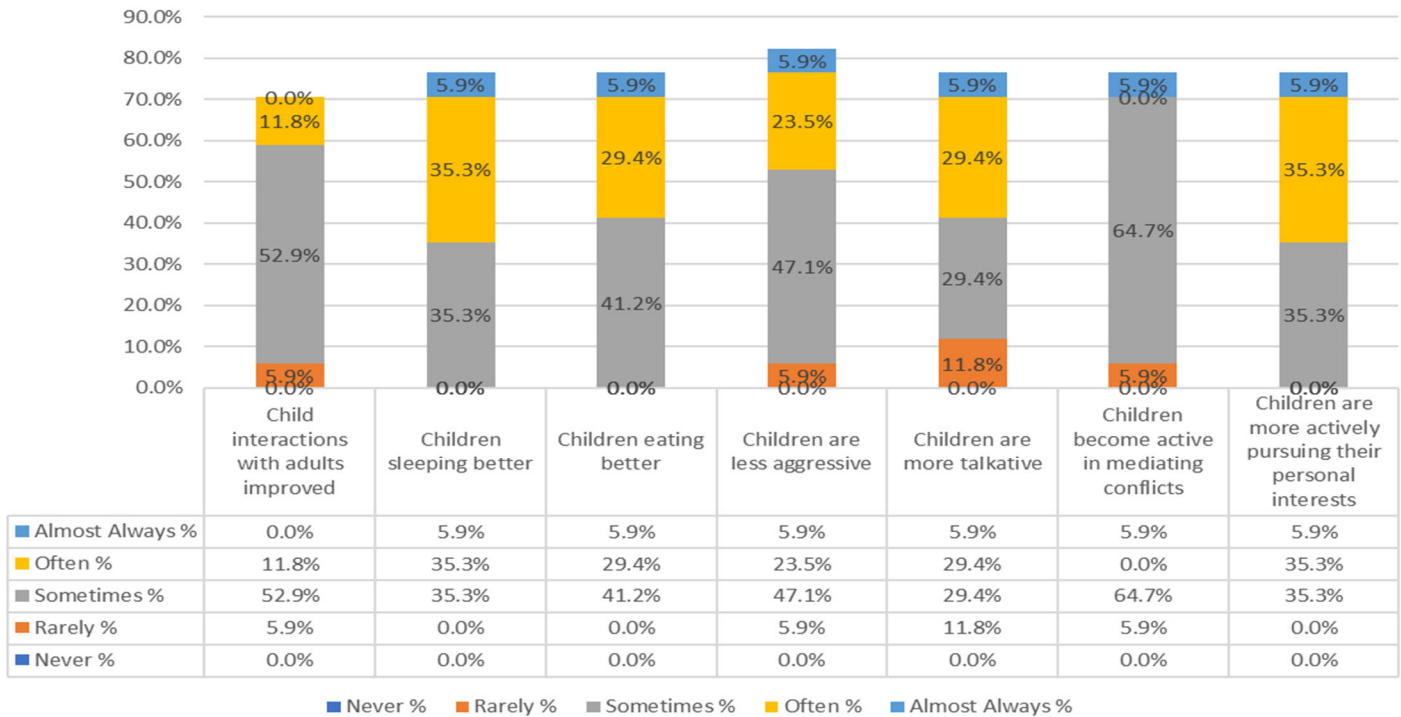
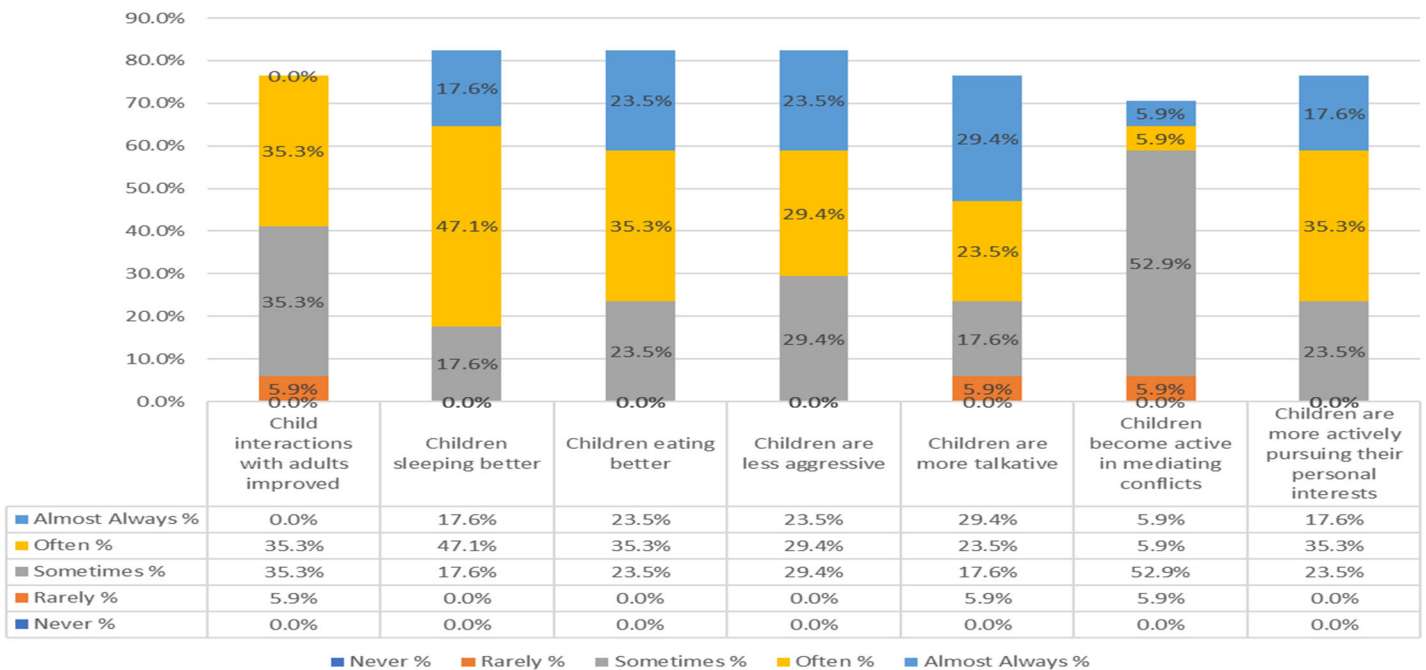


Figure 73: The Well Being of VAWA Self-Petitioners and U Visa Applicant's Children - Attaining Lawful Permanent Residency (n=17 agencies)



XII. How Immigrant Survivors' Earning Capacity Changes Through the Immigration Process

Prior research found that significant numbers of domestic violence and child abuse victims who are VAWA self-petitioners (43%) and U visa victims (63%) continue living with their abusers while they await receipt of work authorization.²¹³ This study sought to understand how family income of abused immigrant VAWA self-petitioners and U visa applicants changed over time while they continued to reside with their abusers and after they were able to separate from their abusers. The wait times between filing a VAWA self-petition and attaining work authorization in 2016 and 2019 were averaging one and a half years for VAWA self-petitioners²¹⁴ and five years for U visa applicants.²¹⁵ VAWA confidentiality laws were designed to offer victims protection that kept the perpetrator from learning about the existence of, outcomes in, and obtaining copies of evidence or information contained in a victim's immigration case file.²¹⁶ This allowed immigrant victims to apply for immigration relief without separating from their abusers until their immigration case had advanced to the stage where the victim could attain legal work authorization. Immigrant victims granted legal work authorization were also granted a formal form of protection from deportation called deferred action.²¹⁷

This study asked study participant attorneys, victim advocates, and government agency staff to report on their immigrant victim clients' family incomes over the course of their clients' applications for VAWA and U visa immigration relief. A total of 30 agencies reported on the access to income their clients had while continuing to live with their abusers (*See Figure 74*) and 38 agencies reported on how their VAWA and U visa clients' incomes changed once they were separated from their abusers and were moving through the VAWA and U visa process. . *See Figure 75*.

VAWA and U Visa Victims' Access to Income

The survey asked participant agencies about their VAWA and U visa client's access to income from their work, child support, and other sources not including the abuser's income both while victims continued to live with their abusers and after separation. Among battered immigrant VAWA and U visa applicants who continues to reside with their abusers, only 20% access an annual income of at least \$30,000 and 44% had access less than \$15,000 per year. *See Figure 74*. Challenges for victims of abuse living with the abuser's control over household income pose safety issues for victims with long waits for legal work authorization.

Among victims living apart from their abusers before obtaining work authorization, 61% (n=62) earned \$15,000 per year or less. After employment authorization, victims earning this level of income dropped by 64% to 38% of immigrant VAWA and U visa victims. *See Figure 74*. After receiving work authorization, 62% of VAWA and U visa applicants earned more than \$15,000 per year and 21% earned more than \$30,000 per year. *See Figure 75*.

²¹³ Krisztina E. Szabo et al., *Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants*, NIWAP 21-22 (Feb. 12, 2014), http://niwap.wpengine.com/pubs/final_report-on-early-access-to-ead_02-12.

²¹⁴ Katelyn Deibler & Leslye E. Orloff, *U Visa Timeline with Background Checks*, NIWAP (Mar. 29, 2019), <https://niwaplibrary.wcl.american.edu/pubs/3f-vawa-timeline-3-29-19>.

²¹⁵ Katelyn Deibler & Leslye E. Orloff, *U Visa Timeline with Background Checks*, NIWAP (Apr. 9, 2019), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-timeline>.

²¹⁶ Leslye E. Orloff & Benish Anver, *Family Court Bench Card on Violence Against Women Act (VAWA) Confidentiality*, NIWAP (Oct. 11, 2013), <https://niwaplibrary.wcl.american.edu/pubs/family-court-bench-card-vawa-confidentiality>.

²¹⁷ U.S. DEP'T JUST., HQ204-P, MEMORANDUM ON DEFERRED ACTION FOR SELF-PETITIONING BATTERED SPOUSES AND CHILDREN WITH APPROVED I-360 PETITIONS (1998); *U Visa Filing Trends*, U.S. CITIZENSHIP & IMMIGR. SERVS. 7 n.6 (Apr. 2020), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-filing-trends>.

FIGURE 74: Income Available to VAWA and U Visa Applicants While They Continued Living With Their Abusers (n=30 AGENCIES)

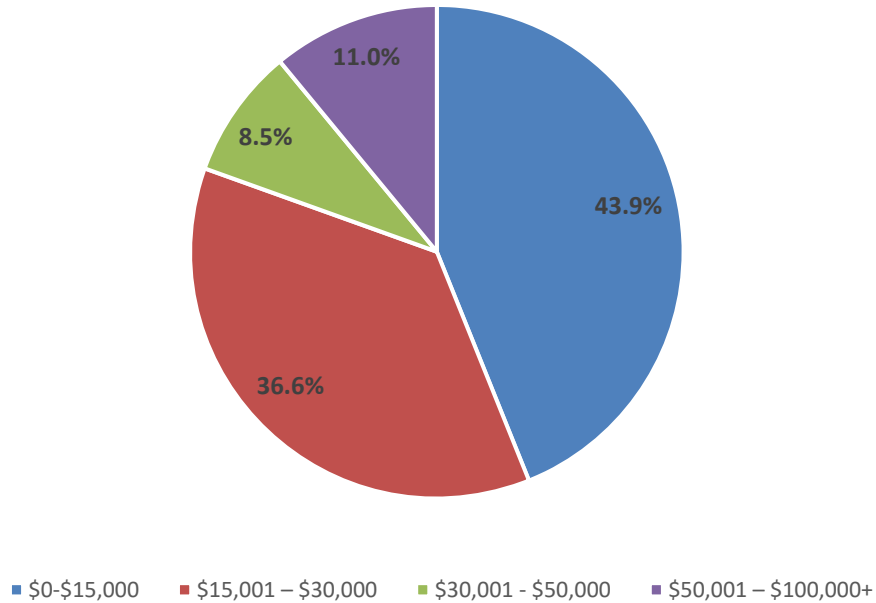
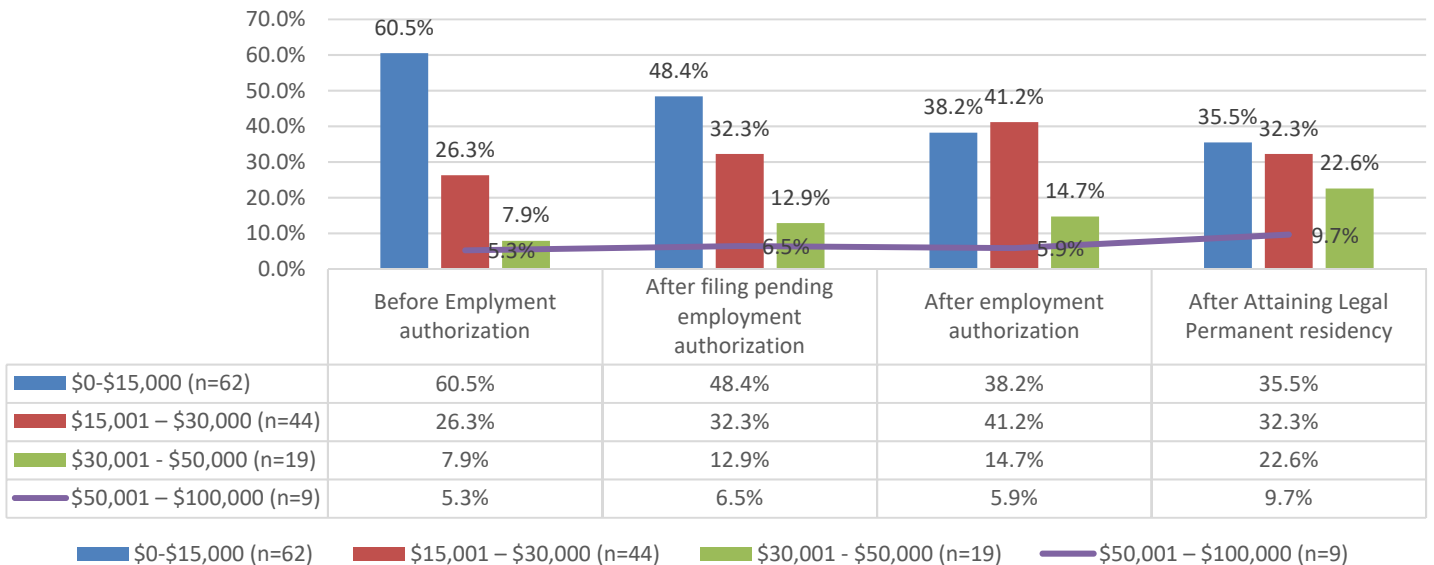


Figure 75: Income of VAWA Self-Petitioners and U visa Applicants Victims Living Apart From Their Abusers (n=38 Agencies)



Changes in Victims' Earning Capacity, Workplace Benefits and Tax Paying Over the Course of Victims' Immigration Application Process

Attorneys, advocates, and government agency staff responding to the survey from 30 agencies reported on how their clients' employment opportunities changed as their immigration cases progressed.

Employment based benefits

Prior to receiving legal work authorization, over half of VAWA and U visa applicants *never* had a job that paid health benefits (55%), vacation times (53%), paid sick time (57%), or maternity leave (55%). *See Figure 76.* After victims were granted legal work authorization, the abused immigrant women steadily started to receive jobs with greater benefits access. After work authorization, 43% *sometimes, usually or often* obtained employment that included healthcare, vacation, and paid sick leave benefits and 40% *sometimes, usually or often* obtained employment with maternity leave benefits. *See Figure 77.* This amounted to a more than five-fold increase in access to health insurance and a seven-fold increase in access to maternity leave. *Compare Figures 76 and 77.*

Access to each of these benefits rose further when victims attained lawful permanent residency with 57% *sometimes, often or always* receiving maternity leave (42% increase) and 53% *sometimes, always or often* gaining work benefits that include health care, paid vacation, and paid sick leave (23% increase). *See Figure 78.* Between filing and receipt of lawful permanent residency, the proportion of VAWA and U visa applicants who were reported to *rarely or never* obtain employment that included the following benefits dropped since receipt of work authorization: health care (34%), paid sick leave (82%), paid vacation (85%), and paid maternity leave (86%). *See Figures 77 and 78.*

Employment in the formal economy paying minimum wage

Study respondent agencies also reported that their VAWA and U visa clients after receiving work authorization were able to move from jobs in the informal sector of the economy to jobs in the formal economy that paid at least minimum wage.

- Decline in victims with jobs in the informal economy: The percentage of immigrant victim clients that *usually or often* had jobs in the informal economy dropped from 43% post-filing to 20% when victims attained legal work authorization and falling again to 17% after attaining lawful permanent residency, amounting to a 61% decrease since filing the victim's immigration case. *See Figures 76, 77 and 78.* Additionally, the percent of immigrant survivor clients that *usually or often* worked in the formal economy earning less than minimum wage also declined 76%, from 28% at filing to 7% by the time the victim attained lawful permanent residency. *See Figures 76 and 78.*
- Increase in jobs paying at least minimum wage: Strikingly, the percentage of immigrant victim clients who *usually or often* worked in jobs that paid at least minimum wage rose from 10% between filing and work authorization to 40% after receipt of work authorization (300% increase) and reached 47% after victims receive lawful permanent residency. *See Figures 76, 77, and 78.* Additionally, the numbers of VAWA and U visa clients who obtained jobs in the formal economy with employers withholding taxes and survivors filing tax returns increased 502% from 8% at filing to 50% after victims receive work authorization with an additional increase to 53% after victims receive lawful permanent residency.

Figure 76: Employment Conditions and Opportunities for VAWA Self-Petitioners and U Visa Applicants - After Filing - Before Work Authorization (n=30 agencies)

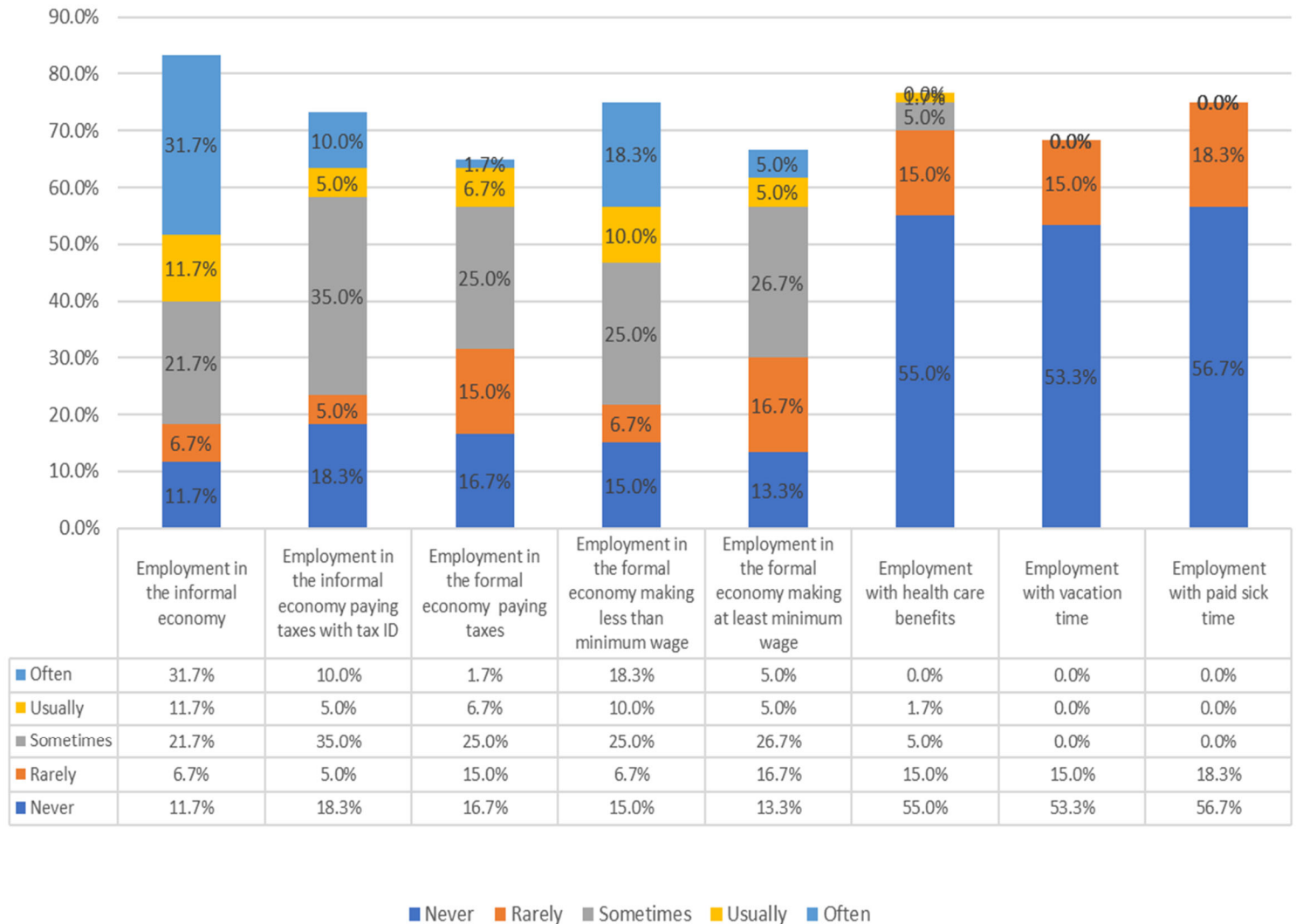


Figure 77: Employment Conditions and Opportunities for VAWA Self-Petitioners and U Visa Applicants - After Work Authorization (n=30 agencies)

