

Complicated Overlay of Domestic Violence, Immigration Status and Human Trafficking

Wilmington University
Human Trafficking Training Webinar Series

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Faculty Introductions



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Learning Objectives

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

- Identify juvenile and adult immigrant victims who are eligible for federal protections
- Carry out the role Congress delegated to State Court Judges, CPS, APS, law enforcement and prosecutors in these cases
- Understand how early access to federal **VAWA**, **TVPA** and **SIJS** immigration protections can stabilize individual victims and increase safety in your community

Dynamics Of Domestic Violence Experienced By Battered Immigrants

Department of Homeland Security

- DHS Dynamics Video



Coercive Control Over Immigration Status

- Among abusive spouses who could have filed legal immigration papers for survivors:
 - 72.3% never file immigration papers
 - The 27.7% who did file had a mean delay of **3.97 years.**

Hass, Dutton and Orloff (2000). "Lifetime prevalence of violence against Latina immigrants: Legal and Policy Implications." International Review of Victimology 7 93113

- 65% of immigrant survivors report some form of immigration related abuse (NIJ, 2003)

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

Connection Between Abuse and Control Over Immigration Status

- Abuse rates among immigrant women
 - Lifetime as high as 49.8%
 - Those married to citizens and lawful permanent residents – 50.8%
 - U.S. citizen spouse/former spouse abuse rate rises to 59.5%
- Almost three times the national average

Hass, G. A., Ammar, N., Orloff, L. (2006). Battered Immigrants and U.S. Citizen Spouses

Immigration Related Abuse

- 10 times higher in relationships with physical/sexual abuse as opposed to psychological abuse*
- May predict abuse escalation
- Corroborates existence of physical and sexual abuse

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

When Victims are Subject to Immigration Enforcement the Cause is... (2013 and 2017)

- Perpetrators actively reporting for removal victims with pending immigration cases
 - VAWA self-petitioners 38.3%; U visa 25%
- Perpetrators got the victim arrested for domestic violence
 - VAWA self-petitioners 15.4% (2013)-17% (2017); U visa 7.5%(2013)-36% (2017)

Krisztina E. Szabo, David Stauffer, Benish Anver, *Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014) and 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* (May 3, 2018)

DHS VAWA Confidentiality Computer System

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

Purpose of Crime Victim Protections

Congress enacted VAWA self-petitioning (1994), the U and T visas (2000) & Special Immigrant Juvenile Status (SIJS) (1990, 2008) to:

- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Allow victims to report crimes and seek help from police, prosecutors, and courts without fear of deportation
- Improve access to justice in family/criminal/civil courts for immigrant victims of
 - Domestic & sexual violence, stalking, human trafficking, and child/elder abuse
- Enhance victim safety
- Keep communities safe

