NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE of LAW

Best Practices for Serving Immigrant Survivors of Domestic Violence, Sexual Assault, Child Abuse, Human Trafficking, and Stalking: Immigration Legal Remedies, Family Law and Public Benefits in Maryland

For Victim Advocates and Attorneys

Easton, MD
September 30th, 2025

Faculty

- Leslye E. Orloff, Adjunct Professor and Director
- Rafaela Rodrigues, Assistant Director

- NIWAP, American University, Washington College of Law

This project is supported by Grant No. VAWA-2024-0047, awarded by the Office on Violence Against Women, U.S. Department of Justice.

The opinions, findings, conclusions and recommendations expressed in this program are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

- We provide Training &Technical Assistance to
  - Local, state, federal judges, court staff, law enforcement, prosecutors, attorneys, victim advocates, and other professionals
  - Serving immigrant victims of domestic violence, sexual assault, dating violence, stalking, human trafficking, and child/elder abuse
- Our goal is to increase offender accountability and immigrant survivors' safety, justice system participation, and the ability to rebuild their lives and thrive

NIWAP Resources

- NIWAP Web library
  - Directory
  - Public Benefits Interactive Map & Demographics
  - Materials: Toolkits, training tools, legal research, multi-lingual outreach materials, statutes, regulations, policies
- Technical Assistance
  - Cases, policies, strategies
  - Email, phone, zoom
- Trainings and Webinars
  - On-line, virtual, in-person
  - Customized state/local needs
- Communities of Practice
  - Victim advocates, family lawyers
  - Key partners: law enforcement, prosecutors, judges



Technical Assistance Topics

- Family law protections for immigrant survivors
  - Including protection orders, custody, divorce, support
- VAWA Confidentiality protections in state court cases
- Providing trauma informed assistance to immigrant survivors
- Legal immigration remedies for survivors and their children
  - VAWA, U and T visas, Battered Spouse Waiver, Special Immigrant Juvenile Status
  - U and T visa certification by government officials
- Public benefits, services, and legal assistance
  - E.g. housing, healthcare, driver's licenses, food assistance, education
- Interpreters/translators best practices
- Law enforcement and prosecution strategies
  - Discovery, Victim Disclosures, and Expert Witness

Join a NIWAP Community of Practice

- Roundtable for Law Enforcement, Prosecutors and System-based Advocates
  https://www.surveymonkey.com/r/LERoundtable
- Victim Advocates COP
  https://www.surveymonkey.com/r/VictimAdvocateCOPApp
- Family Law Attorneys COP
  www.surveymonkey.com/r/FamCOP2023
- National Judicial Network: Forum on Human Trafficking and Immigrants in State Courts (Judicial Officials only)
  https://niwaplibrary.wcl.american.edu/pubs/njn-outreach-letter

Participant Goals and Expectations



Learning Objectives

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

- Screen survivors for legal immigration remedies eligibility using a trauma-informed approach
- Improve victim safety and economic security through immigration relief, public benefits access in Maryland, and identifying co-occurring human trafficking
- Obtain U & T visa certifications, SIJS judicial determinations, and assist survivors filing for legal immigration remedies
- Ensure survivors receive VAWA confidentiality protections, civil protection orders, custody awards, and economic relief

Effective Interviewing and Use of Interpreters

What countries are you seeing immigrant survivors coming from?

Maryland Data (2021)

Sources: Migration Policy Institute Data Hub (November 2023) and Lawful Permanent Resident estimates MPI and DHS (2022)

Maryland (2022)*

- Total foreign born population – 1,029,710
- 16.7% of the country's ~ 6.2 million people are foreign born
  - 54.6% naturalized citizens
  - 27% legal permanent residents (as of 2019)*
  - 18.4% temporary visa holders or undocumented immigrants
- 98.7% rise in immigrant population from 2000 to 2022
- Length of time immigrants have lived in the U.S.
  - 38.5% entered before 1999
  - 25.8% entered 2000 - 2009
  - 35.7 since 2010
- 32.5% of children under age 18 have one or more immigrant parents
  - 83.7% of these children are native-born U.S. citizens

Source: Migration Policy Institute Data Hub (July, 2024) and Lawful Permanent Residents MPI and DHS (2022)

Maryland– Countries/Regions of Origin & Limited English Proficiency (LEP)(2022)*

- Latin America – 39.0%
  - El Salvador (11.8%)
  - Other Central America (8.7%)
  - South America (7/6%)
  - Caribbean (7.3%)
- Asia – 27.2%
  - India (6.2%)
  - China/Taiwan (5.8%)
  - Other South Central Asia (4.5%)
- Africa – 20.8%
  - Western Africa (9.9%)
- Europe – 8.6%
- Canada – 0.8%
- Oceania – 0.2%
- Middle East – 3.4%
- Language spoken
  - 20.7% of people in the state who speak a language other than English at home
  - 37.9% of foreign born persons are LEP - speak English less than "very well"