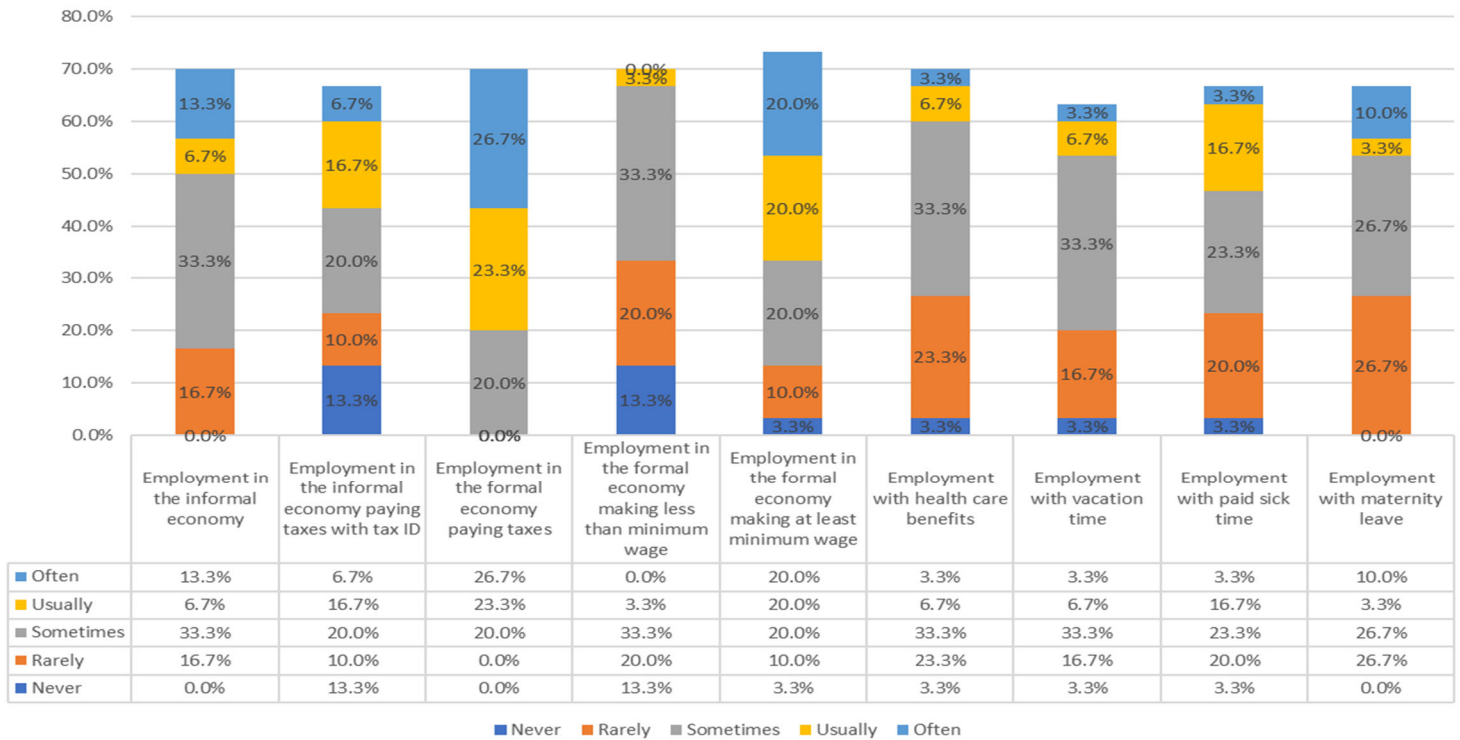
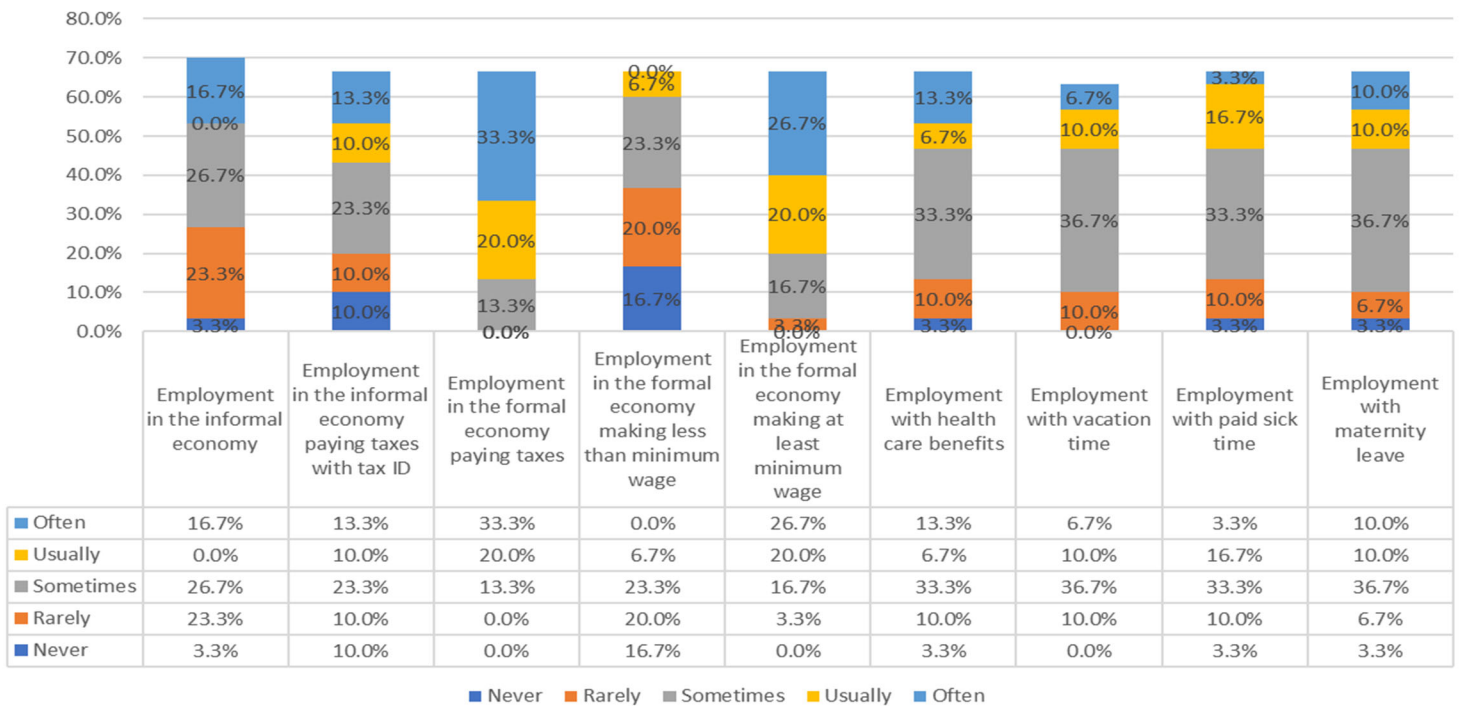


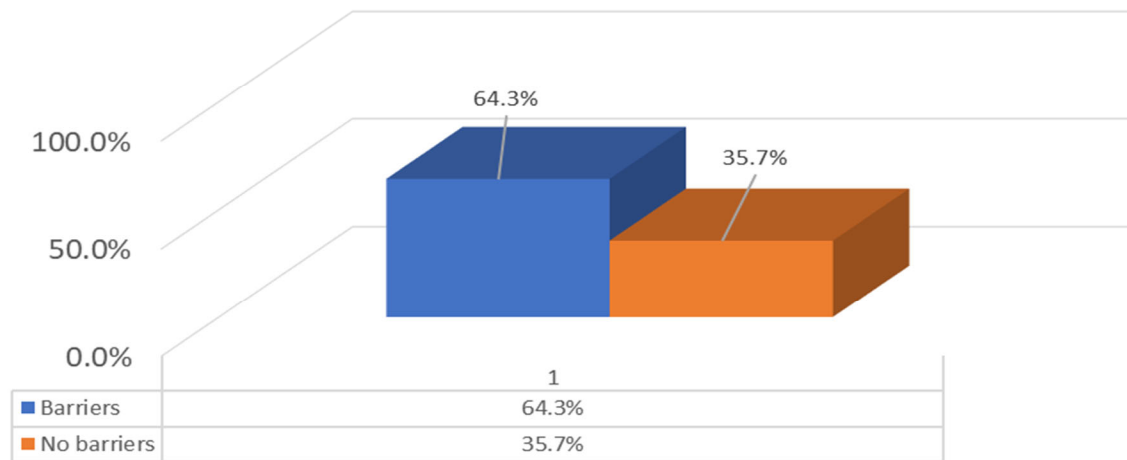
Figure 78: Employment Conditions and Opportunities for VAWA Self-Petitioners and U Visa Applicants - After Attaining Lawful Permanent Residence (n=30 agencies)



Barriers in obtaining employment

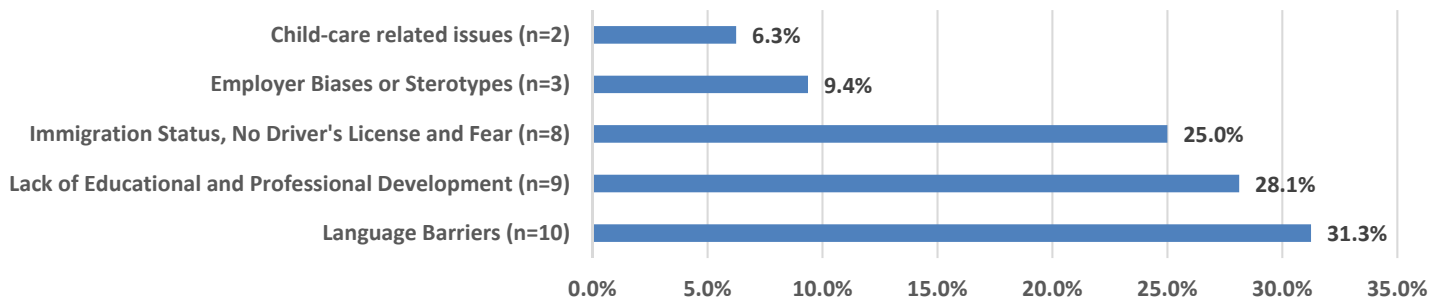
Despite the greater success many immigrant women had in securing employment paying at least a minimum wage with tax withholding and benefits, after they obtained legal work authorization through their VAWA self-petition or U visa cases, other victims encountered barriers to obtaining formal sector employment. A total of 28 agencies (reporting on 2,156 clients) responded that 64% of their immigrant victim clients with work authorization encountered barriers to attaining employment. See Figure 79.

Figure 79: VAWA Self-Petitioner and U Visa Applicants Who Encountered Barriers After Attaining Work Authorization (n=28 agencies)



Study participant agencies were asked to describe the barriers their VAWA and U visa clients with legal work authorization encountered when seeking employment. Thirty-two (32) agencies described these barriers and provided qualitative study responses that were later categorized in Figure 80. The study found that barriers related to the survivor's immigration status and anti-immigrant bias were posed the greatest barriers (34%), followed closely by limited English proficiency (31%), and lack of education and professional development (28%). See Figure 80.

Figure 80: Employment Barriers for VAWA Self-Petitioners and U Visa Victims (n=32 agencies)



Below are examples what victim advocate and attorney study participants described regarding the employment barriers their clients encountered:

- *California, Legal Services Organization* (2016) “[Employers] did not think they had the required skill set for the job they sought; bias on the part of the employer.”
- *West Virginia, Legal Services Organization* (2016) “Lack of child care during work hours”
- *South Carolina, Domestic Violence Coalition or Program* (2016) “Employer [had] concerns over legality of employing an immigrant, even with work authorization.”

Although DHS granted immigrant victim VAWA self-petitioners and U visa applicants for legal work authorization, study respondents reported that immigrant victim clients were still turned away from jobs based on immigration status. It is important to note that VAWA self-petitioners, particularly those whose abusers are lawful permanent resident spouses, parents, or stepparents, will have to wait three years after their VAWA self-petition is approved to be eligible for lawful permanent residency.²¹⁸ During this waiting period to be able to apply for lawful permanent residency, approved VAWA self-petitioners are lawfully present in the United States based on deferred action and are legally authorized to work by DHS, but they have no form of legal immigration status.

U visa victims who receive waitlist approval are in an identical position. They are lawfully present when their U visa case is waitlist approved and they are granted deferred action, but they do not obtain their legal immigration status until a visa becomes available, which can be a wait of up to 14 years with lawful presence without legal immigration status.²¹⁹ Once a victim reaches the point in their immigration case where the victim is granted work authorization and deferred action, they are legally eligible to live and work in the United States. Attorneys and victim advocates can provide important advocacy for VAWA and U visa victims by helping educate employers and potential employers that immigrant victims who have receive legal work authorization from DHS are legally eligible for employment.

XIII. Improvements in Immigrant Survivors Well-Being Through the Immigration Process

Study participant agencies (31) reported their observations of their immigrant crime victim clients’ emotional well-being at three different periods: after filing the VAWA or U visa-based immigration case, after receipt of work authorization, and after receipt of lawful permanent residency. The survey asked several sets of questions to determine well-being that included questions about:

- Positive changes in the clients’ lives: i.e., were clients sleeping better, calmer, more at ease, or more energy and alertness. *See Figures 81, 82, and 83.*
- Improvements in the clients’ mental and physical health: i.e., did the clients report fewer medical problems, appear less depressed, or less distracted and more focused. *See Figures 81, 82, and 83.*

²¹⁸ Katelyn Deibler & Leslye E. Orloff, *VAWA Self-Petition Timeline with Background Checks*, NIWAP (Mar. 29, 2019), <https://niwaplibrary.wcl.american.edu/pubs/3f-vawa-timeline-3-29-19>.

²¹⁹ *U Visa Filing Trends*, U.S. CITIZENSHIP & IMMIGR. SERVS. 4 (Apr. 2020), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-filing-trends>.

- Improved independence, self-esteem, and self-care: i.e., easier time making decisions, more independent, more able to stand up for themselves when needed, more empowered, higher self-esteem, or better self-care and physical appearance. *See Figures 84, 85, and 86.*
- More hopeful, interested and involved: i.e., victims more hopeful about the future and more interested and involved with community, friends, and family. *See Figures 84, 85, and 86.*

Positive changes in VAWA and U visa clients' lives

Participating agencies provided responses regarding changes in their VAWA and U visa clients' lives as they went through the immigration case process reporting the following:

- Slept better: There was a 300% increase in the percentage of VAWA and U visa clients who reported *often or almost always* sleeping better at work authorization (52%) compared to filing (13%). Immigrant survivors' sleep continued to improve reaching 61% at lawful permanent residency. This amounts of a total increase of 375% from filing to lawful permanent residency. *See Figures 81, 82, and 83.*
- More calm: Similarly, greater numbers of immigrant VAWA and U visa applicants were reported *often or almost always* to be calmer, increasing 299% from 19% after filing to 77% after receiving work authorization. The numbers who felt more calm continued to increase slightly at lawful permanent residency to 81% for a total increase since filing of 316%. *See Figures 81, 82, and 83.*
- More at ease: Immediately upon filing of victims' VAWA and U visa cases over a quarter 26% were reported to *often or almost always* feel more at ease. This proportion increased by 162% once victims received legal work authorization to 68% and increased again to 77% once victims attained lawful permanent residency. Over the course of the victim's immigration case process there was an increase of 200% in the extent to which victims felt more at ease. *See Figures 81, 82, and 83.*
- More energy, alertness, awareness, and activity: Participating agencies also reported significant increases in the numbers of their clients who *often or almost always* had more energy, were more alert, had a greater awareness and were more active. The study found significant improvements for VAWA and U visa survivors rising from 26% who felt like this after filing to 74% after work authorization which constitutes a %188% increase and remaining high 71% when victims attained lawful permanent residency. *See Figures 81, 82, and 83.*

This data demonstrates that VAWA and U visa client's emotional and psychological well-being improve dramatically with the greatest increases occurring once victims attain legal work authorization.

Much research shows that sleep disturbances are prevalent among women experiencing intimate partner violence, with both insomnia and nightmares as a symptom.²²⁰ These are also known symptoms of Post-Traumatic Stress Disorder. *Figure 82* demonstrates how victim's sleep patterns, feelings of calm, ability to feel more at ease and energy, alertness, awareness and activity levels improve for most VAWA and U visa applicants once they receive work authorization. These mental health benefits stay steady and on most factors continue to increase more gradually as victims are granted lawful permanent residency. These findings begin to draw a picture of the emotional benefits for victims most of whom are caregiving mothers that comes from gaining access to work authorization.

Improvements in mental and physical health

Study participants also provided data on VAWA and U visa applicants' mental and physical health changes:

- Less distracted and more focused: The numbers of VAWA and U visa clients whom participating agencies reported were *often or almost always* less distracted and more focused increased dramatically by 281% from filing (16%) to the time when victims received work authorization (61%) and stayed at a similar rate after lawful permanent residency (58%). *See Figures 81, 82, and 83.*
- Less depressed: There were also significant percentages of VAWA and U visa clients who were *often or almost always* less depressed once they received legal work authorization (55%) compared to the time after filing of their immigration cases (19%), an increase of 183%. The increase in the numbers of clients who *often or almost always* felt less depressed continued to rise after victims attained lawful permanent residency to 61%, a 216% total increase since filing. *See Figures 81, 82, and 83.*
- Fewer medical problems: Immigrant survivors' experiences with declines in medical problems occurred slower as victims moved in time farther away from the physical abuse they had suffered and as they were able to separate from their abusers. The data revealed a 50% increase in the numbers of VAWA and U visa survivors who *often and almost always* experience fewer medical problems after receiving work authorization (19%) compared to after filing the victim's immigration case (13%). There was a dramatic increase (283%) in the number of survivor clients who experienced fewer medical problems from receipt of work authorization to the time victims attained lawful permanent residence reaching 74%. *See Figures 81, 82, and 83.*

This change in victims experiencing fewer medical problems may be a result of a number of factors. As discussed above, with access to legal work authorization, more victims have access to health insurance coverage making them more able to seek preventative health care and treatment for health problems before they escalate. Also, as victims leave abusive homes and workplaces and begin to heal from the abuse they suffered, their physical and mental health improves and medical problems lessen.

²²⁰ Wilfred R. Pigeon et al., *Sleep Disturbances and Their Association with Mental Health Among Women Exposed to Intimate Partner Violence*, 12 J WOMEN'S HEALTH 1923-1929 (2011).

Figure 81: Changes VAWA Self-Petitioners' and U Visa Applicants' Emotional Well-Being As Their Immigration Case Proceeds - After Filing (n=31 agencies)

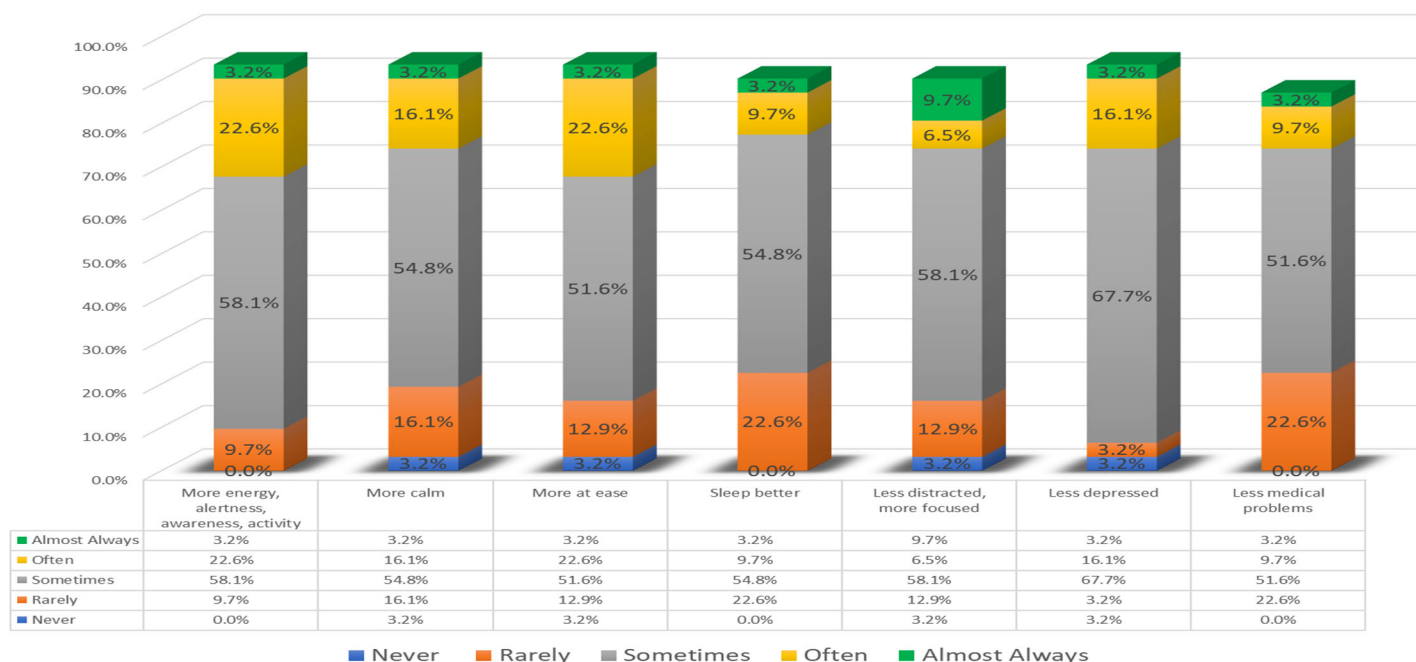


Figure 82: Changes VAWA Self-Petitioners' and U Visa Applicants' Emotional Well-Being As Their Immigration Case Proceeds - After Work Authorization (n=31 agencies)

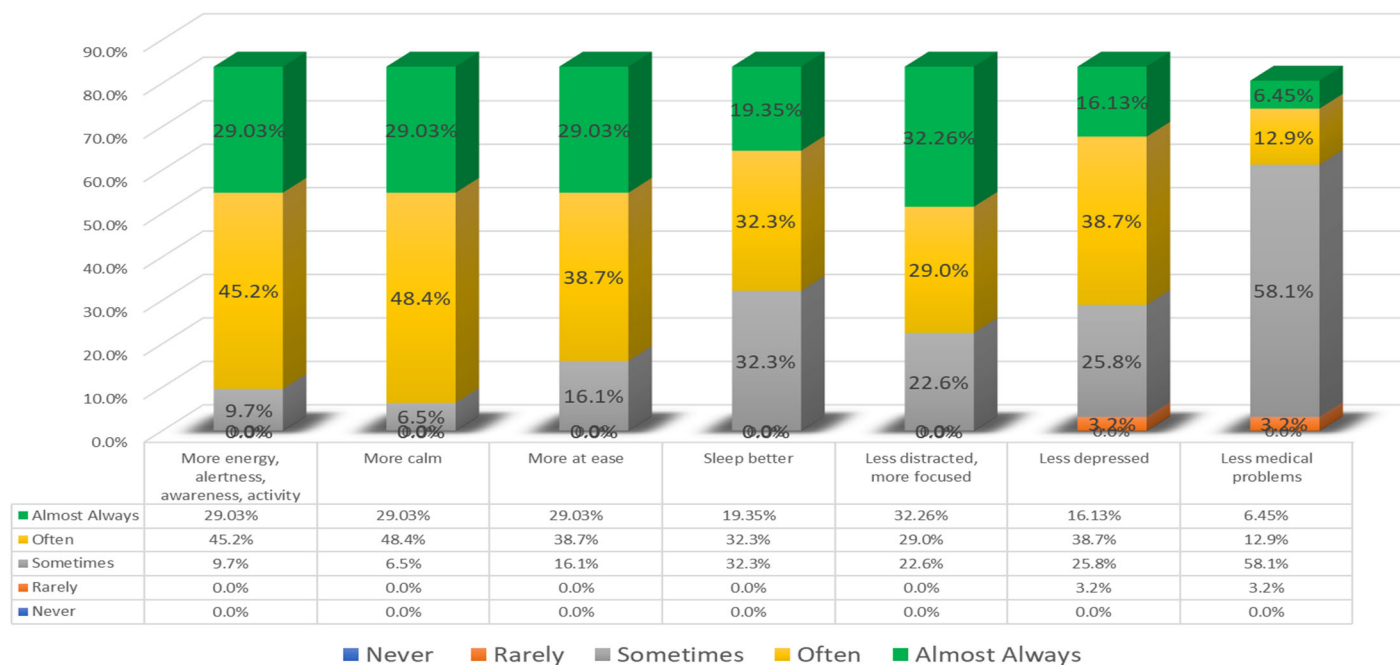
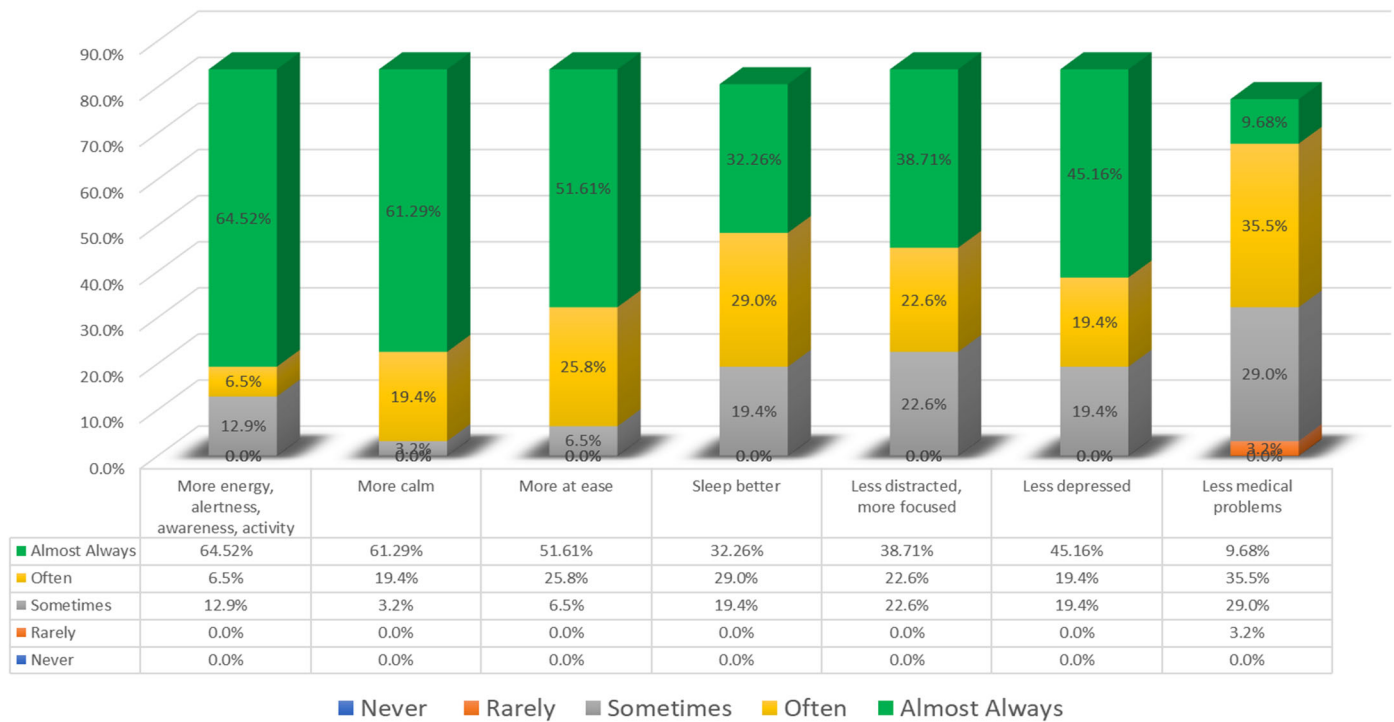