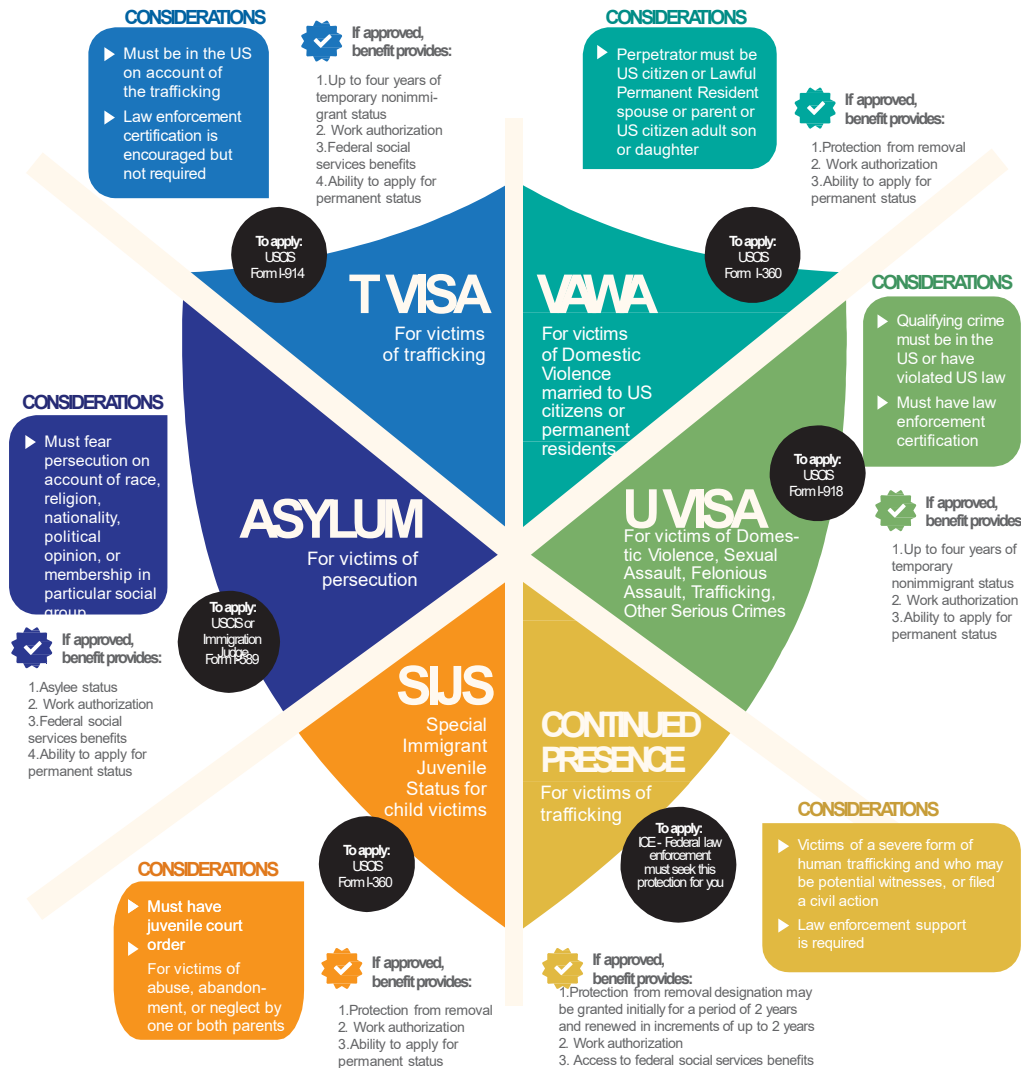
Many Immigrant Victims of Domestic Violence, Sexual Assault and Other Crimes Are Eligible for Immigration Relief

Immigration Relief Available for Immigrant Victims of ---

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

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

PROTECTIONS FOR IMMIGRANT VICTIMS



DHS.GOV/BLUE-CAMPAIGN

Immigration Options for Non-citizen Crime Victims

- Battered spouse waiver
(18 months)
 - Abused spouses of US citizens with two-year conditional permanent residency
- VAWA self-petition (3-18 months)
 - Abused spouses/children of US citizens and lawful permanent residents
 - Abused parents of U.S. citizens over 21 years of age
- VAWA cancellation of removal
(1 year)
 - Abused spouses/children of US citizen and lawful permanent residents protection from deportation
- Special Immigrant Juvenile (SIJS)
(6 months – 3 years)
 - Children abused, abandoned or neglected by one or both parents **US or abroad**
- U visa (4-6 years)
 - Has been, is being or is likely to be helpful in the detection, investigation, prosecution, conviction or sentencing
 - Substantial harm from criminal activity
- T visa and Continued Presence
(3- 6 months)
 - Victims of severe forms of human trafficking
- Work Authorization for Abused Spouses of Work Visa Holders
(6-12 months)
 - A (Diplomats); G (Foreign government, international organization employees), H & E3 (Specialty occupation workers)
- **Approximate time to legal work authorization and formal deportation protections**

How does an immigrant survivor's access to benefits differ by the immigration relief for which the victim qualifies?