Source: Migration Policy Institute Data Hub (July, 2024)

Maryland-Languages Spoken at Home (2022)*

- Spanish (519,045)
- Chinese (including Mandarin, Cantonese) (76,605)
- Yoruba, Twi, Igbo, or Other Languages of Western Africa (71,087)
- Amharic, Somali, or Other Afro-Asiatic Languages (55,189)
- French (including Cajun) (52,848)
- Tagalog (including Filipino) (37,003)
- Korean (34,399)
- Russian (25,402)
- Swahili or Other Languages of Central, Eastern, and Southern Africa (20,922)
- Vietnamese (19,398)
- Hindi (19,122)
- Urdu (18,324)
- Arabic (18,277)
- Persian (including Farsi, Dari) (17,969)
- Portuguese (16,623)
- German (14,496)
- Haitian (14,226)

* Source: https://www.migrationpolicy.org/data/state-profiles/state/language/MD (July, 2024)

Maryland-LEP (2022)*

- Limited English Proficiency (Speak English less than very well)
  - Naturalized citizens – 26.1%
  - Noncitizens – 52.2%
- Limited English Proficiency by language spoken at home
  - Vietnamese (55.2%)
  - Korean (51.5%)
  - Chinese (including Mandarin, Cantonese) (47.3%)
  - Spanish (47.1%)
  - Russian (32.8%)
  - Urdu (30.8%)
  - French (including Cajun) (28.2%)
  - Amharic, Somali, or Other Afro-Asiatic Languages (28.1%)
  - Arabic (28.1%)
  - Haitian (24.8%)
  - Tagalog (including Filipino) (22.0%)

Source: https://www.migrationpolicy.org/data/state-profiles/state/language/MD (July, 2024)

"Meaningful Access"

"Language assistance that results in accurate, timely and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed or inferior, as compared to programs or activities provided to English proficient individuals"

First responders – What do you do when you arrive at a crime scene?



Exigent Circumstances

- Use the most reliable *temporary interpreter* available to address exigent circumstances
  - Fleeing suspect
  - Weapons
  - Life threatening to the officer, the victim, or the public

What is the Difference Between

- Securing the scene
- Interviewing victims and witnesses





What can you do if a police report was taken without using a qualified interpreter?

When Police Report Not Taken

- If a police report was not taken in your victim client's case or
- It contains misinterpreted information –
- Have the report amended

Guidelines on the use of Interpreters and Translators in Court

- The use of qualified interpreters:
  - Not limited to courtrooms
    - clerks' offices, file rooms
  - For all parties, defendants and witnesses and when appropriate (e.g., parents of minor crime victims)
  - For all types of proceedings and courts
    - motions, status hearings and trials
  - For court ordered services batterers treatment, therapy, drug counseling
  - LEP individuals should not incur any fees for these services

Raise Your Hand: The Courts in Your Area Routinely Provide Interpeters in….

- Criminal cases
- Protection orders
- Custody case
- Divorce cases
- Child welfare cases
- Civil cases

Role of Lawyers and Advocates

- Plan & provide notice to the court and other agencies in advance about your client's interpretation needs
- Educate other both governmental and nongovernmental agencies about their language access responsibilities
- Build relationships with agencies in your community
- File complaints with Federal Coordination and Compliance Section, DOJ, Office of Civil Rights.
  - Contact the Civil Rights Division | Department of Justice at https://civilrights.justice.gov

Spotting a Bad Interpreter

- Can you understand the interpreter?
- Does the individual look confused?
- Does the interpreter appear confused?
- Is the interpreter engaging in side conversations?
- Is the interpreter engaging in conversations with the individual before/after the interpretation meeting?
- Is the interpreter summarizing?
- Is everything being interpreted ?
- Is the interpreter using English words?
- Is there a change in the individual's demeanor?

Research has found…

- With support from advocates and attorneys who
  - Provide/help secure language access
  - Are knowledgeable about legal rights of immigrant survivors
- Immigrant and LEP survivors will
  - Seek protection orders, help from courts, access services, and apply for legal immigration remedies

Mary Ann Dutton, Nawal Ammar, Leslye Orloff, and Darci Terrell, Use and Outcomes of Protection Orders by Battered Immigrant Women: Revised Final Technical Report to the National Institutes of Justice (November 19, 2006)

- When state courts provide language access, issue SIJS judicial determinations and sign U visa certifications
  - Immigrant victims of domestic violence, sexual assault, human trafficking and child abuse are willing to seek protection orders and help from family courts at significantly higher rates