Figure 83: Changes VAWA Self-Petitioners' and U Visa Applicants' Emotional Well-Being As Their Immigration Case Proceeds - After Lawful Permanent Residency (n=31 agencies)



Improved VAWA and U visa clients' self-esteem, confidence, and self-care

The survey asked participating agencies to report their observations on the extent to which their immigrant survivor clients' experienced the following improvements:

- Have an easier time making decisions: This factor had the greatest increase in the category of improvements. The numbers of VAWA and U visa clients who *often and almost always* experienced a much easier time making decisions increasing 432% when victims were granted legal work authorization (52%) compared to post-filing (10%) of the victims VAWA and U visa immigration cases. The numbers of victims who *often and almost always* found it easier to make decisions continued to increase by another 38% after victims received lawful permanent residency to 71%, for a total increase since filing of 632%. *See Figures 84, 85, and 86.*
- More independent: The numbers of immigrant survivors who *often or almost always* began to feel more independent grew from 16% post filing to 58% when victims received work authorization, a 261% increase, and continued to increase to 77% at lawful permanent residency achieving a total increase from filing of 381%. *See Figures 84, 85, and 86.*
- Able to stand up for themselves when needed: As with this study's findings on ease of decision making, the numbers of VAWA and U visa victims who felt comfortable standing up for

themselves was quite low 13% at filing. However, there was a 225% increase in the numbers of survivors who *often or almost always* could do this once survivors had legal work authorization (42%) and these numbers continued to increase through lawful permanent residency (52%) with a total increase since filing of 300%. *See Figures 84, 85, and 86.*

- Better self-care: As immigrant survivors moved through the immigration case process, the agency staff who worked with them observed improvements in survivors' *often or almost always* taking steps toward their own self-care. The numbers increased from 16% at filing to 48% at receipt of work authorization (a 201% increase) and reached 61% by lawful permanent residency. This amounted to an increase since filing of 281%. *See Figures 84, 85, and 86.*
- More empowered and higher self-esteem: With regard to VAWA and U visa clients' who *often or almost always* were experiencing improvements in their lives due to higher self-esteem and greater empowerment, after filing their immigration case, over a quarter (26%) of victims experienced these improvements. After receiving work authorization, the numbers of immigrant survivor clients who were *often or almost always* feeling higher self-esteem and empowerment jumped to 74% (a 188% increase) and continued to increase to 84% at lawful permanent residency resulting in a total increase since filing of 225%. *See Figures 84, 85, and 86.*
- Better physical appearance and grooming: For victims of domestic or sexual violence, their physical appearance and the state of their grooming can provide important evidence of the impact that the abuse and crime victimization is having or has had of a victims' life. These factors also provide observable evidence of improvements in victims' lives. Study participants reported that 29% of their VAWA and U visa clients *often or almost always* showed improvements in appearance and grooming after filing their immigration cases. These numbers increased by 112% to 61% of clients by work authorization and maintained that same rate through lawful permanent residency. This is a total increase since filing of 111%. *See Figures 84, 85, and 86.*

More hopeful and more interested and involved with community, friends, and family

Additionally, surveyed agencies reported on the proportion of VAWA and U visa clients' who were more hopeful about their future and who became more interested and involved with their communities, friends, family, and neighbors as victims moved through the immigration case process. The following are the results of participants' reporting:

- More interested and involved with community, friends and family: At the beginning of the immigration process when victims filed their immigration cases, low numbers (16%) *often or almost always* were more interested and involved their community, friends and family. This increased by 160% to 42% after victims were granted work authorization and increased again to 58% by the time victims became lawful permanent residents with a total increase over filing of 261%.
- More hopeful about their future: Immigrant VAWA and U visa clients' hopefulness about the future was the factor in which the largest number (32%) of immigrant survivor clients experienced. Clients were reported to *often or almost always* experience more hopefulness about

their future following the filing of their immigration case. The numbers of clients *often and almost always* experiencing more hopefulness grew to 74% when victims receive work authorization through the time that victims attained lawful permanent residency increasing 130%

After filing for VAWA or U-visa immigration relief, this study found that victims became more hopeful for the future resulting in greater numbers of victims with healthier self-esteem. Study participant agencies also reported that their immigrant victim clients became more interested and involved with their family, friends, community, and neighbors as they moved through the VAWA and U visa immigration process.

Importantly, study participant agencies reported that by the time that victims receive work authorization, the proportion of their immigrant victim clients who *rarely or never* demonstrated improvements in self-esteem, outlook, and community involvement dropped to zero for all factors assessed in this question except one. A small number of VAWA and U visa victims 3% were reported to continue to have, on occasion although *rarely*, difficulty standing up for themselves when needed. See Figures 85 and 86.

Figure 84: Changes VAWA Self-Petitioners' and U Visa Applicants' Outlook and Self-Esteem As Their Immigration Case Proceeds - After Filing (n=31 agencies)

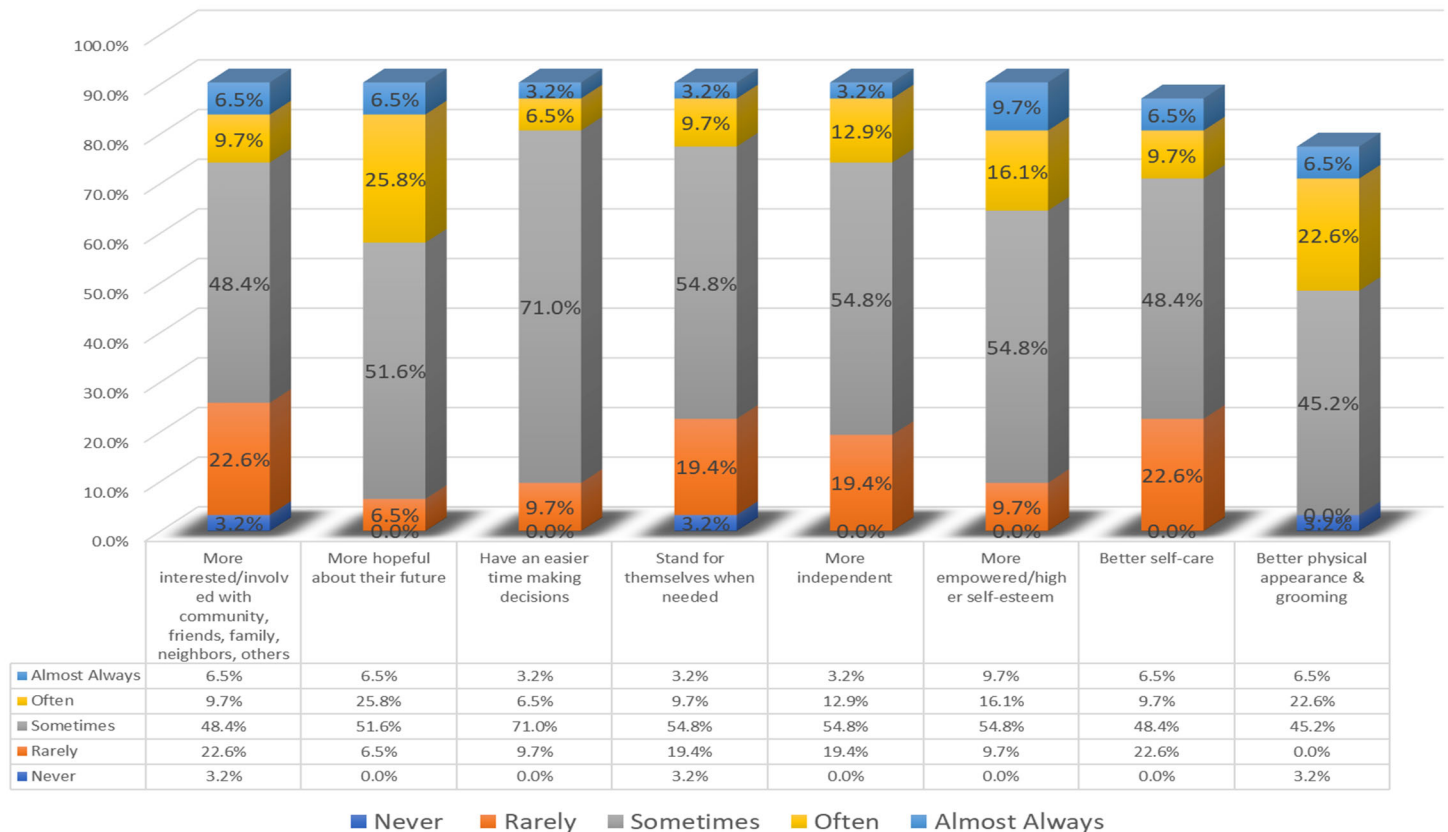


Figure 85: Changes VAWA Self-Petitioners' and U Visa Applicants' Outlook and Self-Esteem As Their Immigration Case Proceeds - After Work Authorization (n=31 agencies)

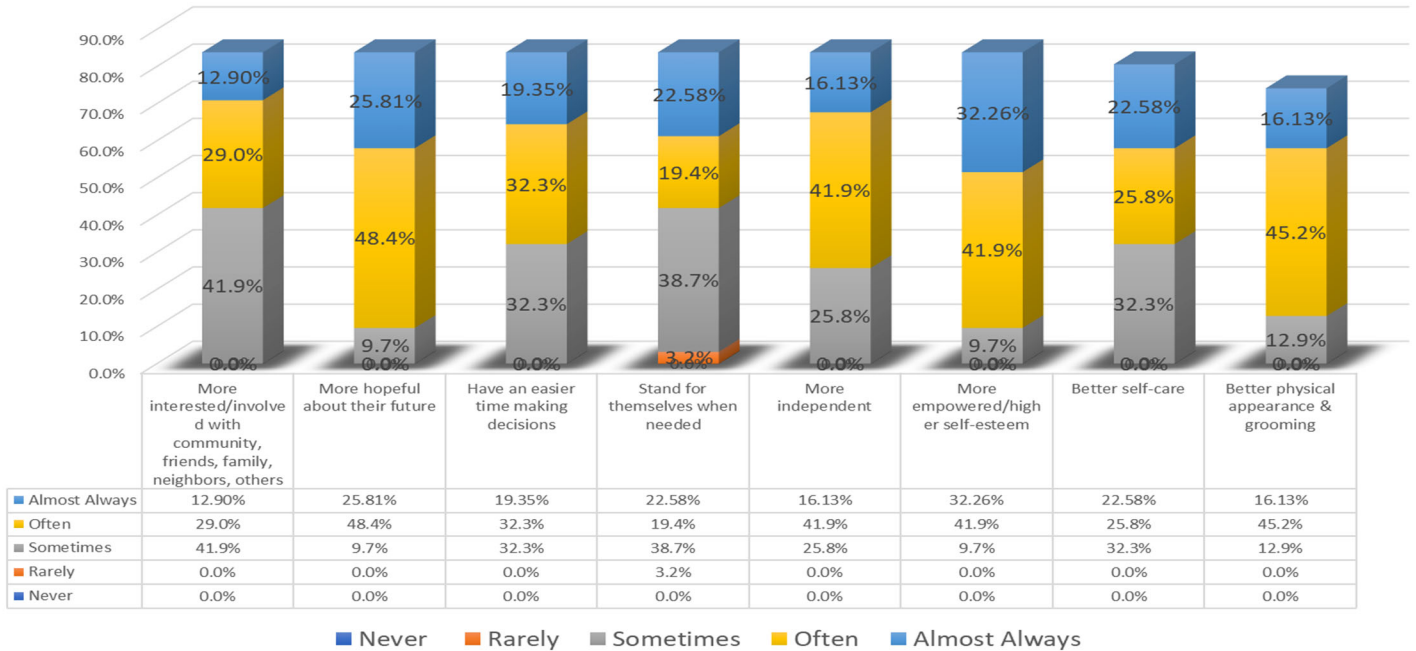
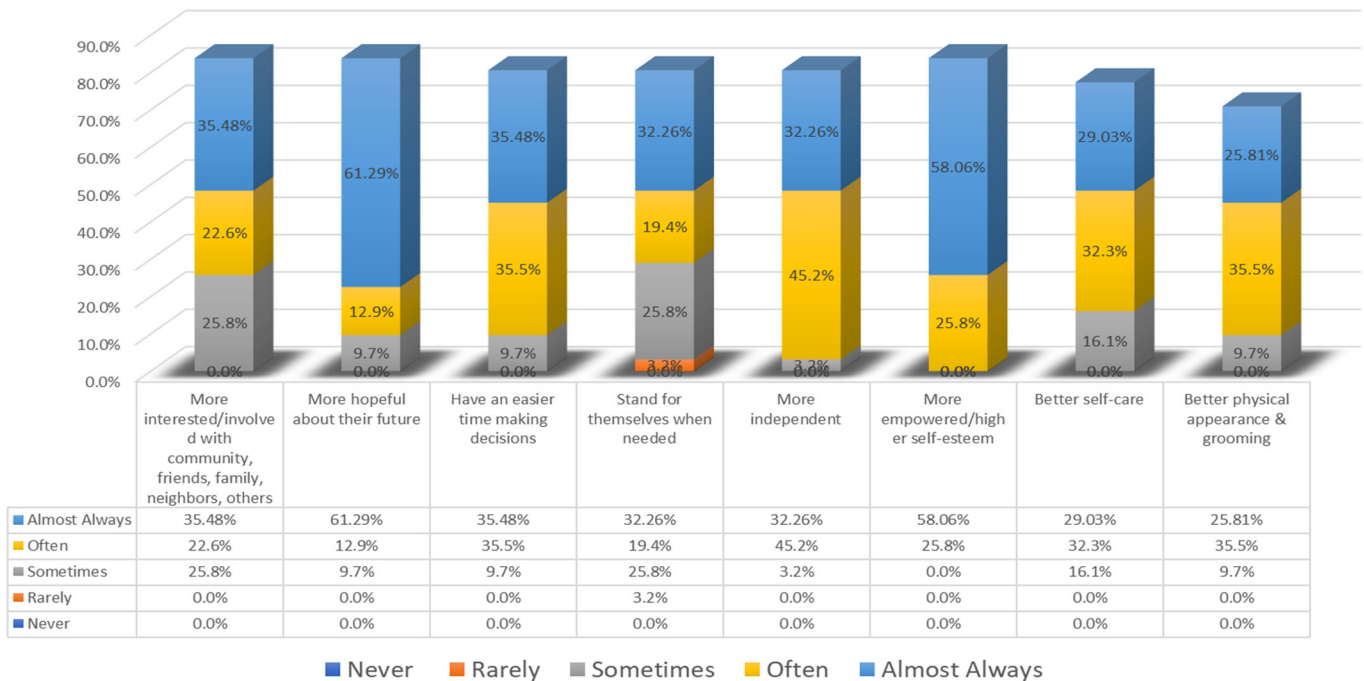


Figure 86: Changes VAWA Self-Petitioners' and U Visa Applicants' Outlook and Self-Esteem As Their Immigration Case Proceeds - After Lawful Permanent Residency (n=31 agencies)



XIV. Changes in Immigrant Survivors Closeness with Their Culture and Their Acculturation in the United States

Closeness with VAWA and U visa clients' own culture and relationship with their home country

The survey asked agencies to report on the changes immigrant survivors applying for VAWA and U visa immigration status experienced to their acculturation to life in the United States. Thirty (30) agencies responded to these questions. To measure this, the study looked at several sets of factors, including survivors' closeness to their own culture and home countries, survivors' acculturation to life in the United States, their adoption of U.S. norms and their willingness to trust law enforcement and to seek and use community resources. The study examined how each of these factors and victims' relationship to it changed as victims' immigration cases progressed through the system. The results on each of the following are discussed in this section:

- Closeness with their culture: The extent to which VAWA and U visa clients are primarily responsible for transmitting their cultural identity to their children and whether survivors regularly eat traditional foods from their ethnic group. *See Figures 87, 88, and 89.*
- Connections with their home countries: The numbers of immigrant survivors who stayed in close contact with family members in their home countries, who made plans to visit their home countries, and who had plans to return and live in their home countries. *See Figures 87, 88, and 89.*
- Learning and speaking English: The extent to which VAWA and U visa applicant immigrant survivors enroll in English classes and attempt in their day to day lives to speak more English. *See Figures 90, 91, and 92.*
- Adopt U.S. based relationships, cultural norms and foods: How over the course of the immigration case process victims come to feel more at home in the United States, they feel more comfortable socially with people from the U.S. including friends, neighbors and co-workers, attend social functions with people from the U.S., adopt U.S. cultural norms and feel more comfortable eating foods from the U.S. *See Figures 90, 91, and 92.*
- Assertiveness and confidence with independent decision-making: How immigrant victims' willingness to be more assertive and feelings of confidence increased with independent decision-making during the victims' immigration process. *See Figures 93, 94, and 95.*
- Trust in the police and community resources: How victim's willingness to trust police in the U.S. changes, and how immigrant survivors' familiarity with and willingness to access community resources change at various stages of the victims' immigration cases. *See Figures 93, 94, and 95.*

Closeness with victim's own culture

This study found that immigrant survivors' connection to their own cultures was strong and was not affected in any significant way by the victims' immigration case process. Being grounded in one's culture can be stabilizing and can provide a strong foundation for victims recovering from trauma. This is particularly true for victims who were forced as part of the coercive control in domestic violence

relationships to distance themselves from the culture. With regard to immigrant VAWA and U visa survivors' responsibilities for transmitting cultural identity to their children and the extent to which they regularly ate traditional foods from their ethnic group, little change was reported.

- Transmitting cultural identity to children: The number of immigrant VAWA and U visa applicants who were *often or almost always* primarily responsible for transmitting their culture to their children was 63% at filing of victims' VAWA or U visa immigration cases. There was only a slight 10% decline in the numbers of VAWA and U visa victims' involvement in these activities between filing and receipt of lawful permanent residency (57%) with 60% fulfilling these responsibilities at lawful permanent residency. *See Figures 87, 88, and 89.*
- Eating traditional foods: Similarly, clients regularly prepared and ate the foods familiar within their ethnic group with 67% post-filing and at work authorization *often or almost always* eating foods that are ethnically and culturally familiar. There was only a small 10% decline to 60% at lawful permanent residency. *See Figures 87, 88, and 89.*

Connections of immigrant survivors with their home countries

The survey asks several questions about victims' connections with their home countries. As reflected in *Figure 22*, many of the clients suffered coercive control, isolation and threats of harm to family members that made it difficult, dangerous, and often impossible for immigrant victims to maintain contact with family members and relatives in their home countries. As immigrant survivors' cases moved through the immigration process and victims were able to separate from abusive spouses and intimate partners, this study sought to learn the extent to which they reconnected or maintained contact with family in their home countries.

- Close contact with family in their home country: At the point when immigrant survivors filed their VAWA and U visa applications, 53% *often or almost always* were in close contact with their family members in their home countries. There was a 19% rise in the numbers of immigrant victims regularly in contact with family members in their home countries by work authorization and lawful permanent residency (63% each). At the other end of the spectrum, there was a 67% decline in the numbers of VAWA and U visa clients who were *rarely or never* in close in contact with family and relatives from their home countries from post-filing 30% to 13% at work authorization and reaching a low of 10% by lawful permanent residency. These results provide evidence to support the conclusion that once immigrant domestic violence survivors separate from their abusers and are no longer under the abuser's coercive control, they reconnect with their family members in their home countries. *See Figures 87, 88, and 89.*
- Plans to move back to their home countries: Participant agencies reported an 80% decline in the numbers of their VAWA and U visa clients who *sometimes or often* considered or made plans to return permanently to their home countries. This fell from 17% at filing, dropping to 7% who *sometimes* considered this by work authorization and reducing further to only 3% *sometimes* considering returning by lawful permanent residency. Agencies also reported that the majority of their abused immigrant clients *rarely or never* planned to return to their home countries with 63% reporting this post-filing and 67% reporting this at both work authorization and lawful permanent residency. *See Figures 87, 88, and 89.*

- Plans to return for a visit to their home countries: As discussed next, the responses to this question were influenced by the laws that govern who can freely travel out of and into the United States legally. This study found a 150% increase in VAWA and U visa clients who made plans to return to their home countries for a visit as victims move through the VAWA and U visa case process. The numbers of clients who *often or almost always* making such plans are 20% at filing, rising to 30% at work authorization and 50% lawful permanent residency. *See Figures 87, 88, and 89.*

It is important to note that while their cases are pending, the vast majority of immigrant victims filing for VAWA and U visa immigration protections cannot generally reenter the United States if they travel abroad.²²¹ Only a minority of U visa applicants and VAWA self-petitioners have other forms of legal immigration status that would allow them to travel to and from the United States (e.g., student visa holders, work visa holders). Immigrant survivors who may be inadmissible to the United States due to, for example, unlawful entry or overstaying a visa will need to remain in the U.S. from the time they file their VAWA or U visa case through the time they obtain their U visa or lawful permanent residency status. Although these and many other inadmissibility grounds are waivable in VAWA and U visa cases leaving and attempting to reenter the United States could trigger a three or ten year bar to reentry.²²² Victims granted U visas may seek advance permission to reenter the U.S. if they travel abroad, but readmission is not guaranteed, so leaving the U.S. can pose risks. Inadmissibility grounds that are not waivable for VAWA and U visa applicants will keep victims who travel abroad from being granted permission to reenter the U.S.²²³

²²¹ Leslye Orloff et al., *U-Visas: Victims of Criminal Activity*, in *Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault* 30 (Leslye Orloff ed., 2013), <https://niwaplibrary.wcl.american.edu/pubs/ch10-u-visas>;

Moira Fisher Preda et al., *Preparing the VAWA Self-Petition and Applying for Residence*, in *Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants* 23, 30 (Kathleen Sullivan & Leslye Orloff eds., 2013) <https://niwaplibrary.wcl.american.edu/pubs/ch3-3-selfpetitionprep>.

²²² Moira Fisher Preda et al., *Preparing the VAWA Self-Petition and Applying for Residence*, in *Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants* 24 (Kathleen Sullivan & Leslye Orloff eds., 2013) <https://niwaplibrary.wcl.american.edu/pubs/ch3-3-selfpetitionprep>; Leslye Orloff et al., *U-Visas: Victims of Criminal Activity*, in *Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault* 30 (Leslye Orloff ed., 2013), <https://niwaplibrary.wcl.american.edu/pubs/ch10-u-visas>.

²²³ See Limayli Huguét, Faiza Chappell and Leslye E. Orloff, *Comparing Inadmissibility Waivers Available to Immigrant Victims in VAWA Self-Petitioning, U Visa, T Visa and Special Immigrant Juvenile Status Cases*, NIWAP (Jan. 28, 2021) <https://niwaplibrary.wcl.american.edu/pubs/inadmissibility-chart-vawa-t-u-sijs>; *VAWA Self-Petitioners Comparison Charts & Interlineated Statutes*, NIWAP (Apr. 20, 2020), <https://niwaplibrary.wcl.american.edu/vawa-comparison-interlineated-statutes-ncara-hrifa-caa>.