Public Services and Legal Services

Open to all without regard to immigration status

- Widely Available Public Services including:
 - Police
 - Courts
 - Protection orders
 - Custody/Child Support
 - Criminal Prosecutions
 - Adult/Child Protective Services
 - Fire
 - Ambulance
 - Sanitation
- Legal Services for income eligible immigrant victims
 - Domestic violence
 - Child abuse
 - Sexual assault
 - Stalking
 - Human trafficking
 - All other U visa criminal activities

Access for All

Both documented and undocumented immigrant survivors can access:

- Language Access
- Crime Victim Assistance
- Shelter
- Transitional Housing
- Obtain Public Benefits for Their Children
- Receive Emergency Medical Care
- Health care from community and migrant health centers
- VOCA

Public Benefits Access for Qualified Immigrant Children and Crime Victims

- Qualified Immigrants
 - Lawful permanent residents
 - Includes U visas and SIJS
 - Refugees/Asylees
 - VAWA self-petitioners
 - Trafficking victim with
 - Continued presence or
 - Bona fide determination in T visa case
- Not Qualified Immigrants
 - Asylum applicants
 - DACA recipients
 - U visa applicants & recipients
 - Work/Student visa holders
 - Undocumented

Partial List of Federal Public Benefits/Community Programs Open to All “Qualified Immigrants”

- **Public and assisted housing**
- **Post-secondary educational grants & loans**
- **Driver’s Licenses**
- **Access to most subsidized child care (Not TANF)**
- **Adoption assistance**
- **Foster care**
- **Low income and residential energy assistance programs**
- **Disability benefits**
- **Assistance to developmentally disabled**
- **Job opportunities for low income individuals**



Maps by Benefit

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

Custody of Children in Immigrant Families

Protecting Immigrant Mothers Protects Children

- Immigrant victims who receive help, including immigration relief, child abuse likelihood drops significantly (77% to 23%).
- Children of help seekers 20% less likely to have abuser threaten them
- One third less likely to have abuser threaten to take them away from their mother

Ammar, Orloff, Hass and Dutton, "Children of Battered Immigrant Women: An Assessment of the Cumulative Effects of Violence, Access to Services and Immigrant Status." (September 2004)

<http://niwaplibrary.wcl.american.edu/pubs/co-occurencedvchildabuse/>

Is Immigration Status Relevant to Custody?

- Relevant to: Immigrant crime victim presents evidence of immigration related abuse, power and control suffered
 - Either not filing or withdrawing immigration papers
 - Threats to turn victim in for deportation
 - Part of history of violence
- Not relevant to:
 - Core primary caretaker determination
 - Evaluation of parenting skills
 - Best interests of the child determination
 - Requirements regarding custody awards to non-abusive parent



Myth vs. Fact:

Parents without Legal Immigration Status

Myth	Fact
Deportation is imminent	DHS policies prevent detention/removal of immigrant parents who are crime victims
Parent is likely to flee U.S. with child	US citizens and lawful permanent residents are more likely to flee with children, especially when <ul style="list-style-type: none"> - There have been threats of kidnapping children - They are dual nationals - They travel freely to and from U.S.
The parent has no livelihood	Abused immigrant parents in family court have a path to immigration relief, work authorization & some benefits
Legally present parent must have custody in order to file for benefits for child	Custody does not affect parent's ability to file for or gain immigration benefits for his children

ICE Removal Data

2013

- Convicted criminals 82%
 - Repeat immigration violators 7.8%
 - Ordered removed and failed to depart 1.6%
 - Other immigrants 7.7%
- <https://www.ice.gov/doclib/about/offices/ero/pdf/2013-ice-immigration-removals.pdf>

2017

- Criminal convictions 73.7%
 - Pending criminal charges 15.5%
 - Outstanding notices to appear in immigration court 5.3%
 - Ordered removed and failed to depart + reinstatement 2.8%
 - Other immigrants 2.6%
- <https://www.ice.gov/removal-statistics/2017>

PROTECTION ORDERS



Protection Orders

- All persons are eligible to receive civil protection orders without regard to the immigration status of any party or child
- Protection order issuance = no effect on immigration status
- A conviction *or finding* of violation of the “*protection against abuse provisions*” of a protection order is a deportable offense
- Immigrant victims and their children often need creative protection order remedies using the state catch all provisions

Use Creative Remedies to...