Figure 87: VAWA and U Visa Client's Acculturation - Closeness to Home Community: After Filing (n=30 agencies)

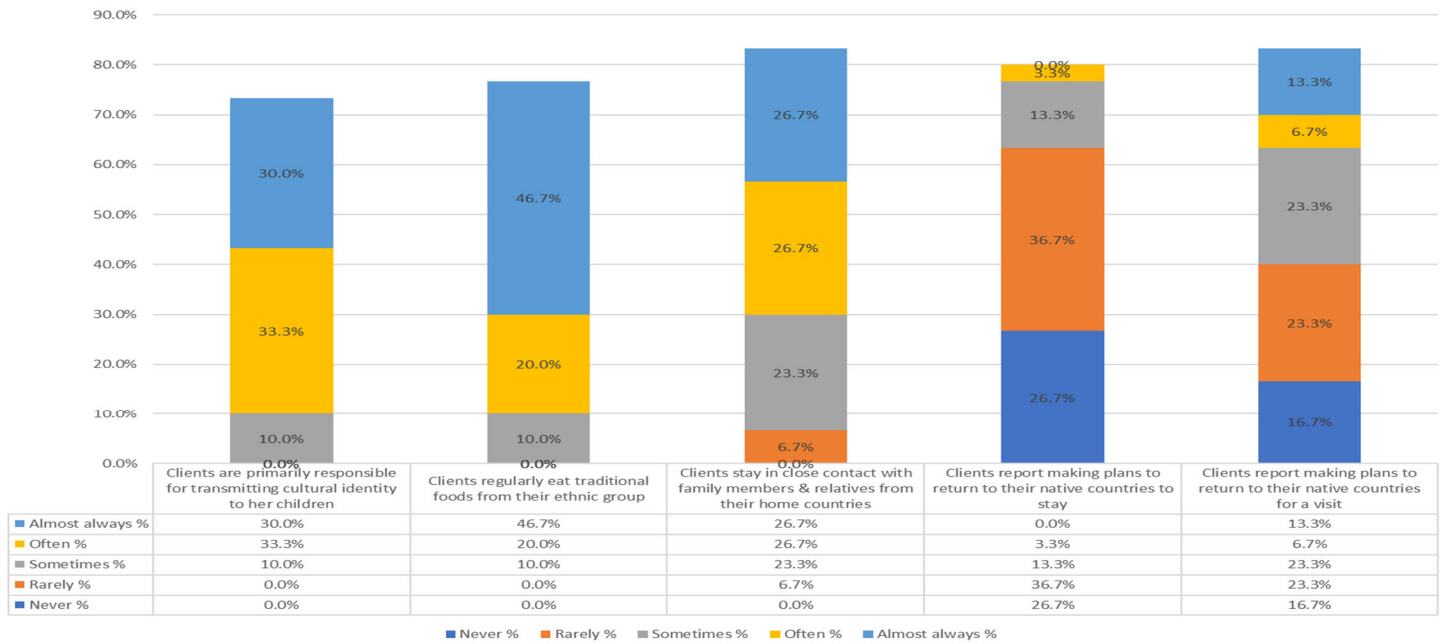


Figure 88: VAWA and U Visa Client's Acculturation - Closeness to Home Community: After Work Authorization (n=30 agencies)

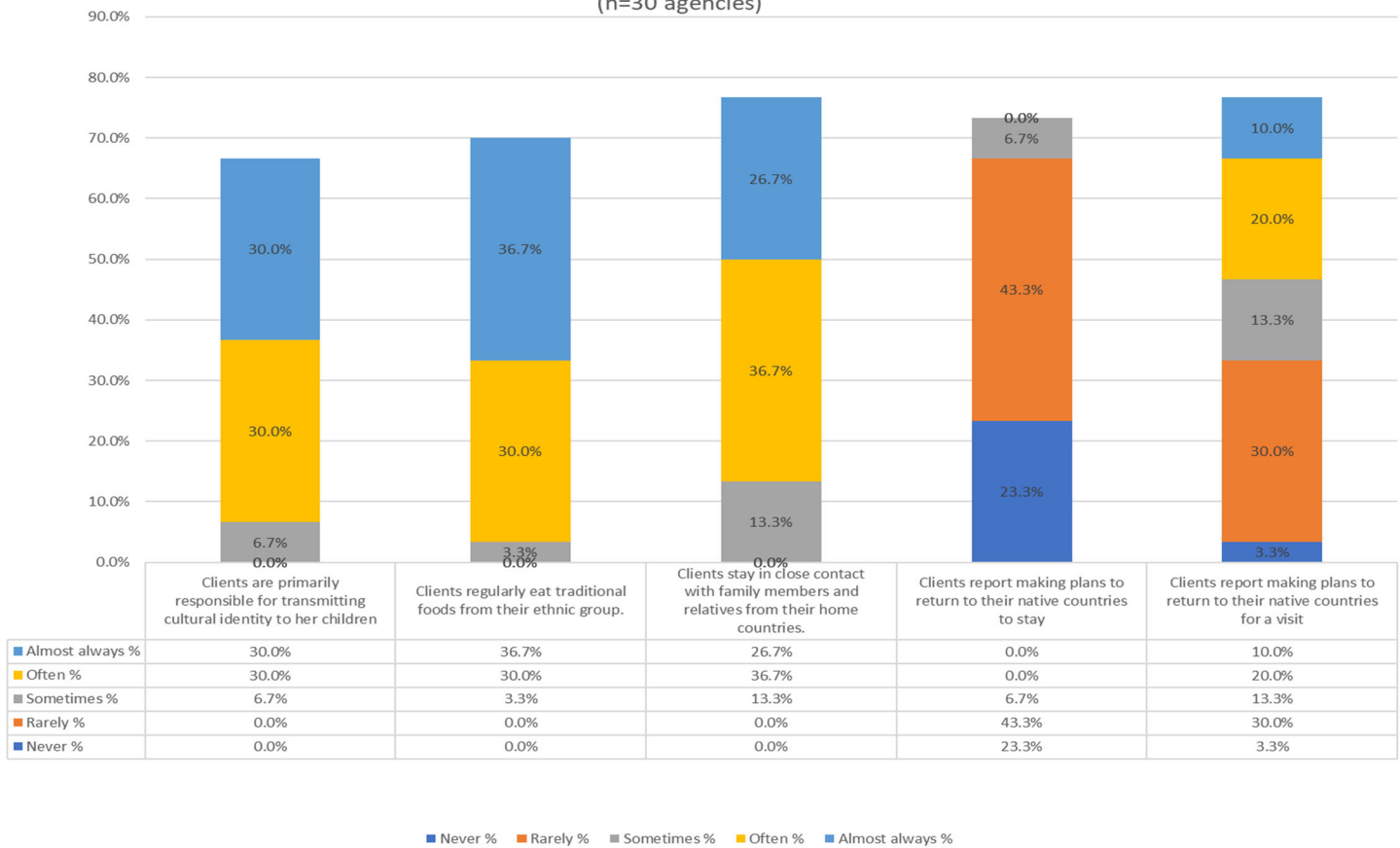
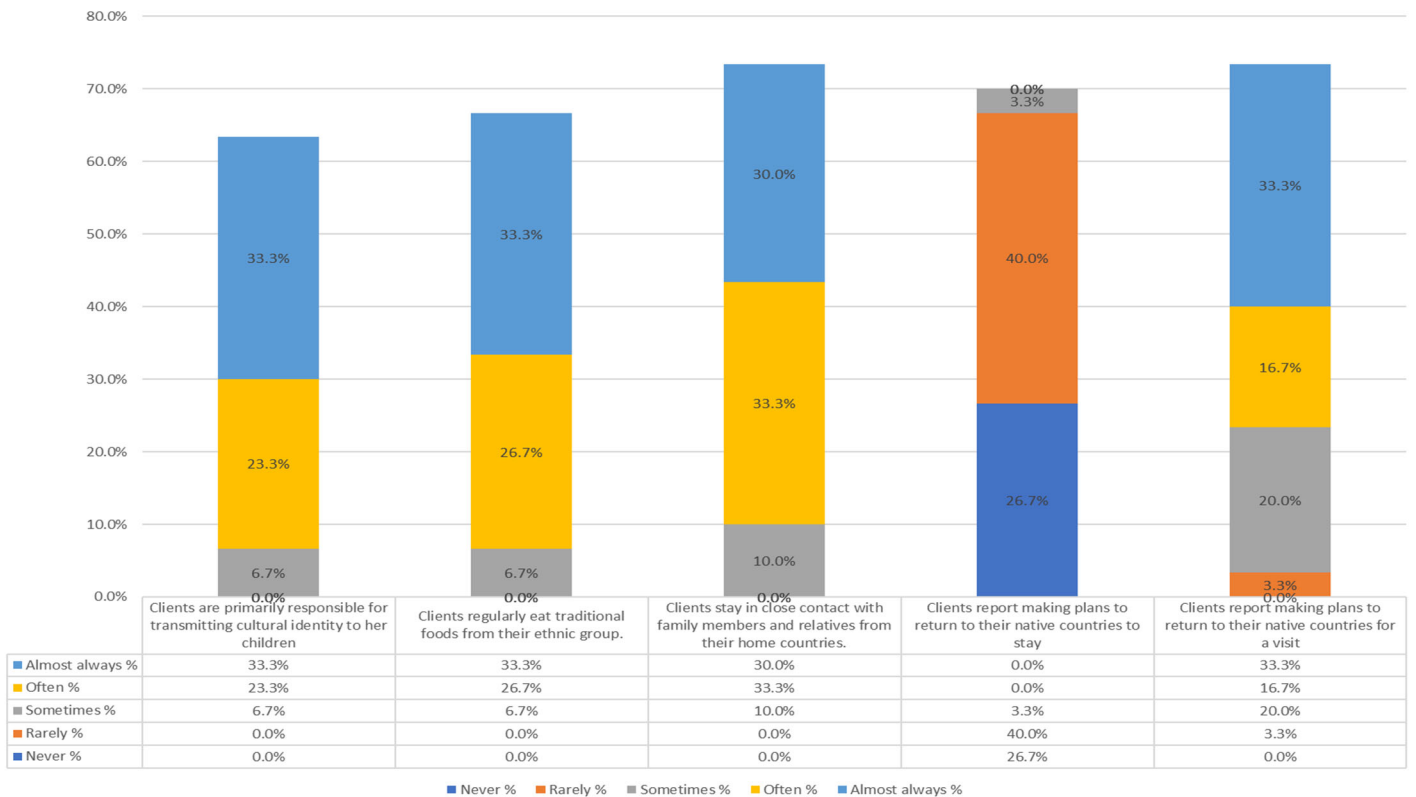


Figure 89: VAWA and U Visa Client's Acculturation - Closeness to Home Community:
After Lawful Permanent Residency (n=30 agencies)



Acculturation to life in the United States

The next two sets of figures report study findings from 30 agencies regarding the acculturation (See Figures 90, 91, and 92) and increased confidence levels in navigating life in the United States (See Figures 93, 94, and 95) that immigrant VAWA self-petitioners and U visa victims experience as they go through the process of attaining legal immigration status. Agencies reported on how their immigrant survivor VAWA and U visa clients' lives changed with regard to each of the following factors and the victims' immigration cases progressed.

Learning and Speaking English

The findings of this study demonstrate that VAWA and U visa applicants are actively engaged in and interested in learning English. Immigrant survivors enroll in English classes and look for opportunities to practice speaking English at the following rates:

- Taking English classes:** Study participants reported a 251% rise in VAWA and U visa applicants who *often or almost always* enroll in English classes from 13% post-filing to 43% upon receipt of work authorization, increasing slightly to 47% at lawful permanent residency. Most of this increase in interest in English classes occur once the victim's immigration case is approved or wait-list approved and the victim is granted work authorization (a rise of 226%). See Figures 90, 91, and 92.

- Speaking more English: The survey also asked agencies to report on the numbers of their VAWA and U visa victims who were making efforts to speak more English. Study data results show a 184% increase in victims attempting to speak more English from 20% at filing, to 53% upon receipt of work authorization and 57% when victims attained lawful permanent residency. Here as well most of the increase 167% occurs when the victim attains work authorization. *See Figures 90, 91, and 92.*

These findings are consistent with this study's data on the percentages of VAWA self-petitioners and U visa applicants who have work authorization are taking adult education courses 38% and enrolled in community colleges 22% of victims who *sometimes, often or always* pursue these educational opportunities which are likely to include English language classes. *See Figure 65.* The level of immigrant survivors interest in English classes and learning English is also likely related to the employment barriers immigrant survivors encounter related to limited English proficiency. *See Figure 80.*

Adopt U.S. based relationships, cultural norms and foods

Study participants reported that their VAWA and U visa clients were in addition to learning English increasingly adapting to the United States as their cases move through the immigration system. The areas where the greatest numbers of immigrant survivor clients are adapting including feeling at home in the United States and socializing with friends, neighbors and co-workers who are from the United States.

- Feel more comfortable socially with people from the United States: This question asks specifically about victims' comfort level socializing with people in the U.S. who friends, neighbors, and co-workers. Study results found that the numbers of VAWA and U visa victims *often or almost always* rose 159% from 17% after filing of the victim's immigration case, to 23% at work authorization, with a more significant rise to 43% when victims attain lawful permanent residency. *See Figures 90, 91, and 92.*
- Attending social functions with people from the United States: When asked about abused immigrant clients who attended social functions with people from the U.S., the percentage of clients who *rarely or never* attended these events declined 70% as victims moved through the immigration case process. It declined from 33% post-filing to, 20% at work authorization and reaching a low of 10% at lawful permanent residency. There was also a reported rise of 31% in the numbers of immigrant victim clients who *sometimes, often or almost always* attended social events with people from the U.S., rising from 43% at filing, to 60% when the victim received work authorization and remaining at a similar level 57% at lawful permanent residency. *See Figures 90, 91, and 92.*
- Feeling at home in the United States: Participant agencies reported that VAWA self-petitioners and U visa victims experienced an 150% increase in the extent to which victims *often or almost always* feel at home in the United States from 20% post-filing to 37% when they attain work authorization. This rises to 50% when victims become lawful permanent residents. *See Figures 90, 91, and 92.*

- Adoption U.S. cultural norms: Similarly, study results confirm a 126% increase in immigrant survivors who are *often or almost always* adopting to aspects of U.S. cultural norms as they move through the VAWA and U visa immigration process. Rates increased from 13% at filing to 17% at work authorization and reaching 30% at lawful permanent residency. *See Figures 90, 91, and 92.*
- Comfortable with eating foods from the United States: Comfort levels eating foods from the U.S. increased but far less most other measures of acculturation. Agencies reported a 43% increase in the numbers of immigrant survivors who are often or almost always comfortable eating foods from the U.S., from 23% at filing, to 30% at work authorization and 33% when victims became lawful permanent residents. *See Figures 90, 91, and 92.*

Figure 90: VAWA and U Visa Client's Acculturation - Acculturation in the U.S. - After Filing (n=30 agencies)

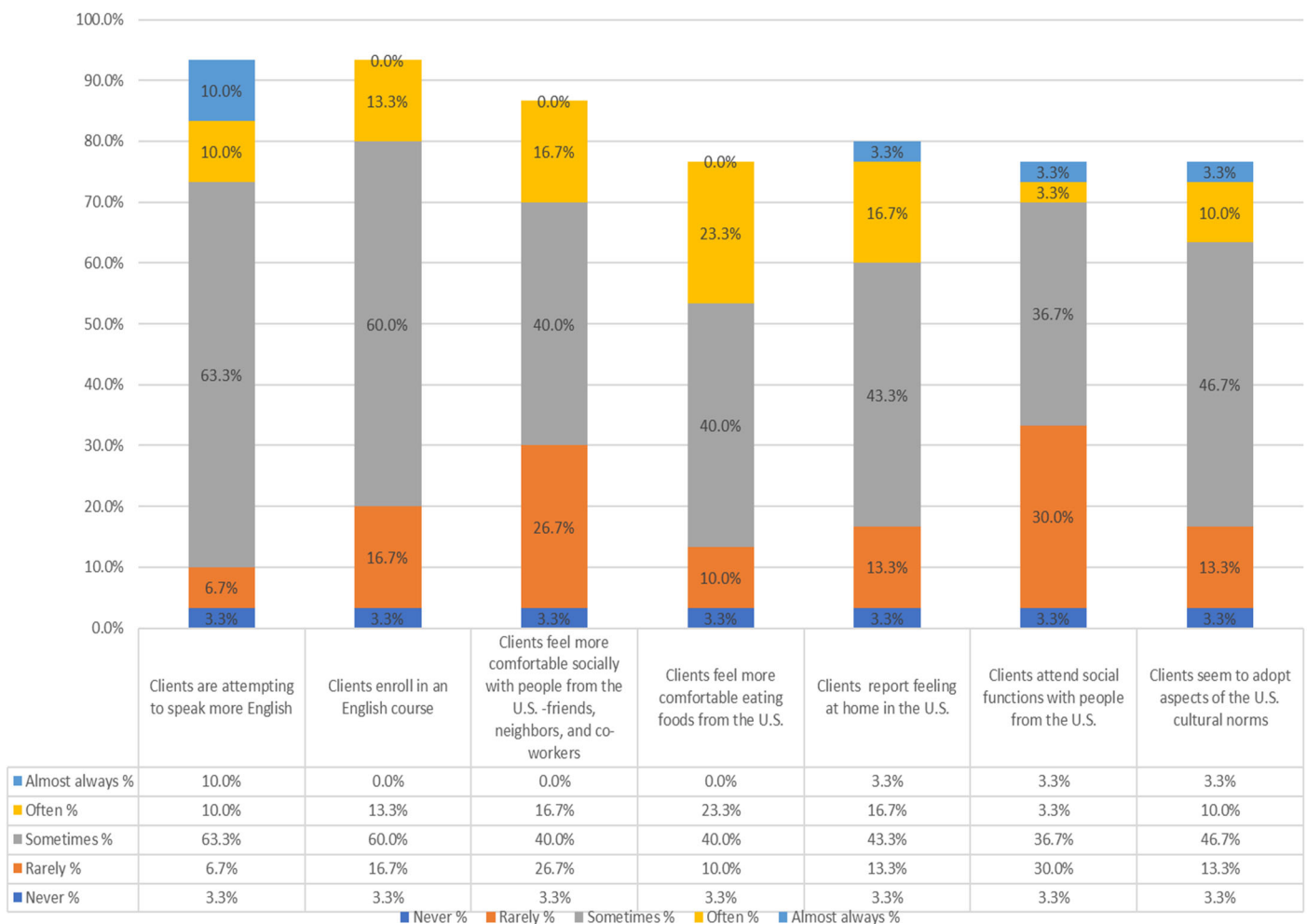


Figure 91 VAWA and U Visa Client's Acculturation - Acculturation in the U.S.- After Work Authorization
(n=30 agencies)

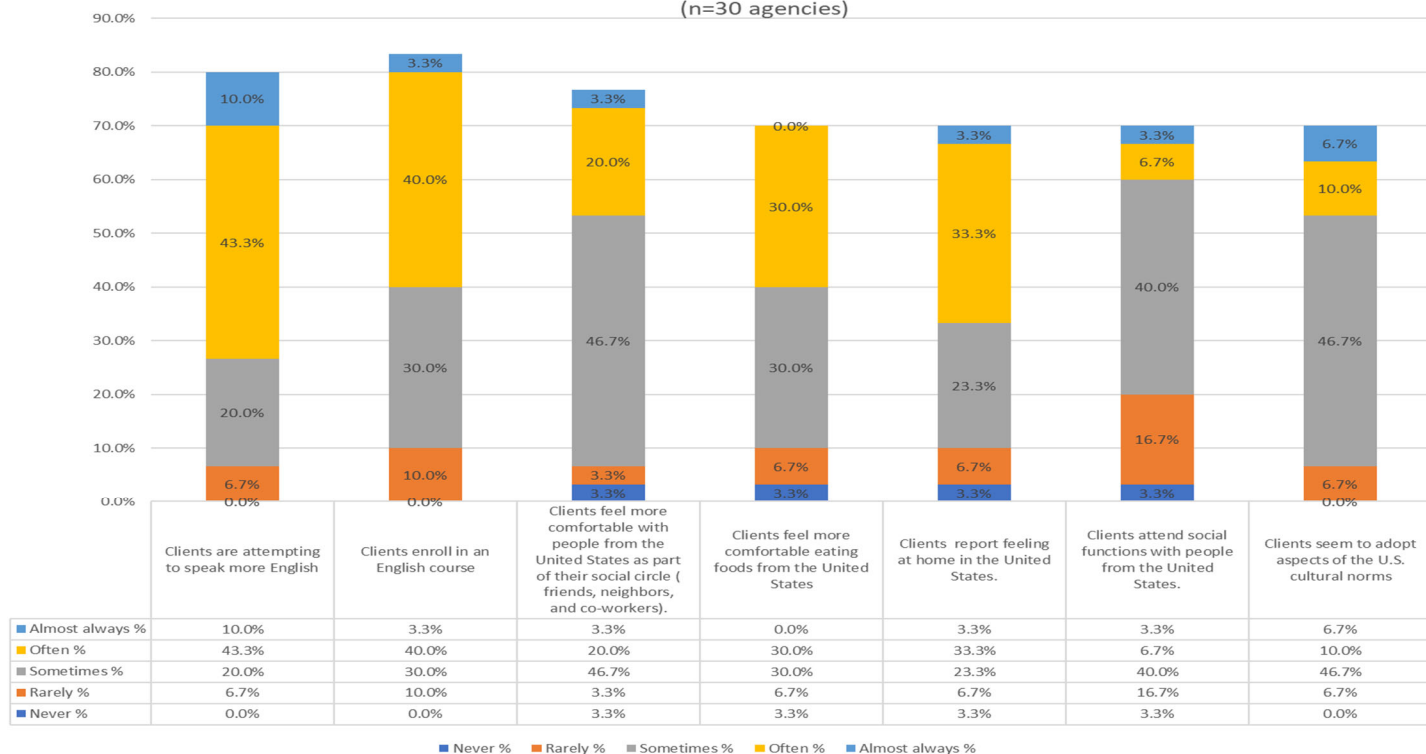
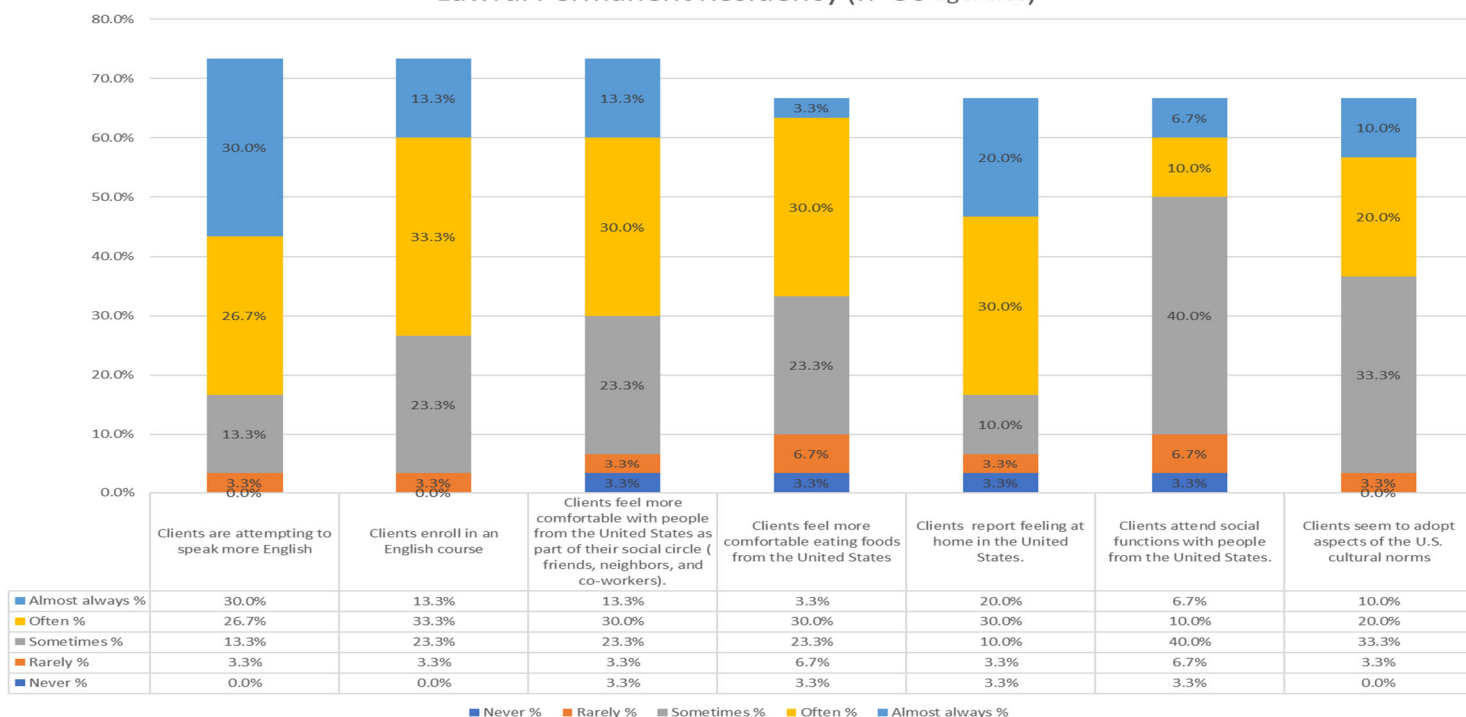


Figure 92: VAWA and U Visa Client's Acculturation - Acculturation in the U.S. - After Lawful Permanent Residence (n=30 agencies)



Immigrant Survivors' confidence and willingness to access resources in the U.S.

Study participant agencies were asked about the extent to which their immigrant victim VAWA and U visa applicants became more assertive and confident with independent decision-making as their immigration cases progressed. They were also asked to report on their observations about whether their VAWA and U visa clients seemed to become more familiar with and able to access resources in the community and seemed to become more trusting of police in the U.S.

Assertiveness and confidence with independent decision-making

- Immigrant survivors' assertiveness: Study participants observed increases in VAWA and U visa victims' assertiveness increasing 50% as victims moved through their immigration case process. Assertiveness among VAWA and U visa applicants was already high 47% at filing and increased by 36% to 63% at work authorization and reached a high of 70% of VAWA and U visa victims being more assertive by lawful permanent residency. *See Figures 93, 94, and 95.*
- Immigrant survivors seem more confident with independent decision-making: Study participants were asked to assess their VAWA and U visa clients' confidence with independent decision-making. They reported a 201% increase in the numbers of their immigrant survivor clients who *often or almost always* became more confident in independent decision-making from only 13% at filing, to 23% at work authorization and rising to 40% when victims achieved lawful permanent residency. *See Figures 93, 94, and 95.*

Willingness to seek help in the United States

- Immigrant survivors have developed trust in the police in the United States: With regard to immigrant VAWA and U visa victims' increased trust in police, participating agencies reported that their VAWA and U visa clients improved dramatically in two ways. They reported that the percentage of immigrant victim clients who *sometimes, often or always* trusted the police grew from 23% at filing of the victim's VAWA or U visa case to 50% when the victim attained legal work authorization (a 114% increase). The level of victim trust in the police remained steady and increased slightly to 53% when victims were granted lawful permanent residency. At the other end of the spectrum and equally important, agencies reported 67% declines in the numbers of their VAWA and U visa clients who *rarely or never* trusted law enforcement from 60% at filing falling to 27% at lawful permanent residency and declining to 20% for victims with lawful permanent residency. *See Figures 93, 94, and 95.*
- Immigrant victim clients are more familiar with and more able to access community resources: Victim's familiarity with and ability to access community resources for help and support grew significantly as victims' VAWA and U visa immigration cases progressed through the immigration system. Agencies responding to the study reported a 367% increase in VAWA and U visa victims who *often or almost always* were aware of an accessing community resources from a low of 10% at filing, increasing to 23% when

victims received work authorization and to 47% once victims attained lawful permanent residency. *See Figures 93, 94, and 95.*

Figure 93: VAWA and U Visa Client's Increased Confidence and Trust - After Filling (n=30 agencies)

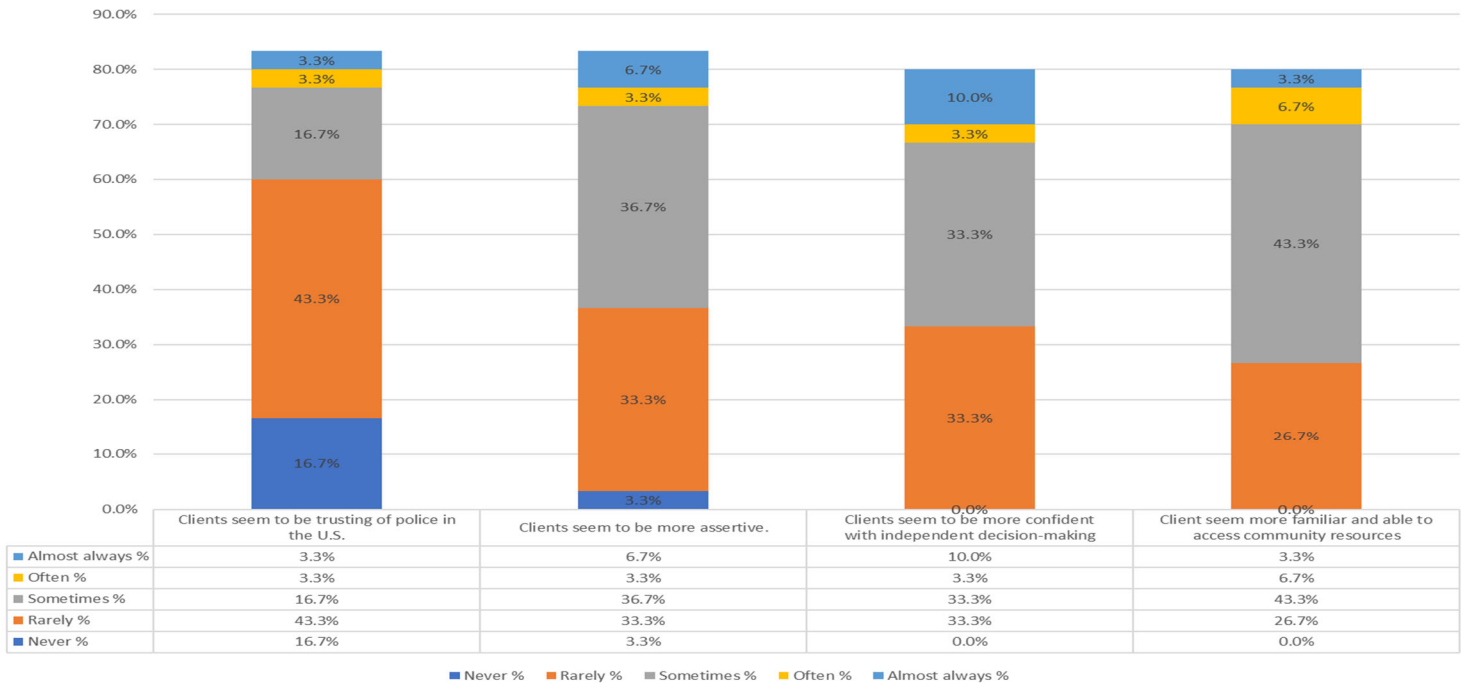


Figure 94: VAWA and U Visa Client's Increased Confidence and Trust - After Work Authorization (n=30 agencies)

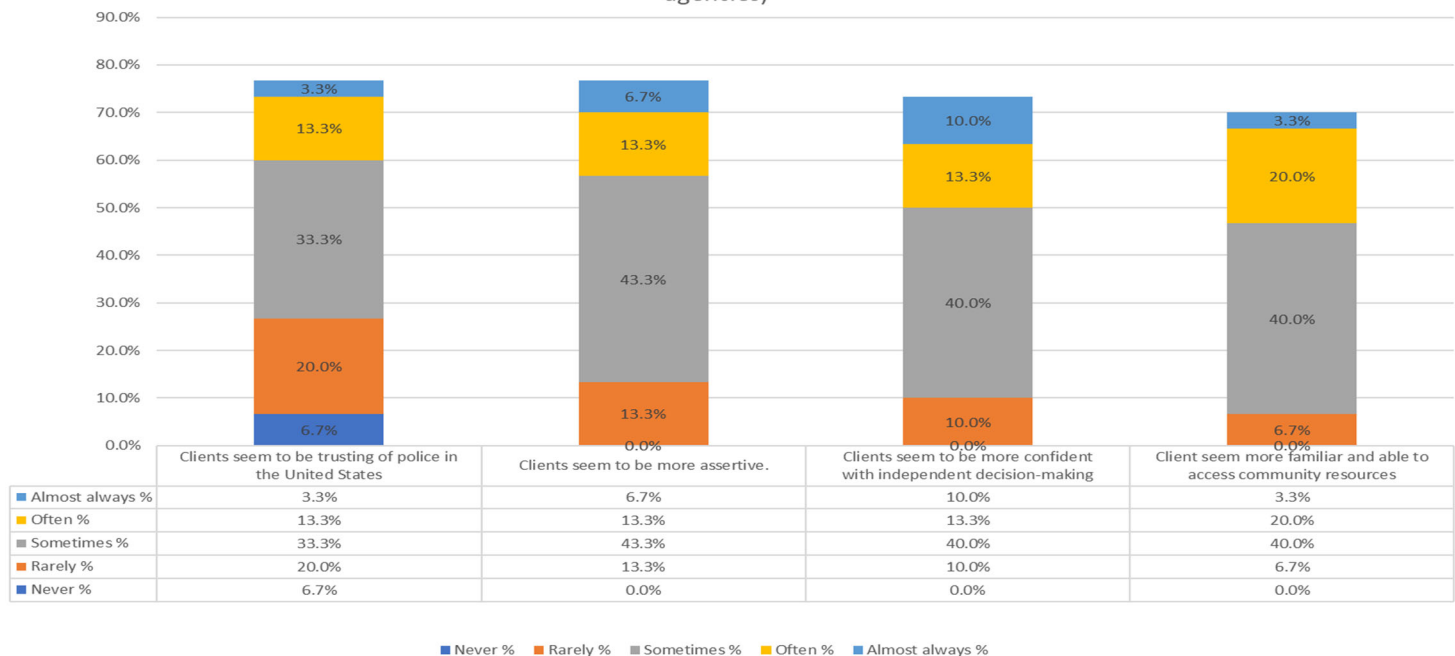
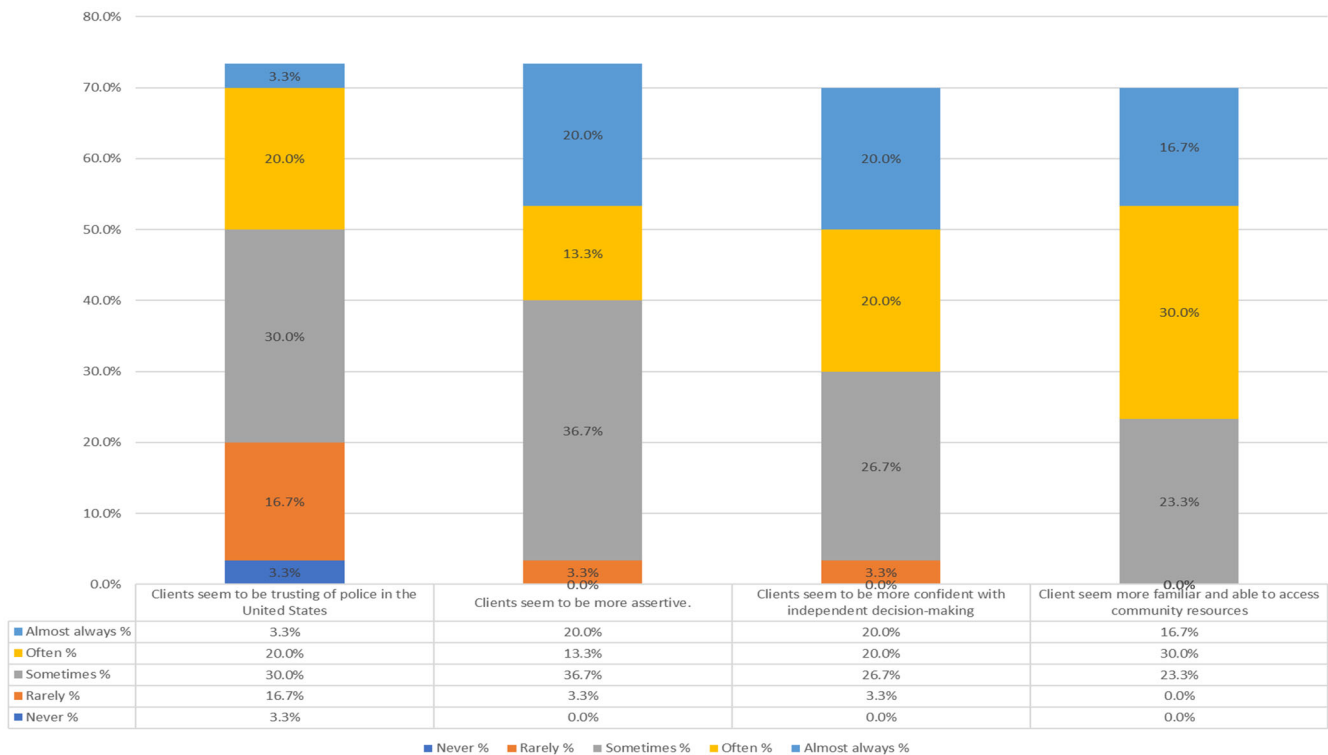


Figure 95: VAWA and U Visa Client's - Increased Confidence and Trust After Lawful Permanent Residency (n=30 agencies)



XV. Conclusions and Policy Recommendations

In NIWAP's study, eighty percent of participating agencies' clients were victims of domestic violence, child abuse, sexual assault, stalking and/or human trafficking.²²⁴ Survivors often (53%) had children in common with their abusers as well as raising their own other children (29% VAWA, 37% U visa) and step-children (18% VAWA, 10% U visas), with many of these children living in homes where abuse is occurring.²²⁵ VAWA self-petitioners had an average of 2.6 and U visa applicants had 2.9 children.²²⁶

A key goal of this study was to learn how immigrant survivor applicants and their children benefited from the VAWA and U visa programs and at what point in the application process did survivors begin to benefit from these programs. To accomplish this goal, it was important that participating agencies had experience working with VAWA and U visa applicants whose cases had reached the stage where victims obtained employment authorization and protection from deportation through deferred action status (VAWA 60%, U visa 56%)²²⁷ and that agencies had also worked with VAWA or U visa clients (25%).²²⁸ who attained lawful permanent residence

Much has been written about the deleterious mental health outcomes resulting from exposure to pre-, peri-, and post-migration trauma as well as systemic anti-immigrant discrimination, both of which

²²⁴ See Figures 7 & 23.

²²⁵ See Figures 26 & 33.

²²⁶ See Figures 25 & 32.

²²⁷ See Figures 9 & 11.

²²⁸ See Figures 6 & 13.

may limit immigrants' successful adaptation in the U.S. However, little empirical evidence has been provided to document histories of resilience and adaptation from immigrant survivors of interpersonal and gender-based violence. Immigrant victims' significant potential for resiliency and constructive ability to adapt and thrive in the U. S. tends to be ignored and minimized in favor of stereotyped and victim-blaming story lines. This study shows the stories of success, improved functioning and adaptation that agency advocates witnessed from the VAWA and U Visa applicants they serve.

Resilience is the individual's capacity to defeat adversity and demonstrate constructive adjustment.²²⁹ An individual's resilience is not solely an innate trait, but is directly related to one's personal characteristics interact their environment.²³⁰ Therefore, living in a threatening or violent environment places a person in a state of vulnerability. However, living in adverse conditions and being victimized does not necessarily mean that the individual is incapable of overcoming adversity when a safer environment and supportive interventions are provided. Even while suffering from psychological effects from trauma, many immigrants continue to function in major life and developmental domains (social life,²³¹ employment,²³² education,²³³ etc.). Immigrant survivors only need opportunities and supportive interventions in order to demonstrate their hope, determination, self-reliance and continued capacity to contribute to the larger society. This study showed that VAWA and U visa applicants' acquisition of employment authorization and protection from deportation were the catalysts for a number of transformations. Policies and actions by federal, state and local government agencies that remove barriers and are aimed at supporting survivors have the capacity and potential to make a transformational difference for immigrant survivors of crime victimization and abuse.

Immigrants who had the courage to travel across borders to seek a new life already have a level of endurance that hints at their resilience and willingness to adapt to new circumstances. Similarly, immigrants who applied for VAWA and U Visa protections self-select and stand out by their awareness of their rights. However, this does not diminish the history of losses and suffering that are compounded by their arrival in an environment that may be hostile, anti-immigrant, and complex. Therefore, there are several risk factors that may limit adjustment and are issues that have been largely documented in the immigrant literature and which render them at risk of further abuse, victimization and psychopathology.²³⁴ That is why the results of this study are remarkable. It shows the numerous psychological, social, and functional milestones that immigrant survivors of abuse achieve following the receipt of employment authorization and protection from deportation (deferred action), which are received together in VAWA and U visa cases. These data show that stereotypes about applicants for immigration relief do not tell the story of personal success and contributions to society that VAWA and U visa immigrants largely bring to the U.S.

After receiving employment authorization, VAWA and U visa applicants were reported as having made important improvements in the quality of their jobs. For example, after receiving

Peter Fonagy, Miriam Steele, Howard Steele, Anna Higgitt, Mary Target, *The Emanuel Miller Memorial Lecture 1992: "The Theory and Practice of Resilience,"* JOURNAL OF CHILD PSYCHOLOGY AND PSYCHIATRY Pg. 35, 2, 231-257, (1994).

²³⁰ Michael Rutter, *Implications of Resilience Concepts for Scientific Understanding*, ANNALS OF THE NEW YORK ACADEMY SCIENCE, pg. 1-12, (Dec. 2006), doi: 10.1196/annals.1376.002.

²³¹ See Figures 59, 60, 62, 63, 85, 86, 91, & 92.

²³² See Figures 77 & 78.

²³³ See Figures 65 & 66.

²³⁴ Etiony Aldarondo, Rachel Becker, *Promoting the Well-Being of Unaccompanied Immigrant Minors*, SPRINGER SCIENCE & BUSINESS MEDIA, pg. 195-214, (2011), https://doi.org/10.1007/978-1-4419-9452-3_10.

employment authorization, survivors were more able to obtain jobs paying at least minimum wage²³⁵ and that deducted taxes,²³⁶ less vulnerable to sexual assault and other forms of abuse at work,²³⁷ and increased their acquisition of jobs with benefits such as sick leave, vacation, and maternity leave.²³⁸ Also, VAWA and U visa applicants who work in the informal economy obtain tax ID numbers and file income tax returns.²³⁹ Working not only provides for essentials of living but also provides meaning and purpose. Having employment and receiving an income assists women in achieving autonomy and confidence. Having a legitimate job represents an insertion into the social fabric of a society. It allows individuals to feel in charge of some aspects of their lives. In turn, this experience can trigger a host of other positive outcomes.

The study revealed that these positive outcomes were also fueled by the dramatic reduction in immigration-related abuse and threats from their abusers that followed their receipt of protection from deportation, and employment authorization. Immigration-related abuse includes threats of deportation that will cut survivors off from their children,²⁴⁰ calls from abusers/perpetrators to enlist the help of Department of Homeland Security (DHS) enforcement officials by providing “tips” about survivors/victims,²⁴¹ raising immigration status in family court to win custody of children,²⁴² threats to withdraw immigration cases the perpetrator filed for the survivor and destruction of the survivor’s passport. Research has found that these actions by abusers coexist in abusive relationships with physical and sexual violence and predict escalation of abuse.²⁴³ Previous research has found that perpetrators of domestic violence, child abuse and sexual assault are actively involved in efforts to have their victim deported in retaliation when immigrants flee abusive homes.²⁴⁴ With this ongoing abuse occurring, the survivor files for immigration relief in 38% of VAWA self-petition cases and 25% of U visa cases.²⁴⁵

²³⁵ VAWA and U visa survivors who are sometimes, often or always working at jobs that pay at least a minimum wage rose 300% from 37% at filing, to 60% after employment authorization and 63% at lawful permanent residence. Resulting in a 26% rise in the numbers of VAWA and U visa victims who earn more than \$15,000/year reaching 63% who earned more than this and 32% earning more than \$30,000/year by lawful permanent residence. See Figure 74.

²³⁶ Following receipt of employment authorization VAWA and U visa survivors often or almost always obtained employment in the formal job sector that deducted taxes (50%, an increase of 542%) and paid minimum wage or more (40%, an increase of 300%). See Figures 76-78.

²³⁷ Victims who sometimes, always or often experienced of sexual assault, sexual harassment and threats or attempts at work declined from 42% prior to filing to 21% at employment authorization and 10% at lawful permanent residence (total decrease of 77%). See Figures 38 & 39.

²³⁸ VAWA and U visa survivors who never had jobs with benefits attained jobs that sometimes, often or almost always included the following benefits: paid sick leave (employment authorization 43%; lawful permanent residence 57%); vacation days (employment authorization 43%; lawful permanent residence 53%); health insurance through employer (employment authorization 43%, lawful permanent residence 55%) and maternity leave (employment authorization 40%, lawful permanent residence 55%). See Figures 76-78.

²³⁹ After employment authorization the numbers of VAWA and U visa survivors working and paying taxes using tax IDs declines slightly from 50% at filing, to 43% at employment authorization, and 47% at lawful permanent residence. This is a result of victims ability to secure jobs in the formal sector of the economy that deduct taxes. However, this data shows that VAWA and U visa survivors who continue to work in the informal sector of the economy continue to use tax IDs and to file income tax returns. See Figures 76-78.

²⁴⁰ Declined 78% in the numbers of immigrant victims who often or always experienced threats to cut victims off from their children when they lived with their abusers. This abuse is experienced by 71% of survivors still living with their domestic abusers, but it declines to 15% after employment authorization, and 10% at lawful permanent residence (total decline of 87%). See Figures 38 & 39. This survey’s data on extreme cruelty used by batterers found that abusers of self-petitioners threaten to retaliate for the victims help seeking by cutting off victims’ access to their children 47% of the cases and threaten to kill, physically harm or abuse the victims children in 36% of cases. See Figure 21.

²⁴¹ The survey identified 70 victims who had been subject to immigration enforcement actions after their VAWA or U visa cases were filed with 65% (n=45) of these enforcement actions occurring between filing and employment authorization. See Figure 40.

²⁴² Perpetrators raising immigration status of victims to gain advantage in custody cases from 65% of abusers using this tactic following separation declining to 23% at employment authorization and 14% at lawful permanent residence. Immigration-related abuse declines 65% from filing to employment authorization and a total of 74% by lawful permanent residence. See Figures 38 & 39

²⁴³ Giselle Hass, Mary Ann Dutton, Leslye Orloff, *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, 7 INTERNATIONAL JOURNAL OF VICTIMOLOGY 1,2,3, (Summer 2000).

²⁴⁴ Krisztina E. Szabo, et. al., *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP, 25-26 (Feb. 12, 2014) https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12; Rafaela Rodrigues, Alina Hussein, Amanda Couture Carron, Leslye Orloff, Nawal H. Ammar, *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP, 114 (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

²⁴⁵ Krisztina E. Szabo, et. al., *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP, (Feb. 12, 2014) https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12; Rafaela Rodrigues, Alina Hussein, Amanda Couture Carron, Leslye Orloff, Nawal H. Ammar, *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration*

Granting VAWA and U visa applicants deferred action helps prevent DHS officials from being tricked by perpetrators into helping harm immigrant victims who are taking steps to leave abusers²⁴⁶ and to seek help from the justice system. Speeding access to protection from deportation through deferred action also removes an important barrier²⁴⁷ that prevents immigrant survivors from fully accessing the help available for victims in this country under immigration, family, criminal and public benefits laws that help them recover and thrive.