- Stop immigration related abuse
- Protect victims still living with their abusers
- Obtain documents the victim needs for an immigration case or for care of child
- Deter parental kidnapping
- Child/Spousal support
 - Affidavit of support
- Health insurance

What economic relief
can an immigrant
victim receive in
family court?



Identifying Human Trafficking Occurring As Part of Family Violence Cases

Familial Trafficking

- 2 in 5 trafficking cases reported annually to federal trafficking taskforces involve child sex trafficking
- Over 62.7% of sex trafficked children their trafficker is a family member
 - Parent, grandparent, aunt, uncle, cousin, sibling
 - With 45.8% parent or guardian
- 65% of sex trafficked children come from unstable homes or compromised parenting
 - Almost 20% have a history of child abuse or neglect
- Up to 34% of sex trafficked children are trafficked by an intimate partner
- Cole, J., & Sprang, G. Sex trafficking of minors in metropolitan, micropolitan, and rural communities. *Child Abuse & Neglect* (2014), <http://dx.doi.org/10.1016/j.chiabu.2014.07.015>

Human Trafficking Hotline Reporting Data 2019 on Trafficking Victims

- Female 82%, Male 12%, Gender Minorities 6%
- Adults 73%; Minors 27%
- Citizens/lawful permanent residents 43%
- Immigrants 57%
- Type of trafficking
 - Sex trafficking 71.7%
 - Labor or sex and labor trafficking 16%

Identifying Human Trafficking Occurring in Families Provides Immigrant Victims ...

- Swift access to
 - Immigration protections
 - Work authorization
 - Federally recognized ID
 - Greater public benefits in Delaware
 - TANF, SSI, public & assisted housing
 - Adult health care and removes 4-6 year wait for U visa children
 - Food stamps for adults and 15+ wait for U visa children

Spotting the Trafficker

- Civil Cases
 - Truancy
 - Protection Orders
 - Child Support
 - Guardianship
 - Custody
 - SIJS
- Criminal Cases
 - Minor Violations, shoplifting, loitering, runaways
 - Kids in drug houses
 - Traffic stops of adults with passengers
 - DV cases

Labor Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1590

Process-Act

- **Recruits**
- **Harbors**
- **Transports**
- **Provides**
- **Obtains**
- **Benefits, financially or by receiving anything of value**

Means

- **Force**
- **Restraint**
- **Threats of harm**
- **Abuse or threatened abuse of the legal system**
- **Any scheme, plan, or pattern intended to cause the person to believe that if they did not perform labor, they would suffer serious harm or restraint**

Purpose-End

- **Involuntary servitude**
- **Peonage**
- **Debt Bondage**
- **Slavery**

Sex Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1591

Process -Act

- **Recruits**
- **Entices**
- **Harbors**
- **Transports**
- **Provides**
- **Obtains**
- **Advertises**
- **Maintains**
- **Patronizes**
- **Solicits**
- **Benefits, financially or by receiving anything of value**

Means

- **Force**
- **Fraud**
- **Coercion**

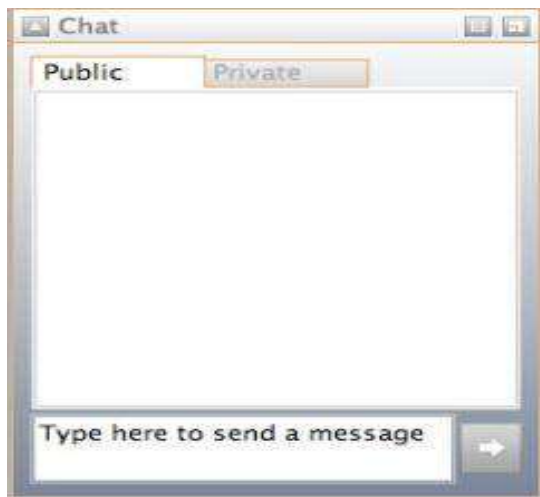
Purpose-End

- **Commercial Sexual Activity**

Commercial Sex Act

- Any sexual act for which something of value is given or received.
 - Money, drugs, food, clothing, shelter

What have you seen as examples of human trafficking occurring in domestic violence or child abuse cases?