The study results show that not only do the survivors benefit from the increased labor and economic advantage of employment authorization and protection from deportation, There are also accompanying important psychological, social, familial, and vocational changes that their attorneys and advocates observed as compared with their psychological functioning before the employment authorization.

To understand the transformation that occurred after survivors received their employment authorization and deferred action, the ecological model is helpful. The Ecological Model²⁴⁸ places the individual within the context of the complex systems of relationships in the environment. The model states that a person's own biology, immediate family, community environment, and the larger society, act to influence each other in a reciprocal manner. This perspective can be applied to both the impact of the trauma as well as the impact of healing. In cases of survivors of interpersonal violence, the social science literature has established that such violence does not occur in a vacuum and its impact reaches every aspect of the survivors' lives and the lives of those around them.²⁴⁹ Therefore, conceptualizing the factors analyzed in this study from the perspective of those different ecological levels helps explain the mutual impact that appeared in the data like a domino effect of benefits to survivors, their children, their community and ultimately society.

Individual Benefits

Study participants reported on survivors' behavioral presentation, including their more balanced state, after the survivors obtained employment authorization and were protected from deportation, which contrasted with their demeanor when they first began the process of their VAWA and U visa applications. For example, agencies reported that the survivors presented a number of positive changes, including an easier time making decisions, ability to sleep better, calmer appearance, better self-care, more focused, independent, aware, empowered, involved with community, friends and family, and more hopeful about the future.²⁵⁰ By the time VAWA and U visa applicants attain lawful permanent residence, agencies observed continued improvements in these areas, as well as victims having fewer

Enforcement: Initial Report from a 2017 National Survey, NIWAP, (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

²⁴⁶ After receiving employment authorization 64% of U visa applicants able to leave their abusers. Krisztina E. Szabo, et. al., *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP, pg. 31 (Feb. 12, 2014), https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

²⁴⁷ Among the barriers immigrant survivors' engagement with their communities, children's schools, their own education and health care the largest barriers were immigration status related (52%), the ongoing abuse and its effects (23%), and language (19%). See *Figure 67*.

²⁴⁸ Uri Bronfenbrenner, *The Ecology of Human Development*, HARVARD UNIVERSITY PRESS (1979).

²⁴⁹ *Id.*

²⁵⁰ VAWA and U visa survivors are often or almost always feeling at employment authorization compared to filing: calmer 77% (300% improvement); sleep better 52% (300% increase); more focused 61% (280% increase); more at ease 68% (162% greater); having more energy and being more alert, active, and empowered 74% (188% more); less depressed 55% (183% increase); more independent 58% (261% greater); stand up for themselves 42% (225% increase); it is easier for them to make decisions 52% (432% increase); and are more hopeful 74% (130% improvement). Every one of these mental health measures continue to improve as survivors move through the immigration process and are benefits even greater numbers of VAWA and U visa survivors attain by lawful permanent residence. See *Figures 81-86*.

medical problems and being more confident with independent decision-making.²⁵¹ A potential sign of their increased awareness of their own history of victimization and empowerment could be hypothesized by the increase found in survivors' desire to help other victims and volunteer in their communities.²⁵²

There is a large body of research establishing that physical, sexual or psychological abuse produces a wide range of physical and psychological problems.²⁵³ According to the literature, victims of these types of interpersonal crimes tend to present with less energy, less alertness, sleeping disturbances, social isolation, feelings of self-doubt, low self-esteem, and lack of sense of personal power among other symptoms of mental distress.²⁵⁴ Often these symptoms and behaviors cluster in a psychiatric diagnosis such as Post-Traumatic Stress Disorder or other stress related diagnoses. While one third of the VAWA and U Visa applicants in this study were receiving professional mental health services, their attorneys and advocates observed emotional improvement after these applicants received employment authorization and were protected from deportation.

Another reported improvement among survivors was fewer medical problems after receiving employment authorization. The improvement in physical health further increased by the time the survivors received their lawful permanent residence. Because health and body functioning are crucial to our sense of wellbeing, positive changes in survivors' health have a major impact on other aspects of their lives. One impact of positive changes in physical health is the improved way in which a person experiences emotions and thoughts.

Thus, the bottom line regarding the behavioral and functional changes reported here is that they point to a process of gradual healing from the distress and trauma caused by prior victimization, both the abuse and victimization that led them to qualify for VAWA and U-visas as well as other previous history of trauma. Similarly, these psychological and emotional changes observed point to the survivors' increased resilience as they recover from adversity and adjust to a new environment in the U.S., including by leaving abusive homes and workplaces.

Family Benefits

For collectivist cultures, like the ones from which many of the VAWA and U-visa immigrants come, obtaining employment is not just an individual achievement but a collective resource. The entire family benefits not only from the increase in financial resources, but the dignity that work and social validation brings. Survivors who obtain better jobs than before their employment authorization reported a better quality of life that contributed to greater family engagement and improved parenting. For instance, advocates, attorneys and government agency staff in this study reported that immigrant mothers became more engaged in their children's schools,²⁵⁵ more supportive of their children's social

²⁵¹ By lawful permanent residence 74% of VAWA and U visa victims often or almost always have fewer medical problems. At filing rate with fewer medical problems is low at 13%, and begins to rise at employment authorization to 19%. The change by lawful permanent residence compared to filing is 475%. Victims who find it easier to make independent decisions also rises from 13% at filing to 23% at employment authorization, and reaches 40% by lawful permanent residence for an overall increase of 201%. See *Figures 81, 82, 83 & 95*.

²⁵² The rate at which VAWA and U visa victims are sometimes, often or almost always helping other victims and volunteering in their communities is 22% after employment authorization and 24% at lawful permanent residence. See *Figures 59-63*.

²⁵³ Patricia Tjaden, Nancy Thoennes, (2000) *Full Report of the Incidence, Prevalence, and Consequences of Violence Against Women*, U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, (2020), <https://nij.ojp.gov/library/publications/full-report-prevalence-incidence-and-consequences-violence-against-women>.

²⁵⁴ Giselle Hass, Mary Ann Dutton, Leslye Orloff, *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, 7 INTERNATIONAL JOURNAL OF VICTIMOLOGY 1,2,3, (Summer 2000).

²⁵⁵ VAWA and U visa applicant mothers who are often or almost always involved in their children's schools rises dramatically 662% from filing (3.9%) to employment authorization (30%) and continues to rise to 40.5% at lawful permanent residence (total increase of 939%). See *Figures 62 & 63*.

development,²⁵⁶ more involved with children's after school activities,²⁵⁷ and were developing social relationships with other parents.²⁵⁸ Similarly, survivors became more engaged with their friends and family members.²⁵⁹

A significant concern of this study was to find out how the child victims and children raised by survivors fare after the parent receives employment authorization and deportation protection. Children about whom agencies reported in this study were child victims who were applicants,²⁶⁰ immigrant children included in their mother's application to receive immigration relief,²⁶¹ and U.S. born children and stepchildren whose mother was the immigrant applicant in VAWA and U visa cases.²⁶² Each group was exposed to diverse risk factors. Immigrant children may have suffered extraordinary hardship and/or violence in their home countries, during the migration journey, or may have been a target of abuse, neglect, and/or crime victimization after arriving to the U.S. Children who are victimized in the U.S. suffer harms that are in addition to the displacement, disorientation and losses of migration. Other children in this study may have been traumatized by direct or indirect exposure to overwhelming physical or psychological experiences that involved living in a home where their mother was subjected to domestic abuse and/or having been abused themselves, both threats to the child's physical, emotional, or psychological safety.

Violence in the home has the worst effect on children because "they are more intensely affected and the consequences last longer."²⁶³ Domestic violence puts a strain on children who not only respond negatively to parental discord but become preoccupied with the toxic stress in an abusive home.²⁶⁴ More recent research has found that child abuse and growing up in a home where domestic violence is occurring are two of several kinds of Adverse Childhood Experiences (ACEs).²⁶⁵ Medical professionals have found that these ACEs have lasting, negative effects on the child's health and well-being and can lead to a wide range of chronic diseases including cancer, diabetes, heart disease, suicide, and an altered stress response system.²⁶⁶ Further, experiencing and witnessing family violence as a minor affects children's neurocognitive development and intellectual functioning.²⁶⁷

²⁵⁶ VAWA and U visa applicants are also often or almost always more engaged in their children's social development rising from 8% at filing, to 19% at employment authorization, and to 30% at lawful permanent residence for a total increase since filing to 281%. See Figures 61, 62, and 63.

²⁵⁷ Involvement with survivors' children after-school activities, both academic and sports rise from 16% at filing of VAWA and U visa applications, to 19% after employment authorization and rising to 32% at lawful permanent residence (total increase of 108%). See Figures 61, 62, and 63.

²⁵⁸ The number of VAWA and U visa victims who rarely or never engage with other parents drops from 20% at filing to 8% at employment authorization. Those who sometimes, often or almost always develop relationships with other parents stays steady at 48% upon filing, 46% at employment authorization and 49% at lawful permanent residence. See Figures 61 & 62.

²⁵⁹ The rate at which immigrant survivor applicants rarely/never engages with their own family declined from 29% at filing to 5% after employment authorization and those who usually/almost always engaged with friends increased by 48% to 41% at employment authorization. See Figures 58 & 59.

²⁶⁰ Agencies reported for example on 252 child self-petitioners and on 347 mothers and stepmothers filing self-petitions to protect their abused children. See Figures 28, 29, and 30.

²⁶¹ See Figures 30, 32, and 33.

²⁶² See Figures 26, 27, 32, 33, and 35.

²⁶³ Betsy M. Groves, CHILDREN WHO SEE TOO MUCH: LESSONS FROM THE CHILD WITNESS TO VIOLENCE PROJECT, BEACON PRESS, pg. 63, (2002).

²⁶⁴ PREVENTING ADVERSE CHILDHOOD EXPERIENCE, CDC: VIOLENCE PREVENTION, https://www.cdc.gov/violenceprevention/aces/fastfact.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fviolenceprevention%2Ffacestudy%2Ffastfact.html; Faiza Chappell, Meghan Fitzpatrick, Alina Husain, Giselle Hass, Leslye Orloff, *Understanding the Significance of a Minor's Trauma History in Family Court Rulings: Appendix E*, (Mar 30, 2021), <https://niwaplibrary.wcl.american.edu/wp-content/uploads/Appendix-E-Effects-of-Trauma-on-Minors-Fact-Sheet-3.29.18.pdf>.

²⁶⁵ The Philadelphia ACE Research Committee, Philadelphia ACE Survey (2019); Joining Forces for Children, Adverse Childhood Experiences (2021) <https://www.joiningforcesforchildren.org/what-are-aces/>.

²⁶⁶ PREVENTING ADVERSE CHILDHOOD EXPERIENCE, CDC: VIOLENCE PREVENTION, https://www.cdc.gov/violenceprevention/aces/fastfact.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fviolenceprevention%2Ffacestudy%2Ffastfact.html.

²⁶⁷ Faiza Chappell, Meghan Fitzpatrick, Alina Husain, Giselle Hass, Leslye Orloff, *Understanding the Significance of a Minor's Trauma History in Family Court Rulings: Appendix E*, (Mar 30, 2021), <https://niwaplibrary.wcl.american.edu/wp-content/uploads/Appendix-E-Effects-of-Trauma-on-Minors-Fact-Sheet-3.29.18.pdf>.

Moreover, immigrant children may have suffered hostile and anti-immigrant attitudes in the U.S. which adds to their vulnerability to suffer from traumatic stress reactions.²⁶⁸ In addition, most of the children were being raised by mothers who were suffering extreme levels of stress and instability due to their victimization and their unresolved immigration status. Children who are victimized, re-victimized, unprotected, and neglected in their basic needs for safety and stability are at definite risk of suffering a number of serious psychological, physiological, and behavioral problems, including chronic health conditions.²⁶⁹ The longer the abuse, neglect, and exposure to violence persists without proper intervention and treatment, the harder it becomes to repair the damage to the child's functioning and physical, social, emotional, and/or spiritual well-being.²⁷⁰

Agencies participating in the study noticed a change in the children of the survivors who obtained employment authorization. Children became more socially active,²⁷¹ more involved in pursuing their own interests,²⁷² their grades in school improved,²⁷³ and they began to sleep better, eat better, and became more talkative.²⁷⁴ These improvements for survivors' children accelerated as victims gained lawful permanent residence, particularly with regard to children's increased participation in academic and sport after-school activities, social activities with friends, and having fewer disciplinary problems at school.²⁷⁵ These behavioral changes suggest that the children began to exhibit important changes at the same time that their mother also improved psychologically. This is not unexpected as the social science literature has established that because of the unique mother-child attachment, children of immigrant survivors can be significantly impacted by the mother's mental state.²⁷⁶

The Centers for Disease Control (CDC) has found that "nurturing relationships can protect against factors that might increase the risk for perpetuating abuse (e.g., stress), and they provide models for positive interactions and social support."²⁷⁷ Resiliency in children has been linked to the presence of close relationships with others such as parents and friends.²⁷⁸ Positive adult figures help children achieve "greater resilience, lower stress, less likelihood of arrest, reductions in homelessness, higher levels of employment, less delinquent conduct, favorable health, less suicidal ideation, reductions in rapid repeat pregnancies, and better outcomes for the children of teen mothers."²⁷⁹

²⁶⁸ Etiony Aldarondo, Rachel Becker, *Promoting the Well-Being of Unaccompanied Immigrant Minors*, SPRINGER SCIENCE & BUSINESS MEDIA, pg. 195-214, (2011), https://doi.org/10.1007/978-1-4419-9452-3_10.

²⁶⁹ Moroz, Kathleen, *The Effects of Psychological Trauma on Children and Adolescents*, VERMONT AGENCY OF HUMAN SERVICES, (2005), https://kuswoyoaji.files.wordpress.com/2014/01/dmh-cafu_psychological_trauma_moroz.pdf.

²⁷⁰ Moroz, Kathleen, *The Effects of Psychological Trauma on Children and Adolescents*, VERMONT AGENCY OF HUMAN SERVICES, (2005), https://kuswoyoaji.files.wordpress.com/2014/01/dmh-cafu_psychological_trauma_moroz.pdf.

²⁷¹ Increasing 101% with 35% reporting children were often or almost always more socially active after employment authorization; rising to 53% by lawful permanent residence. See Figures 69 & 70.

²⁷² Increasing 134% with 41% reporting children were often or almost always pursuing their own interests after employment authorization; rising to 53% by lawful permanent residence. See Figures 72 and 73.

²⁷³ Children's grades often or almost always begin to improve at employment authorization for 29% of survivors' children. With substantial increases of 175% by lawful permanent residence reaching 65% of children. See Figures 69 & 70.

²⁷⁴ See Figures 72 & 73.

²⁷⁵ By lawful permanent residence there was a 125% decrease in disciplinary problems for survivor's children and 80% are less aggressive. Survivors' children often or almost always had improved grades and slept better (65%); ate better (59%); and were less aggressive. 53% had fewer disciplinary problems, pursued their own interests, were more talkative, and were more socially active. Another 47% were more engaged in sports. The study indicates that these improvements began after employment authorization and accelerated as victims and their children moved toward lawful permanent residence. See Figures 68-73.

²⁷⁶ Alan Sroufe, Byron Egeland, Elizabeth A. Carlson, W. Andrew Collins, *The Development of the Person: The Minnesota Study of Risk and Adaptation from Birth to Adulthood*, NY: GUILFORD, (2005).

²⁷⁷ *Essentials for Childhood: Creating Safe, Stable, Nurturing Relationships and Environments for All Children*, CDC, (2019), <https://www.cdc.gov/violenceprevention/pdf/essentials-for-childhood-framework508.pdf>.

²⁷⁸ Nia Heard-Garris, Matthew M. Davis, Moira Szilagyi, Kristin Kan, *Childhood Adversity and Parent Perceptions of Child Resilience*. BMC PEDIATRIC, pg. 2 (June 2018) doi 10.1186/s12887-018-1170-3.

²⁷⁹ *Promoting Protective Factors for In-Risk Families and Youth: A Guide for Practitioners*, CHILDREN'S BUREAU, pg. 3, (Sept. 2015) https://www.childwelfare.gov/pubPDFs/in_risk.pdf.

The healthy mother-child relationship, is a protective factor for children and fosters resilience through the benefits of attachment. Research has established that attachment to primary caregivers in early childhood relates to the development of important developmental processes, including emotional and behavioral regulation, cognitive flexibility, and social functioning.²⁸⁰ Attachment disturbances increase children's vulnerability to re-victimization and sensitivity to stress. Disrupted relationships with their mothers may also cause difficulties to the process of acculturation and adjusting to a new environment.

Children whose parents lack lawful immigration status in the U.S. have been found to fear a parent's detention and deportation. Children who had a parent who was subjected to immigration enforcement exhibited higher levels of behavioral problems, depression, anxiety and lower self-concept than those children who had not had such experiences.²⁸¹ In VAWA and U visa cases, the long, unpredictable waits until obtaining protection against deportation exacerbated these harms to children and applicant parents whose abusers are often actively involved in efforts to trigger the victim's deportation.²⁸² In addition to the children's mother receiving employment authorization and protection from deportation as part of their VAWA and U visa cases, a related stabilizing event was that the immigration-related barriers to victims seeking help from the family courts receded.²⁸³ As a result, nearly half were willing to fight for custody of their children if this was threatened,²⁸⁴ and many survivors filed for divorce and sought child support from their abusers.²⁸⁵ This study confirms prior research findings that survivors who have filed VAWA and U visa applications are highly likely to turn to the justice system for help in protection order, custody, divorce, and child support cases.²⁸⁶ These findings in turn suggests that immigrant survivors increased their capacity to focus on their parenting and their children's protection as they became unburdened of their fear of deportation, were empowered by the employment authorization and as the immigration threats they have experienced for years as a key part of the abuse they suffered diminished significantly.

Community and Social Benefits

VAWA and U visa applicants have in common the victimization that made survivors and/or their children feel rejected and abused. Among the consequences of interpersonal abuse is a self-protective

²⁸⁰ Carlo Schuengel, Mirjam Oosterman, Paula S Sterkenburg, *Children with Disrupted Attachment Histories: Interventions and Psychophysiological Indices of Effects*, CHILD ADOLESCENT PSYCHIATRY HEALTH, pg. 3, 26 (2009), <https://doi.org/10.1186/1753-2000-3-26>.

²⁸¹ Luis H. Zayas, Sergio Aguilar-Gaxiola, Hyunwoo Yoon, Guillermina Natera Rey, *The Distress of Citizen-Children with Detained and Deported Parents*, JOURNAL OF CHILD AND FAMILY STUDIES, pg. 3213-3223, (2015), doi:10.1007/s10826-015-0124-8.

²⁸² Krisztina E. Szabo, et. al., *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP, (Feb. 12, 2014), https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12; Rafaela Rodrigues, Alina Hussein, Amanda Couture Carron, Leslye Orloff, Nawal H. Ammar, *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP, (May 3, 2018), <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>.

²⁸³ The percent of VAWA and U visa victims who were rarely/never willing to seek family court help declined from 22% to 6% for custody cases and 32% to 10% for child support cases. See Figure 47.

²⁸⁴ After employment authorization 48% and after lawful permanent residence 50% of survivors were sometimes, often or always willing to seek justice system help in custody cases. See Figures 47 & 48.

²⁸⁵ VAWA and U visa survivors (42%) often or almost always sought child support after employment authorization and began to often or almost always seek divorce; 24% at employment authorization and 36% after lawful permanent residence. See Figures 47 & 48.

²⁸⁶ Rafaela Rodrigues, Alina Hussein, Amanda Couture Carron, Leslye Orloff, Nawal H. Ammar, *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP, (May 3, 2018), pg. 88-89 (Protection order cases: VAWA self-petitioners 63%, U visa 67%; Custody cases: VAWA self-petitioners 60%, U visas 64%; Divorce cases: VAWA self-petitioners 59%, U visas 56%; Child support cases: VAWA self-petitioners 49%; U visas 55%) <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>; Krisztina E. Szabo, et.al., *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP, (Feb. 12, 2014) pg. 28-31, (Protection Order Cases: VAW self-petitioners 63%, U visas 64%; Custody cases: VAWA self-petitioners 47%, U visas 44%; Divorce cases: VAWA self-petitioners 74%, U visas 34%; Child support cases: VAWA self-petitioners 45%, U visas 22%) https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

tendency to withdraw and isolate themselves from a world that has been hostile and aggressive.²⁸⁷ Survivors of domestic violence, sexual assault or other interpersonal crimes are often socially isolated by the abuser, by shame, or by financial and transportation limitations that are exacerbated for immigrant survivors by lack of access to employment authorization and driver's licenses. They have difficulties functioning socially and this in turn leads to an existential problem because interpersonal ties articulate our sense of self and allow us to know who we are. Data from this study shows that an increase in socialization with friends and family occurred when the survivors received their employment authorization and protection from deportation.²⁸⁸ Moreover, increases with other social contacts also occurred, such as increased participation in their community, faith community, with neighbors,²⁸⁹ and with other parents.²⁹⁰ This decrease in isolation²⁹¹ is an important change achieved after receiving employment authorization and a marker for improved quality of life as this study's data illustrate in the continued improvements in engagement that continue with lawful permanent residence.²⁹² It is important to note that this increase in contact is selective, and presumably tending towards surrounding themselves with positive contacts²⁹³ as suggested by the decline in involvement with the abuser's family.²⁹⁴

Regarding acculturation, the findings of this study are very encouraging for the future adjustment of the survivors and their families in the U.S. Migrating and settling into a new country is highly stressful, especially when combined with victimization which was the case of the VAWA and U visa clients whose data is reported here. Some of the challenges reported in the literature for immigrant victims include losses such as having to distance from loved ones, social networks, home, and culture; problems finding housing, difficulties obtaining legal immigration documentation needed to live and work, learning a new language, changing family roles, and adjusting to new school systems, labor markets, justice and social systems.²⁹⁵

Migration challenges a person's identity as it demands radical life and role changes and adjustment to a foreign country's environment. Immigrant survivors need to adjust and overcome the challenge of the changes in identity that are the result of their migration experience. According to the literature on acculturation, an individual undergoing acculturation will engage in cultural, linguistic, and psychological changes.²⁹⁶ These changes in the level of integration aim to manage the anxiety of living in a foreign and confusing environment. Further, immigrants who arrive to the U.S. are faced with ethnic and racial discrimination, xenophobia, and anti-immigrant sentiment that interferes with their ability to

²⁸⁷ Danieli Yael, *Assessing Trauma in a Multigenerational Perspective*, CROSS CULTURAL ASSESSMENT OF PSYCHOLOGICAL TRAUMA AND PTSD, pg. 65-89 (2007).

²⁸⁸ See Figures 59 & 86.

²⁸⁹ At filing 58% rarely/never were engaged in their communities. This declined by 77%. It was 14% after employment authorization. See Figures 58 & 59. Victims' involvement often/almost always with community, friends, family, neighbors and others increases 160% for 16.1% at filing to 42% after employment authorization and reaches 58% at lawful permanent residence, a total increase of 261%. See Figures 84-86.

²⁹⁰ Survivors sometimes, often, always have relationships with other parents 46% at employment authorization and 49% at lawful permanent residence. See Figures 62 & 63.

²⁹¹ This survey found, for example, two of the top ten contributors to extreme cruelty and coercive control used by self-petitioners' abusers were isolation experienced by 50% (#3) and cutting victims off from their friends and family members experienced by 45% (#7). See Figure 21.

²⁹² See Figures 60, 63, & 86.

²⁹³ 80% increase in engaging with people in their communities outside of the abuser's family including friends, family, other parents, and neighbors. See Figures 58-63.

²⁹⁴ The percentage of VAWA and U visa victims who are sometimes, often or always involved with the abusers family declines from 38% at filing to 18% after employment authorization and 16% after lawful permanent residence. See Figures 59 & 60.

²⁹⁵ Encarnación Trueba Garza, Pedro Enrique T. Reyes, *Resiliency and Success: Migrant Children in the U.S.*, Harvard University Press, (2004); Alejandro Portes & Ruben G. Rumbaut, *Introduction: The Second Generation and the Children of Immigrants Longitudinal Study. Ethnic and Racial Studies*, HARVARD UNIVERSITY PRESS, pg. 983-999 (2005) doi: 10.1080/01419870500224109; Carola Suarez-Orozco, Marcelo M. Suarez-Orozco, *The Developing Child: Children of immigration*, HARVARD UNIVERSITY PRESS, (2001).

²⁹⁶ John W. Berry, *Immigration, Acculturation, and Adaptation*, APPLIED PSYCHOLOGY: AN INTERNATIONAL REVIEW, pg. 5-68, (1997), doi: 10.1111/j.1464-0597.1997.tb01087.x.

feel at ease and may make it less desirable to integrate into the new culture as opposed to remaining segregated and invisible.

The VAWA and U visa applicants who are the subject of this study seemed to move from the feeling of displacement, not belonging, being exiled from their own country, and perhaps feeling not accepted in the U.S. to progressive acculturation. The functional aspects of acculturation include use of the language of the host country and participation in their socio-cultural activities. Acculturation also includes acquisition of the relational style, beliefs about human nature, and time orientation of the host culture²⁹⁷.

The study's data reveals that after employment authorization, survivors were highly interested in learning English. For instance, there was an increase in engagement in English as a Second Language (ESL) classes and increased efforts to speak English.²⁹⁸ Moreover, the data showed that survivors came to feel more at home in the U.S., more comfortable socially with people from the U.S., including friends, neighbors, and co-workers, attended more social functions with people from the U.S., and began to adopt U.S. cultural norms, including in their diet.²⁹⁹

An important change in values that occurred after receiving protection from deportation and employment authorization was VAWA and U visa survivors' increased trust in the police,³⁰⁰ resulting in increased participation in criminal investigations or prosecutions,³⁰¹ and continuing to file police reports for future crimes.³⁰² It has been documented that many immigrants, including VAWA and U visa applicants, because of their history with law enforcement in their countries of origin and their immigration status, which places them in a marginalized group, distrust the police and have difficulties trusting the U.S. justice system.³⁰³ Survivors of domestic violence have been found to be particularly hesitant to call the police to obtain relief from violence for them and their children.³⁰⁴ Against this background, it is especially important that this study confirmed the role that the U visa is playing in

²⁹⁷ José Szapocznik, Mercedes A. Scopetta, William Kurtines, María D. Aranalde, *Acculturation: Theory and Measurement*, REVISTA INTERAMERICANA DE PSICOLOGIA/INTERAMERICAN JOURNAL OF PSYCHOLOGY, (Nov. 1977), doi: 12:113-130.

²⁹⁸ After employment authorization there is a 226% increase in VAWA and U visa survivors who are often or almost always enrolled in English as a Second Language classes from only 13% at filing, to 43% after employment authorization, which continues to rise to 47% at lawful permanent residence. The survey also found a 167% increase in survivors who often or almost always try to speak English from 20% at filing rising to 53% at employment authorization and 57% at lawful permanent residence. See *Figures 90 & 91*.

²⁹⁹ The survey revealed that survivors' adaptation to life in the U.S. increases after employment authorization increases further at lawful permanent residence by which time VAWA and U visa survivors are often or almost always socializing with (43%) and attending social events with (58%) people from the U.S., feeling at home in the U.S. (37%), eating U.S. foods (33%) and adopting U.S. cultural norms (30%). After employment authorization 60% of VAWA and U visa survivors are attending social events with people from the United States. Found an increase of 159% socializing with people from the U.S. and 126% increase in survivors adopting U.S. social norms between filing and lawful permanent residence. See *Figures 90-92*.

³⁰⁰ VAWA and U visa victims' willingness so sometimes, always or often trust police rose 114% at deferred action and employment authorization to 50% of survivors and rose further to 53% of survivors by lawful permanent residence (total increase of 128%). The number of victims who rarely or never trusted police fell from 60% at filing to 26% at receipt of employment authorization and to 20 % at lawful permanent residence. It is important to note that this illustrates trust increasing both among U visa victims and VAWA self-petitioners. See *Figures 93-95*.

³⁰¹ Although VAWA self-petitioners who have no obligation to cooperate with law enforcement and prosecutors, this survey found a decline in the percent of VAWA and U visa clients who rarely or never wanted to be involved in criminal investigations and prosecutions fell from 20% before filing to 8% after receipt of employment authorization. This means that VAWA self-petitioners as well as U visa victims engaged in the criminal justice system once they received employment authorization. At employment authorization and lawful permanent residence 40% of VAWA and U visa applicant clients sometimes, often or almost always cooperated in criminal investigations and prosecutions. See *Figures 42-44*.

³⁰² VAWA and U visa victims sometimes, often or almost always file future police reports at rates of 36% after employment authorization and deferred action and 38% at lawful permanent residence. See *Figures 43 & 44*.

³⁰³ Leslye Orloff, MaryAnn Dutton, Giselle Hass, and Nawal Ammar, *Battered Immigrant Women Willingness to Call for Help and Police Response*, UCLA WOMEN'S LAW JOURNAL, 5 (Fall 2003) <http://library.niwap.org/wp-content/uploads/2015/CULT-Rsch-ImmVictimsBatteredImmWomenPolice.pdf>.

³⁰⁴ Leslye Orloff, MaryAnn Dutton, Giselle Hass, and Nawal Ammar, *Battered Immigrant Women Willingness to Call for Help and Police Response*, UCLA WOMEN'S LAW JOURNAL, (Fall 2003) <http://library.niwap.org/wp-content/uploads/2015/CULT-Rsch-ImmVictimsBatteredImmWomenPolice.pdf>.

building trust³⁰⁵ in law enforcement and prosecutors among immigrant survivors.³⁰⁶ This finding confirms results from a 2013 research study that found survivors who had filed VAWA self-petitions were turning to police for help at high rates with 50% filing police reports and 62% helping in criminal investigations and prosecutions,³⁰⁷ in addition to the high rates of cooperation among U visa victims for whom cooperation and helpfulness is part of their U visa case process.³⁰⁸

In the case of VAWA and U visa applicant survivors, the access to protection against deportation and employment authorization that these programs provide are fostering greater confidence in and reliance upon the U.S. justice and law enforcement systems. As confidence, self-esteem, mental health, stability and safety of VAWA and U visa survivors improve, survivors' ability and willingness to participate in the criminal justice system increases, and they become better and more effective participants and witnesses in criminal investigations and prosecutions. A key finding of this study that illustrates the impact of this growing trust is the increase in the numbers of VAWA and U visa applicants who are reaching out to help other immigrant survivors in their communities.³⁰⁹

These types of markers indicate that the survivors began to achieve a greater level of comfort and familiarity with the U.S., which is important for their wellbeing and prosperity. Acculturation has been found to increase the propensity to take the perspective of the other, in turn leading to improved social judgement³¹⁰. These attitudes also help a parent to be a role model, communicates the need to adapt, and to relate better to their children who would, by their developmental instincts, adapt quickly.

The dynamic effort of VAWA and U visa survivors to integrate into U.S. society while preserving links to their ethnic community in the U.S.³¹¹ demonstrates that they were not rejecting or replacing their own cultural roots. The agencies noted that the survivors appeared more attached to their cultural roots by transmitting their cultural identity to their children, eating traditional foods from their ethnic group, relating to their ethnic communities, staying in close contact with family members in their home countries, and making plans to visit their home countries.³¹²

By being open to their ethnic community in the U.S. and maintaining their interest in their home country and their loved ones there, the survivors' actions implied the formation of bicultural identities.

³⁰⁵ Corrin Chow, Zachary Perez, Rocio Molina, Leslye E. Orloff, *Stories from the Field: The Crime Fighting Effectiveness of the U Visa*, NIWAP, (August 27, 2020) <https://niwaplibrary.wcl.american.edu/pubs/u-visa-crime-fighting-stories> (stories from law enforcement and prosecution officials describing how U visa victims are helping with criminal investigations and prosecutions that go beyond the victim's own criminal case).

³⁰⁶ Rafaela Rodrigues, Alina Hussein, Amanda Couture Carron, Leslye Orloff, Nawal H. Ammar, *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP, (May 3, 2018), pg. 44-46 <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>. (Compared 2016 and 2017 and found that in times of increased immigration enforcement law enforcement agencies that regularly signed U visas combined with community policing efforts did not see the declines in immigrant victims coming forward to make police reports and participate in criminal investigations that non-signing law enforcement agencies experienced).

³⁰⁷ Krisztina E. Szabo, et. al., *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP, (Feb. 12, 2014) pg. 29, https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12;

³⁰⁸ Leslye Orloff, et. al., *U Visa Victims and Lawful Permanent Residence 5* (September 6, 2012) (70% continued cooperation and 29% victims were willing to cooperate if their criminal case went forward); Krisztina E. Szabo, et.al., *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP, (Feb. 12, 2014) pg. 29-30, https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12 (73% cooperated with active criminal investigations and prosecutions).

³⁰⁹ 70% increase in VAWA and U visa applicant survivors sometimes, often or almost always helping other victims; rising from 14% at filing, to 22% at employment authorization to 24% at lawful permanent residence. *Figures 61 to 63*.

³¹⁰ Sammut, Gordon. (2012). The immigrants' point of view: Acculturation, social judgment, and the relative propensity to take the perspective of the other. *Culture & Psychology*, 18(2), 184–197. <https://doi.org/10.1177/1354067X11434837>

³¹¹ As the VAWA and U visa programs help victims break free of their abuser's controls, survivor who usually/almost always reengage with their ethnic community grows exponentially (more than 13 fold) from 3% at filing, to 38% after employment authorization and 43% at lawful permanent residence (a total 15.6 fold increase). *See Figures 58-60*.

³¹² By the time VAWA and U visa applicants attain lawful permanent residence survivors often or almost always are transmitting their culture to their children (58%), eating ethnic foods (60%); engaging with their ethnic community in the U.S. (38%); staying in close contact with family in their home country (63%), and now that they are able to travel making plans to visit their home country (50%). *See Figures 59, 88, & 89*.

Biculturalism, defined as the internalization of two cultures, involves the feeling of belonging, engaging in behaviors prescribed by, endorsing the values and beliefs, and having meaningful connections with members of both cultures.³¹³ Social science literature warns us that acculturation alone is unlikely to provide lasting wellbeing because individuals need to preserve a sense of history by maintaining their own culture. Similarly, there are many psychological benefits that biculturalism brings to a person's welfare.

Studies have shown that being bicultural promotes the ability to identify and value multiple perspectives and articulate them into a meaningful whole. Bicultural people also learn to combine those alternative viewpoints to make novel connections. These new mental skills have implications regarding ability to search for information and resources³¹⁴ and ability to tolerate ambiguous information without feeling overloaded, among other capacities of cognitive complexity.³¹⁵ The benefits of biculturalism to immigrants also include a stronger sense of their multicultural identity and the ability of passing on those values to their children. By creating a bicultural family environment, survivors are helping themselves and their children in multiple ways. For instance, studies have found that home environments with a moderate degree of biculturalism was related to significantly fewer anxiety symptoms for male adolescents and significantly fewer depression symptoms for female adolescents³¹⁶.

Desire and willingness to not only adjust but to thrive in their new home was revealed in increases in survivors' educational attainment and vocational training after receiving employment authorization.³¹⁷ Increases in educational attainments were obtained by hard effort but also by environmental supports such as student grants and loans, revealing the positive impact of external resources.

Promoting Access for VAWA and U Visa Survivors to Government Services and Community Support

The results of this study unequivocally point to a number of important gains and developments that occur with the granting of employment authorization and protection from deportation for survivors and their children. It follows that if these two benefits exert such a transformative and stabilizing impact in the lives of immigrant survivors, ensuring that survivors are granted these life-saving and stability enhancing protections and support sooner will lead to greater improvement and richer contributions to society. Providing earlier access to employment authorization and protection from deportation for VAWA and U visa applicants would provide the stability that would result in greater and more effective participation of these applicants in criminal investigations and prosecutions. This includes participating

³¹³ Veronica Benet-Martinez, Janxin Leu, Fiona Lee, Michael W. Morris, et al., 2002; Negotiating biculturalism cultural frame switching in biculturals with oppositional versus compatible cultural identities. *Journal of Cross Cultural Psychology*, 33 (5): 492-516. Doi: 10.1177/0022022102033005005.; David, E. J. R., Okazaki, Sumie, & Saw, Anne (2009). Bicultural self-efficacy among college students: Initial scale development and mental health correlates. *Journal of Counseling Psychology*, 56(2), 211–226. <https://doi.org/10.1037/a0015419>; Angela-MinhTu D. Nguyen & Veronica Benet Biculturalism Unpacked: Components, Measurement, Individual Differences, and Outcomes. October 2007. *Social and Personality Psychology Compass* 1(1):101 – 114. DOI: 10.1111/j.1751-9004.2007.00029.x

³¹⁴ Immigrant VAWA and U visa applicants' familiarity with and ability to access community resources grows from 10% at filing, to 23% at employment authorization and reaches 47% at lawful permanent residence, a 133% increase. See *Figures 93-95*.

³¹⁵ Carmit T. Tadmor, Adam D. Galinsky & William W. Maddux (2012). Getting the most out of living abroad: Biculturalism and integrative complexity as key drivers of creative and professional success. *Journal of Personality and Social Psychology*, 103 (3), 520-542.

³¹⁶ Biculturalism, Mental Health, and the Cultural Environment: A Longitudinal Approach to Examining the Person-Environment Fit Hypothesis by Camille D. Basilio. Unpublished dissertation. Arizona State University. Retrieved at: https://repository.asu.edu/attachments/134987/content/Basilio_asu_0010E_13901.pdf

³¹⁷ The survey revealed starting at employment authorization VAWA and U visa survivors sometimes, often or almost always pursued educational opportunities at rates that by employment authorization of GEDs (35%), vocational training (21%), educational grants and loans (25%), Associates Degrees (22%), Bachelor's Degrees (16%; Advanced degrees (5%) and by lawful permanent residence are: GEDs (49%), vocational training (27%), educational grants and loans (40%), Associates and Bachelor's Degrees (27% each); Advanced degrees (19%). See *Figures 77 & 78*.

in criminal investigations and prosecutions and serving as witnesses in criminal cases involving their perpetrator in addition to the criminal case that was the qualifying crime that made them eligible for the VAWA or U visa immigration relief.³¹⁸ This study's results reveal that granting federal and state funded benefits and assistance to immigrant crime victims promotes and supports healing for survivors and their children. When immigrant survivors have earlier access to a broad array of benefits and services, they more quickly adjust to life in the U.S. and more fully participate in both the justice system and civic life, which benefit us all.

Granting VAWA self-petitioners and U visa victims access to protection from deportation (deferred action) and employment authorization at a much earlier point in time can be accomplished without any changes to current statutes or regulations. Currently, the wait time after filing until immigrant survivors of crime and abuse receive employment authorization and deferred action is upwards of 5 years for U visa applicants and can be up to or more than 2 years for VAWA self-petitioners whose abusers are their lawful permanent resident spouses or parents.³¹⁹ During the waiting period between filing and receipt of deferred action and employment authorization, survivors' lives are in limbo. Perpetrators of domestic violence, child abuse and human trafficking and sexual predators in the workplace maintain the upper hand and survivors are trapped in homes and jobs where victimization is ongoing.³²⁰

Granting deferred action to VAWA self-petitioners and U visa applicants who have established a prima facie or bona fide case ends perpetrators' ability to use immigration-related threats as retaliation and as an effective means to coercively control survivors. Employment authorization simultaneously provides survivors the tool they need to break financial ties with the abuser, to provide support for themselves and their children, and to access a range benefits, services and support that are available to survivors and any of their children included in the survivors' VAWA or U visa case. Examples include:

State-Funded Medical Assistance and Health Care Subsidies: Once U visa victims receive deferred action status they are considered "lawfully present"³²¹ under public benefits laws. This gives U visa victims and their children the legal ability to purchase health insurance in the healthcare marketplace exchanges in all states. Deferred action status also makes all children included in the U visa application lawfully present and eligible for subsidized child healthcare in 48 states.³²² Although prenatal care is open to VAWA and U visa victims in 20 states, lawful presence opens up prenatal care to pregnant immigrant women in an additional 21 states.³²³

³¹⁸ Corrin Chow, Zachary Perez, Rocio Molina, Leslye E. Orloff, *Stories from the Field: The Crime Fighting Effectiveness of the U Visa*, NIWAP, (August 27, 2020) <https://niwaplibrary.wcl.american.edu/pubs/u-visa-crime-fighting-stories>.

³¹⁹ Agencies reported that in 35% of their VAWA self-petition cases the abuser was a lawful permanent resident spouse, parent or stepparent. See Figure 16.

³²⁰ Research has found that many victims stay in homes and workplaces where the abuse that was the basis for the U visa application or VAWA self-petition continues occurring. With new incidents of sexual assault, domestic violence, child abuse, stalking occurring on a weekly/daily (48%) or monthly (24%) basis while victims await employment authorization and the protection from deportation needed to counter the perpetrator's immigration-related abuse. Rafaela Rodrigues, Alina Hussein, Amanda Couture Carron, Leslye Orloff, Nawal H. Ammar, *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey*, NIWAP, (May 3, 2018), pg. 86-88 <https://niwaplibrary.wcl.american.edu/pubs/immigrant-access-to-justice-national-report>. Research conducted in 2013 made similar findings. Krisztina E. Szabo, et. al., *Early Access to Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP, (Feb. 12, 2014) pg. 21-23, https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

³²¹ Letter to Department of Health and Human Services, *Medicaid and CHIP Coverage of "Lawfully Residing" Children and Pregnant Women*, CENTER FOR MEDICARE, CHIP, AND SURVEY & CERTIFICATION, (July 1, 2010) <https://niwaplibrary.wcl.american.edu/pubs/pb-gov-hhslawfullyresidingmedicaid-07-01-10-also-in-qualified-immigrants>.

³²² See Leslye Orloff, *State-Funded Public Benefits Comparison Chart*, NIWAP, (April 9, 2021), <https://niwaplibrary.wcl.american.edu/pubs/state-benefits-comparison-chart>; see also, *All State Public Benefits Charts and Map*, NIWAP, (2019) (linking to state-by state charts with full legal citations documenting access to state and federal public benefits for VAWA and U visa victims and other immigrant survivors).

³²³ *Id.*

Driver's Licenses: Only 12 jurisdictions offer state driver's licenses to immigrants who do not qualify for a federally recognized Real ID. Receipt of deferred action makes U visa applicants and VAWA self-petitioners eligible for driver's licenses in 3 states and obtaining employment authorization based on deferred action results in survivors being eligible for driver's licenses in an additional 31 states.³²⁴

Temporary Aid to Needy Families (TANF): Although 24 states grant access to state funded TANF to VAWA self-petitioners with prima facie determinations, U visa applicants only have access to TANF in 7 states. Receipt of deferred action gives U visa applicants and their children access to TANF in 2 additional states.³²⁵

Despite the barriers³²⁶ to many public benefits, services, and driver's licenses that U visa applicants, U visa holders and some VAWA self-petitioners face, this study found that immigrant survivors were willing to access the government services for which they became progressively eligible as their case moved through the immigration process. It is clear from prior research that victim advocates, attorneys, and government agencies play an important role in informing immigrant survivors about and helping them apply for publically funded benefits and services that strengthen the infrastructure upon which survivors rely as they rebuild their lives.³²⁷

This study found that over one third of VAWA and U visa applicants were receiving assistance from mental health professionals.³²⁸ Receipt of preventative medical care, adult healthcare and prenatal care increases from receipt of employment authorization through lawful permanent residence.³²⁹ The study found slight increases in survivors' access to subsidized child care, SNAP, and state funded nutrition cash between filing and lawful permanent residence³³⁰ and also found that after employment authorization, there was an increase in survivors' access to public and assisted housing with a simultaneous decrease in the use of transitional housing or emergency shelters.³³¹

Based on these findings, there is no question that removing the fear of deportation and eliminating the delayed access to employment authorization will facilitate access to government-funded services, benefits and support. Such services, benefits and supports will help stabilize the lives of future

³²⁴ *Id.* Note that additionally in Maine VAWA self-petitioners with prima facie determinations are eligible for full federally recognized driver's licenses.

³²⁵ *Id.*

³²⁶ Immigration status related concerns (e.g., fear of deportation, no driver's license, lack of economic stability with employment authorization) were the biggest (36%) barrier survivors encountered to accessing, healthcare, education, involvement in their children's schools and community services, followed by their abuser's threats and interference (22.6%) and language access barriers (19.4%). See Figure 67.

³²⁷ *Use and Outcomes of Protection Orders by Battered Immigrant Women*, COSMOS CORP., (Nov. 10, 2016), <https://niwaplibrary.wcl.american.edu/pubs/fam-gov-nijtechnicalreportprotectionorders11-10-06>; Krisztina E. Szabo, et.al., *Survey Report on Access to Public and Assisted Housing for VAWA Self-Petitioners, their Children, and Trafficking Victims*, NIWAP, (June 2, 2014) pp 8-9 <https://niwaplibrary.wcl.american.edu/pubs/survey-access-to-public-and-assisted-housing>.

³²⁸ 35% of victims before filing, at employment authorization, and at lawful permanent residence sometimes, often, almost always receiving mental health treatment. See Figures 49, 51, & 52.

³²⁹ Willingness to sometimes, often or almost always seek preventative health care rose to 51% by lawful permanent residence from 38% at filing and employment authorization. See Figures 61, 62, and 63. Survivors who usually or often obtain: adult health care rising 142% from filing (14%) to lawful permanent residence (33%); and prenatal care rising 63% from 21% at filing to 35% at lawful permanent residence. See Figures 50, 51, & 52.

³³⁰ Survivors were sometimes, often or almost always sought subsidized childcare at rates of 27% at filing, 33% after employment authorization, and 37% at lawful permanent residence; were usually/often willing to access SNAP that their children were eligible to receive 31% at filing rising to 36% at lawful permanent residence; and sometimes, often or almost always accessed state funded cash assistance at 23% before filing rising to 31% at lawful permanent residence. See Figures 54, 55, 56, & 57.

³³¹ From filing (14%) to lawful permanent residence (25%) there was an 85% increase public and assisted housing mostly as a result of VAWA self-petitioner eligibility and a decrease in VAWA and U visa victims who needed services from emergency shelters and transitional housing. Victims who sometimes, often or almost always needed: emergency shelter declined from 35% pre-filing to 4% at lawful permanent residence and transitional housing declined from 48% pre-filing to 31% after employment authorization and at lawful permanent residence. See Figures 49, 59, 51, & 52.

lawful permanent resident VAWA and U visa survivors and encourage their even greater participation in the civic life of our communities.³³²

Implications for Policy Makers and Professionals Who Encounter or Serve Immigrant Survivors

Department of Homeland Security: The findings of this study provide evidence-based support for a number of important policy changes that would contribute substantially to accomplishing the goals of the VAWA and U visa statutes and immigration relief programs. These include preventing abusers and criminals from using the U.S. immigration system to control and retaliate against victims, while shielding themselves from accountability, and offering effective humanitarian protection and relief for immigrant survivors and their children. Urgent policy reforms needed include:

1. Provide deferred action and employment authorization to U visa applicants who have established a bona fide case for eligibility as early as possible. These changes need to be implemented in a manner that ensures the shortened timelines continue into the future;
2. Provide deferred action and employment authorization to VAWA self-petitioners issued along with prima facie determinations as this will both provide immediate protection they need from deportation, the ability to work lawfully, and will facilitate access to drivers' licenses and state funded benefits particularly for abused spouses and children of lawful permanent residents. These changes need to be implemented in a manner that ensures early access to deferred action and work authorization now and in the future;
3. Increase staffing for and reinstate trainings for VAWA Unit adjudicators at the Vermont and Nebraska Service centers that are presented collaboratively by experts at DHS and subject matter experts from outside the agency similar to all the VAWA Unit trainings conducted in 2015, 2009 and 2005 and consider involving a judicial trainer with expertise on VAWA and U visas and maintain VAWA Unit staffing at least 85% of capacity at all times;
4. Amend VAWA Unit expedite criteria to explicitly authorize expediting of a VAWA or U visa case as a remedy for VAWA confidentiality violations;
5. Conduct trainings for Immigration and Customs Enforcement (ICE) trial attorneys involving U.S. Citizenship and Immigration Services (USCIS) and subject matter experts from outside of the agency on VAWA confidentiality and the VAWA and U visa programs similar to the training held for all of ICE's Office of the Principal Legal Advisor (OPLA) staff and managers in 2007;
6. Prohibit arrest, detention, deportation, issuance of notices to appear, and any immigration enforcement against victims with pending or approved VAWA and U visa cases,³³³ fully implement the 2011 Victim Witness Prosecutorial Discretion Memo, and cancel all Notices to Appear that were issued in cases of victims filing VAWA self-petitions, U visa, T visa and SIJS cases;
7. Promote U visa certification by rescinding the August 10, 2019 U Visa Law Enforcement Resource Guide and reconfirm the continued effect of the November 2015 U and T Visa Law Enforcement Resource Guide. Ensure that all future publications are consistent with U visa statutes and regulations;

³³² *Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans*, WHITE HOUSE BRIEFING ROOM, (Feb. 2, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-restoring-faith-in-our-legal-immigration-systems-and-strengthening-integration-and-inclusion-efforts-for-new-americans/>

³³³ This protection would apply to all cases unless the case is denied on its merits and all opportunities for appeal have been exhausted. Exception for applicants who participated in Nazi persecution, genocide, acts of torture or extrajudicial killings.