NIWAP

National Immigrant Women's Advocacy Project at the
American University Washington College of Law

Human Trafficking in the Work Place

- Divorce proceedings before family court including custody dispute child is foreign born
- Husband is a US citizen
- Victim works for a business owned by her husband's family
 - Locked into the work place daily no ability to leave
 - Arrives at home different times
 - Husband claims victim is fooling around
 - Sexually assaulted by foreman
 - Forced to work and is not paid

Protection Orders

Initial Petition
seemed
“ordinary”

Cross-Claim and
Answer told the
story and raised
the red flags

- Foreign National married to US citizen with one child
- Child US citizen
- Mom’s Status “pending”
- Dad was the trafficker seeking *return of economic losses*

Child Support

Obligor before
the Court on
Arrears

Why didn't you
pay?

- I took job as solar salesman
- Took me to Midwest
- Promised wages never paid, conditions horrid
- When I tried to leave, they followed and threatened me until I returned
- I finally got a ride with someone at gas station

POLL: Which of the following could be a process through which a trafficker picks their victim?

- A. Dating App
- B. International marriage broker
- C. Guardianship of a minor
- D. Trafficker locks the victim in the house or workplace
- E. All of the above

Process of trafficking in family cases

- Recruitment through
 - Marriage
 - Dating App – Marriage broker
 - Adoption
 - Guardianship
- Promise of shelter, housing
- Victim isolated, physically kidnapped, locked in the house
- Does not require crossing a border

Means: How is the trafficking victim kept in the trafficking situation?

- This is the means the trafficker uses
 - Force
 - Fraud
 - Coercion
- Victim loses their right to choose

Means: Traffickers Use of Force

- Through actual or threats
 - Of physical abuse, physical force, violence, and/or sexual assault
 - To victim or family member
- Sexual assault
- Domestic servitude
- Force the victim to commit crimes
 - Prostitution, commercial sex, drug trafficking/offenses, identity theft, credit card fraud, auto theft

Means: Traffickers Use of Fraud

- Fraud includes promises
 - That things will get better or of love
 - To take care of victim's needs
 - Making the victim financially dependent on trafficker
- Victim is promised on thing and ends up trafficked
 - Enters into a marriage result – domestic servitude
 - Applied for a job in a bar result – brothel
 - Job in a factory result – locked in to factory each day forced to work until employer lets them leave
 - Job as a nanny result forced to work unpaid hours

Means: Traffickers Use Coercion to Control Their Victims

- Threat of serious harm, physical restraint, or threatened abuse of legal process
 - Threats of deportation calling DHS
 - Threats to turn a victim into IRS, CPS, police
 - Threat of divorce,
 - Threats of parental kidnapping, lose custody, not see children
 - Psychological, financial, reputational harm
- Trafficker takes the victims passport, immigration, identity documents so they cannot leave

Means: Traffickers Use Coercion to Control Their Victims

- Threats that coerce victims by instilling fear
 - Victim will be homeless, deprived of food
 - Trafficker will kill/harm family members
 - Victims forced to commit crimes fear that they will be treated as a criminal not a victim if they seek help
- Get victims addicted to drugs and then threaten to take the drugs away

What are some examples of force, fraud, and/or coercion you have seen traffickers of family members or intimate partners use?



Example: Case of Christina

End – Purpose

- To be trafficking has to be for some form of commercial gain
 - Involuntary servitude
 - Commercial sex
 - Debt bondage
 - Slavery
 - Peonage – use of labor bound in servitude because of a debt
 - Example owes debt to the trafficker for their housing, food, clothing, transportation

Family Violence End-Purpose Examples

- Husband forces wife to work for family business without pay
- Wife abused if fails to clean house in particular way for certain # of hours each day
- Boyfriend forces victim to engage in sex with others that trafficker profits from
- Husband forces a victim through threats of violence to steal and profits from sale of goods stolen

Technical Assistance and Materials

- Power Point presentations and materials for this conference at
 - <http://niwaplibrary.wcl.american.edu/WILMU-Victims2020/>
- Webinars at
 - <http://niwaplibrary.wcl.american.edu/all-niwap-webinars>
- **NIWAP Technical Assistance:**
 - Call (202) 274-4457
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