8. Amend U visa regulations to remove the supervisor requirement and expand authority of Police Chiefs, Sheriffs, elected Prosecutors, and other government agency heads to delegate certification authority to any agency staff member they deem appropriate;
9. End all fees in cases involving VAWA self-petition, U visa, and any other immigrant survivor applicants who receive VAWA confidentiality protection. This includes fees on any employment authorization and lawful permanent residence applications, including but not limited to VAWA and U visa cases they file; and
10. Move adjudication of all battered spouse waiver cases to the VAWA Unit.

Congress: The results of this study prove that the protections for immigrant victims of domestic violence, sexual assault, child abuse, stalking, dating violence, human trafficking, and other crimes developed by Congress as part of the Violence Against Women Act are effective in promoting the safety, stability, self-sufficiency, and resilience of immigrant survivors and promoting their ability to turn to the criminal and civil justice systems for help. Further statutory changes are needed. Congress should improve protections for immigrant survivors of abuse and crime by:³³⁴

1. Permanently eliminating the U visa 10,000 per year visa cap;³³⁵
2. Adding child abuse, elder abuse, dating violence, and hate crimes to the list of U visa criminal activities;
3. Adding Victims of Crime Act (VOCA) administrators to the statutory list of U visa certifiers;
4. Prohibiting the arrest, detention, removal, and initiation of immigration enforcement actions against any individual defined as eligible for protection under 8 U.S.C. 1367 (VAWA confidentiality);
5. Amending federal funding programs to authorize training on VAWA, T and U visa immigration relief, U visa certification and T visa declarations and require that law enforcement, prosecution and courts receiving any sources of federal funding have by the end of the 2022 grant period U visa certification and T visa declaration practices in place;
6. Making all VAWA self-petitioners, U visa applicants, and children applying for Special Immigrant Juvenile Status eligible for state and federal public benefits and driver's licenses to the same extent as human trafficking victims and by making each of these groups of victims "qualified immigrants" under U.S. public benefits laws when they receive bona fide or prima facie determinations in their abuse or crime victim-based immigration case;
7. Amending VOCA to guarantee access to all victims without regard to immigration status;³³⁶
8. Confirming that "extreme cruelty," like "battery," is a question of law as applied to the facts of the case and is therefore reviewable on appeal by the Circuit Courts and is not a discretionary factor like "extreme hardship;" and
9. Adding the following groups of victims to the definition of "VAWA self-petitioner" in 101(a)(51) – VAWA cancellation of removal and suspension of deportation applicants, children applying for Special Immigrant Juvenile Status, and abused spouses defined in INA section 106.

³³⁴ For draft statutory language for each of these proposed legislative reforms and other statutory changes that would improve access to protections and help for immigrant survivors and their children and a section-by-section description of each proposed provision see Legislative Proposals That Benefit Immigrant Survivors of Domestic and Sexual Violence and Child Abuse (June 5, 2021) <https://niwaplibrary.wcl.american.edu/2021-legislative-proposals-that-benefit-immigrant-survivors>.

³³⁵ *Redefining Immigration Relief: How Immigration Supports American Ideals*, NISKANEN CNTR., (Nov. 2020), <https://niwaplibrary.wcl.american.edu/pubs/u-visa-reforms-needed>.

³³⁶ This would eliminate Alabama's restriction denying VOCA payments to most immigrant crime victims. There are no immigrant restrictions in any other state.

Law Enforcement and Prosecutors: The findings of this evidence-based study demonstrate and affirm prior research findings that when immigrant survivors of crime and abuse file immigration cases and gain protection from deportation and work authorization, their trust in police increases. They become more involved in criminal investigations and prosecutions and serve as better witnesses because they are less afraid and less susceptible to witness tampering. They file more police reports for future crimes, and they help other survivors in their communities turn to the justice system and other resources for help. These findings support implementation of the following recommendations by law enforcement and prosecution agencies nationwide:

1. Greater numbers of police departments, sheriff's offices, and state police agencies, should immediately implement U visa and T visa certification practices³³⁷ which will enhance public safety, officer safety, and protection for victims;³³⁸
2. Adopt U and T visa certification policies or protocols that promote certification consistent with federal laws and regulations and serve as an important community policing tool;³³⁹
3. Law enforcement and prosecutor leadership should ensure that their agencies' U and T visa practices are consistent with and do not include requirements that are inconsistent with federal statutes and regulations;³⁴⁰
4. Law enforcement and prosecution agencies should adopt language access plans to ensure that agencies are able to effectively serve limited English proficient victims;³⁴¹
5. Increase training for law enforcement and prosecution officials, leadership, and their agency's victim witness staff U and T visa certification and the effectiveness of U and T visas as crime fighting tools and language access best practices.³⁴² The training should incorporate the evidence-based findings of this study demonstrating how U and T visa certification promote greater justice system participation by immigrant victims;³⁴³
6. Receive technical assistance from subject matter expert law enforcement and prosecution officials on U and T visa certification and language access;³⁴⁴ and
7. Increase trainings for prosecutors on best practices that employ prosecution strategies that increase successful prosecution of perpetrators of crimes committed against immigrant victims that incorporate the findings of this study and address discovery, voir dire, strategies that lead to introduction of prior consistent statements, pre-trial motions *in limine*, and the benefits of U visa certification for prosecutors.³⁴⁵

³³⁷ See U Visa Certification and T Visa Declaration Toolkit for Law Enforcement Agencies and Prosecutors (May 6, 2021)

https://niwaplibrary.wcl.american.edu/pubs/u-t-visa-toolkit_law-enforcement-prosecutors

³³⁸ International Association of Chiefs of Police, Resolution "Support for Education and Awareness on U Visa Certifications and T Visa Declarations" (November 2018) <https://niwaplibrary.wcl.american.edu/pubs/iacp-support-for-education-and-awareness-on-u-visa-certifications-and-t-visa-declarations>.

³³⁹ Stacy Ivie et al., *Overcoming Fear and Building Trust with Immigrant Communities and Crime Victims*, POLICE CHIEF, Apr. 2018, 40; Model Policy for Interactions with Immigrant Victims of Crime and Human Trafficking & Signing of U Visa Certifications and T Visa Declarations (October 31, 2016) <https://niwaplibrary.wcl.american.edu/pubs/proposed-model-u-visa-policy>; Discussion Paper for Model Policy for Interactions with Immigrant Victims of Crime and Human Trafficking and Signing of U Visa Certifications and T Visa Declarations (October 31, 2016) <https://niwaplibrary.wcl.american.edu/pubs/discussion-paper-model-policy-u-visa-certification-may-2016>.

³⁴⁰ New Classification for Victims of Criminal Activity; Eligibility for "U" Nonimmigrant Status, 72 Fed. Reg. 53,014, 53,017 (Sept. 17, 2007); Department of Homeland Security, U and T Visa Law Enforcement Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement, Prosecutors, Judges, and Other Agencies (November 30, 2015) <https://niwaplibrary.wcl.american.edu/pubs/dhs-updated-u-certification-resource-guide-2015>.

³⁴¹ Assistance in the development of language access plans is available from the Interpretation Technical Assistance and Resource Center <https://www.api-gbv.org/culturally-specific-advocacy/language-access/>.

³⁴² International Association of Chiefs of Police, Resolution "Support for Education and Awareness on U Visa Certifications and T Visa Declarations" (November 2018) <https://niwaplibrary.wcl.american.edu/pubs/iacp-support-for-education-and-awareness-on-u-visa-certifications-and-t-visa-declarations>.

³⁴³ NIWAP, American University, Washington College of Law, Technical Assistance Flyer – Law Enforcement and Prosecutor Training Flyer (2021) <https://niwaplibrary.wcl.american.edu/pubs/ta-flyer-lea> (Offering training for state and local law enforcement and prosecution agencies and their staff).

³⁴⁴ Id.

³⁴⁵ Training Tools for Prosecutors on the U Visa, VAWA and Criminal Court Discovery (November 8, 2017) <https://niwaplibrary.wcl.american.edu/prosecutors-tools>.

Judges and Courts: This study's findings provide evidence-based support that demonstrates how judicial certification for U and T visa cases, signing SIJS findings in cases of immigrant children, and judicial leadership that makes available information at courthouses about legal rights under U.S. immigration laws of immigrant victims of crime and abuse improves outcomes, stability and resilience for immigrant children, youth, and adults. As immigrant survivors learn about, file immigration cases, and obtain work authorization and protection from deportation based upon having filed valid cases, victims and their children gain increased access to supportive resources including state and federal public benefits. Victims become more self-sufficient and less dependent on local resources and courts have expanded additional options including remedies in court orders that help immigrant survivors heal and thrive. This study's results support judges and courts implementing the following recommendations:

1. Judges in jurisdictions across the country should receive training that uses this study's evidence-based findings to promote U and T visa certification³⁴⁶ and issuance of Special Immigrant Juvenile Status³⁴⁷ findings by state court judges. Judges who encounter immigrant victims in hearing domestic violence, child abuse and neglect, custody, divorce, delinquency, adoption, termination of parental rights, criminal, and employment cases will all benefit from this training;³⁴⁸
2. State courts should adopt U and T visa certification policies or protocols that promote judicial certification. The U and T visa statutes and regulations authorize any judge who hears a case involving a U or T visa eligible immigrant to sign the certification. Courts may also designate a specific judge or judges to sign certifications for the court based rulings and records of cases heard by any of that court's judges, commissioners, magistrates, or other officials with judicial decision-making authority;³⁴⁹
3. Judges should join NIWAP's National Judicial Network through which they can receive training, judicial peer-to-peer learning opportunities, technical assistance, and access to webinars and training materials on issues that arise in cases involving immigrant survivors of crime, abuse and human trafficking;³⁵⁰
4. In adjudicating protection order, custody, and child welfare cases, judges will benefit from this study's findings regarding the ways in which perpetrators use the court system to perpetrate immigration related abuse.³⁵¹ Two key examples include raising immigration status of a victim to gain advantage in protection order, custody, and divorce cases and using family court discovery

³⁴⁶ See U Visa Certification and T Visa Declaration Toolkit for Federal, State and Local Judges, Commissioners, Magistrates, and Other Judicial Officers (August 12, 2020) <https://niwaplibrary.wcl.american.edu/pubs/judges-u-and-t-certification-toolkit-2020>.

³⁴⁷ Although this study did not focus directly on SIJS children, all of the children who qualify for VAWA self-petitions and many child U visa applicants are children who were abused by one of their parents. As such VAWA self-petitioning children are similarly situated to and have suffered similar traumatic experiences as many SIJS eligible children. Thus, the findings of this study provide useful information about what the impact that gaining legal immigration status, work authorization and protection from deportation is likely to have on SIJS children. See Special Immigrant Juvenile Status Bench Book (March 31, 2018) <https://niwaplibrary.wcl.american.edu/sijs-manual-table-of-contents>.

³⁴⁸ NIWAP, American University, Washington College of Law can provide this training virtually and in-person at state and national judicial conferences and trainings. Faculty for each training includes members of NIWAP's national judicial faculty and uses a State Justice Institute funded curricula. Technical Assistance and Training on Legal Rights of Immigrant Crime Victims (March 29, 2020) <https://niwaplibrary.wcl.american.edu/pubs/training-ta-flyer>;

³⁴⁹ See Model: U and T Visa Certification Protocol for State Courts (October 29, 2020) <https://niwaplibrary.wcl.american.edu/pubs/u-t-visa-certification-protocol-courts>; San Francisco Superior Court Civil Division U-Visa Certification Protocol (October 27, 2017) <https://niwaplibrary.wcl.american.edu/pubs/san-francisco-court-civil-division-u-visa-certification-protocol>.

³⁵⁰ The National Judicial Network is staffed by NIWAP, American University, Washington College of Law in collaboration with the National Council of Juvenile and Family Court Judges with support from the State Justice Institute. See National Judicial Network Outreach Letter <https://niwaplibrary.wcl.american.edu/pubs/njn-outreach-letter>.

³⁵¹ See *infra* pages 48-57; Figures 36-40.

to try to obtain information contained in or about a victim's immigration case that is protected from discovery by federal VAWA confidentiality laws;³⁵² and

5. Judges need to know how and where to access legally correct information on immigration laws that protect immigrant victims of crime and abuse and immigrant children who are victims of parent perpetrated abuse, neglect, or abandonment who are likely eligible for VAWA, U visa, T visa or SIJS immigration protection.³⁵³

Child and Adult Protective Services Agencies: Both child and adult protective services agencies are authorized to sign U and T visa certifications for immigrant children, adult, and disabled persons they encounter in their work. Child protective services agencies can also sign U and T visa certifications for immigrant parents who are helpful in the detection, investigation, or prosecution of the child abuse that the agency is investigating. The results of this study demonstrate how it is in the children's best interests to sign U and T visa certifications and how children's lives and ability to overcome the effects of the trauma suffered are improved when children obtain work authorization and protection from deportation. State child protective services (CPS) agencies and adult protective services (APS) agencies should:

1. Adopt U and T visa certification practices for all cases in which they encounter immigrant victims³⁵⁴ and consider issuing a certification policy or protocol;³⁵⁵
2. Ensure that each state CPS and APS agency head designate specific agency staff to be responsible for processing and signing U visa and T visa certifications for the agency. Depending on how the state agency is structured, the designation will be made by the head of the state or county APS or CPS agency. If the head of the agency is at the state level it is recommended that each county agency have a designated U and T visa signor; and
3. Child protective services agencies and attorneys who represent these agencies should be required to file requests for special immigrant juvenile status findings any time the agency is bringing a case to court involving a non-citizen foreign born child.

Mental Health Providers, Victim Advocates, Victims' Attorneys and State Coalitions: There are important implications of the findings of this study for mental health providers, victim advocates, and attorneys who work with immigrant survivors and their children. This study identified several areas in which eligible immigrant survivors were accessing benefits and services at low rates despite eligibility. There are areas in which victim advocates and attorneys can play a central role in encouraging and accompanying victims in applying for these important forms of assistance including adult health care, prenatal care, and VOCA crime victims' assistance.³⁵⁶

1. The results of this study warn against a top-down approach of service delivery that neglects to provide survivors with the control and power to lead themselves to healing supported by external changes. These data reminds us that with concrete supports such as the employment authorization and protection from deportation, immigrant survivors are able to draw upon their inner resources to alleviate their most pressing problems and are able to thrive;
2. All mental health providers, victim advocates, and attorneys need to be trained to screen immigrant survivors and immigrant children, including those with Deferred Action for

³⁵² Limayli Huguet, et. al., Quick Reference Guide for Judges: VAWA Confidentiality and Discovery Related Case Law (March 26, 2019) <https://niwaplibrary.wcl.american.edu/pubs/judges-vawa-confidentiality-cases-and-discovery>

³⁵³ State Justice Institute and National Judicial Network Training Materials <https://niwaplibrary.wcl.american.edu/sji-jtn-materials>

³⁵⁴ See Toolkit for Adult Protective Services' (APS) Use of The U-Visa (February 2014) <https://niwaplibrary.wcl.american.edu/pubs/aps-u-visa-toolkit>.

³⁵⁵ For assistance developing a U visa and T visa certification policy or protocol contact NIWAP, American University, Washington College of Law for technical assistance at (202) 274-4457 or info@niwap.org.

³⁵⁶ See infra pages 75-81 and 84-88; Figures 49-52 and Figures 54-57. .

Childhood Arrivals (DACA) for VAWA, SIJS and U and T visa eligibility. This training should include the importance of early identification of eligible survivors and developing relationships with programs in the state or community with expertise in immigration relief for immigrant survivors. Helping victims file for VAWA and U visa immigration relief as soon as possible this study found promotes:

- a. Victim safety and stability and results in a significant reduction in immigration related abuse;³⁵⁷ and
 - b. Immigrant survivors' willingness to turn to the family and civil courts and the criminal justice system for help;³⁵⁸
3. Mental health providers, attorneys, and victim advocates should learn about the legal rights and resources for which immigrant VAWA and U visa survivors and their children are legally eligible under immigration, public benefits, and family laws. These professionals can play an important role in informing immigrant survivors about available programs and should actively help immigrant survivors access all legally available programs, services, and resources. The difference these resources make will be significant. Policies and services that protect and support immigrant survivors serve as a scaffolding that allows for immigrant survivors' internal growth and resilience;
4. The U.S. Department of Justice Office on Victims of Crime and Office on Violence Against Women should require all its grantees to receive training on and inform immigrants they serve about immigrant eligibility for VOCA compensation and assistance;
5. Victim advocates and attorneys serving immigrant crime victims need to learn about and assist immigrant survivors in applying for:
 - a. VOCA victim compensation;³⁵⁹
 - b. Adult health care and prenatal health care; and
 - c. The full range of state and federally funded benefits and services for which immigrant survivors and/or their children qualify;³⁶⁰
6. Victim advocacy and legal services organizations serving immigrant victims should use the findings of this study as evidence-based research support in grant proposals that documents the need, services, and support that the agency provides to immigrant survivors and the effectiveness of the services the program offers;
7. State coalitions should support and facilitate training for victim advocacy and legal services agencies in the state to ensure that staff have training about the full range of services and assistance and legal remedies under immigration, public benefits, and family laws in the state available to assist immigrant survivors and their children;
8. Study findings also show also that when a mental health provider, an attorney, or victim advocate provides an environment of safety, respect, trust, and validation, survivors are capable of profiting from the resources that they have at hand to rebuild themselves and their future;
9. The results of this study remind mental health providers, attorneys, and victim advocates to have faith in the resilience of immigrant survivors' human spirit in the face of injustice; and

³⁵⁷ See *infra* pages 48-57; Figures 36-40.

³⁵⁸ See *infra* pages 57-70; Figures 41-48.

³⁵⁹ See, NIWAP, *Chapter 17.3 Post-Assault Healthcare and Crime Victim Compensation for Immigrant Victims of Violence* (July 13, 2018) <https://niwaplibrary.wcl.american.edu/pubs/ch17-3-postassault-healthcare-compensation> (Collects all state VOCA laws on Victim Compensation, discusses the application process, and immigrant eligibility in all states and D.C.).

³⁶⁰ Assistance from victim advocates and attorneys is a critical determining factor impacting immigrant survivor access to public benefits and services. When victim advocate and attorneys have incorrect information and believe they do not qualify, then immigrant survivors do not apply. To determine which benefits and services immigrant survivors and their children qualify for see NIWAP, *All State Public Benefits Charts and Map* <https://niwaplibrary.wcl.american.edu/all-state-public-benefits-charts>.

10. Mental health providers, attorneys, and advocates should shift their approach when working with immigrant survivors from a *deficit model* to a *strength model* that acknowledges that their immigrant survivor clients can become full members of U.S. society and contributors to the economic, social, and cultural life of their communities.

Funders of Programs and Services: Agencies that administer federal and state grants that fund programs that provide legal services, victim advocacy, law enforcement, prosecution, and court's work with survivors of violence and abuse can benefit from this evidence-based study's findings about the effectiveness of immigration relief in promoting healing, safety, stability, and resilience of immigrant survivors and their children. These agencies include: State grant administrators (e.g., Victims of Crime Act (VOCA), STOP Formula Grant Program, Family Violence Prevention and Services Act (FVPSA)), federal funders of help for crime victims and victims of domestic violence and child abuse (e.g., Office on Violence Against Women (OVW), Office on Victims of Crime (OVC), State Justice Institute (SJI), Bureau of Justice Assistance (BJA), Legal Services Corporation), and federal funders of social science research (e.g. National Institutes of Health, National Institute of Justice). Federal, state, and foundation funders should:

1. Provide increased support for programs that assist immigrant survivors and their children in learning about and applying for immigration relief and the state and federal public benefits that flow from immigration relief eligibility;
2. Ensure that funding is provided to programs that fulfill the full range of immigrant survivors needs for legal services and victim advocacy including help obtaining family court relief (e.g., protection orders, custody, divorce, child support), help accessing publicly funded benefits and services (e.g., housing, healthcare, food stamps, childcare, TANF, drivers' licenses), help applying for immigration relief, and victim advocacy services and therapeutic support;
3. Fund judicial training on the issues that arise at the intersection of state family laws and federal immigration laws so that judges are able to issue spot and have access to legally correct information on immigration laws to apply when parties raise immigration issues in family court cases. This training should include U and T visa certification by judges, issuance of SIJS findings, and identification of victims eligible for immigration relief;
4. Fund training for law enforcement and prosecution officials on best practices for working with immigrant victims, language access, and T and U visa certification; and
5. Fund training for all funded grantees to ensure that they have legally correct information about immigrant survivors legal rights under family, benefits and immigration laws.

Forensic Evaluators: The implications of this data for forensic mental health evaluators who conduct VAWA and U visa evaluations are important. The purpose of these forensic mental health evaluations is to document psychological symptoms following traumatic experiences that help survivors applying for humanitarian immigration relief under the VAWA and U visa programs by establishing an evidence base that can aid with legal determinations.

1. Providers may conduct mental health evaluations and services for immigrant victims in a range of settings and for diverse purposes. Mental health professionals should strive to learn and adhere to best practices for mental health evaluations and services consistent with the unique needs of this vulnerable but resilient population;

2. Mental health forensic evaluators need to gain competence in conducting evaluations for VAWA and U visa immigration cases. For example, trauma-informed, culturally sensitive, and developmentally-appropriate evaluations and services are recommended;
3. Trainings should cover foundations of evidence-based assessment and analysis of psychological symptoms resulting from trauma exposure;
4. It is customary to assess and document the symptoms and presentations of VAWA and U visa applicants and conclude that they meet a number of diagnostic considerations. Sometimes, especially when the crime is recent, victims may appear justifiably distressed and even disorganized emotionally and psychologically. In an effort to diagnose, evaluators may run the risk of over-pathologizing and concluding that these are deep-rooted disorders from which it would be hard to recover. However, this study supports the literature that points to trauma as a context-dependent response that is not necessarily the direct result of inner pathology. Trauma is a natural response to horrific events and vulnerability can be a state that the victim is in for a period of time rather than a personality flaw. Therefore, healing inevitably requires escaping from the toxic situation and finding safety and meaning in life. The data from this study shows that recovery is possible and that it does not mean a total absence of symptoms or distressing memories, but that progress towards recovering and healing is possible when resources and support are provided;
5. While the results of this study reflect how a person can be internally transformed by external positive events, in this case, being granted employment authorization and protection from deportation, it is important to note that it is a reciprocal dynamic in which an external event leads to internal changes that in turn are reflected in external behaviors; and
6. The information from this study may help forensic evaluators search for characteristics such as being hardworking, courageous, resilient, proud, and with dignity, and other positive characteristics that provide a more balanced perspective and form the basis to understand a victim's resilience.