Nawal H. Ammar, Leslye E. Orloff, and Amanda Couture-Carron, Immigrant Victims of Interpersonal Violence and Protection Orders, In Civil Court Responses to Intimate Partner Violence and Abuse (2020)

Learn more about the use of Interpreters and Translators

- Speaking Justice: Providing Language Access in the Courts – Webinar & Training Materials Language Access (April 2, 2024)
  - https://niwaplibrary.wcl.american.edu/language-access/
- Webinar: Overcoming Language Barriers in Policing: Grants and Resources that Support Language Access Programs in Law Enforcement Agencies (September 25, 2024) https://niwaplibrary.wcl.american.edu/language-access-lea-prosecutors/

Dynamics of Domestic Violence Experienced by Abused 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

Sexual Assault Rates Among Immigrant Women

- High school aged immigrant girls
  - Twice as likely to have suffered sexual assault as their non-immigrant peers, including recurring sexual assault
  - Decker, M., Raj, A. and Silverman, J., Sexual Violence Against Adolescent Girls: Influences of Immigration and Acculturation, 13 Violence Against Women 498, 503 (2007).

Immigration-Related Abuse

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

Large Group Discussion

How do VAWA's immigration protections benefit immigrant victims and their children ?

Purpose Crime Victim-Based Legal Immigration Remedies

Congress enacted VAWA self-petitioning (1994), the U and T visas (2000, 2005, 2008) & Special Immigrant Juvenile Status (SIJS) (1990,2008) to:

- Enhance victim safety
- 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
- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Keep communities safe

Benefits for Survivors

- Protection from deportation
- Access to legal immigration status
- Financial independence from the perpetrator
  - Legal work authorization (6 months to 2 years from filing)
  - Issuance of federally recognized driver's licenses and IDs
  - Increased access to federal and state public benefits
- VAWA confidentiality

After VAWA Self-Petitioners and U Visa Victims Receive Work Authorization and Deferred Action

- Increased justice system involvement
  - 114% increase in willingness to trust the police
  - 36% make police reports regarding future crimes
  - 60% seek protection orders and/or custody
  - 22% help other victims report abuse and seek help/justice
- Significant reductions in abusers using the victim's immigration status as a tool to perpetuate abuse
  - 74% decline in immigration-related abuse
  - 78% decline in threats to snatch/cut off access to children
  - 65% decline in efforts to use the immigration status of the victim to gain an advantage in family court

Mental Health Benefits of Work Authorization and Deferred Action

- VAWA and U visa victims report increases in:
  - It being easier to make decisions 432%
  - Sleeping better & being calmer– 300%
  - Being more focused – 280%
  - More independent – 261%
  - Standing up for themselves 225%
  - Having more energy – 188%
  - Being less depressed 183%
  - More at ease – 162%
  - More hopeful 130%

Orloff, Magwood, Campos-Mendez, & Hass, Transforming Lives: How the VAWA Self-petition and U Visa Change the Lives of Victims and their Children After Work-Authorization and Legal Immigration Status (June 2021)

Education and English Language Learning

- 226% increase in victims taking ESL classes
- 167% increase in working to improve English speaking abilities
- 60% attend social events with people in the U.S.
- 35% obtain GEDs
- 38% pursue AAs and Bas
- 21% receive vocational education
- 19% advanced degrees

Orloff, Magwood, Campos-Mendez, & Hass, Transforming Lives: How the VAWA Self-petition and U Visa Change the Lives of Victims and their Children After Work-Authorization and Legal Immigration Status (June 2021)

Legal Immigration Remedies Overview and Screening

Purpose Crime Victim Based Immigration Relief

Congress enacted VAWA self-petitioning (1994), the U and T visas (2000, 2005, 2008) & Special Immigrant Juvenile Status (SIJS) (1990,2008) to:

- Enhance victim safety
- 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
- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Keep communities safe

Immigration Protections for Noncitizen Victims of Crime and Abuse



Immigration Relief Available for Immigrants When *They or Their Children* Are Victims of ---

- Domestic violence
  - -- Child abuse
  - -- Elder 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
- Hate Crimes
- Video voyeurism
- **Parent perpetrated**
  - **Child abuse**
  - **Child neglect**
  - **Child abandonment**

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

VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
  - spouse; parent; or citizen adult son/daughter (over 21)
- With whom Self-Petitioner Resided
  - No time period required
- Good Moral Character
- Good Faith Marriage
- VAWA cancellation of removal has similar eligibility requirements
- *2025 time to work authorization ≈ 4-42 months*
- **Battered Spouse Waiver**
  - Same group of victims – cases where abuser filed for victim
  - Removes requirement that victim stay with abuser for 2 years
  - *2025 time to approval ≈ 24 to 29 months*

Special Immigrant Juvenile Status (SIJS)

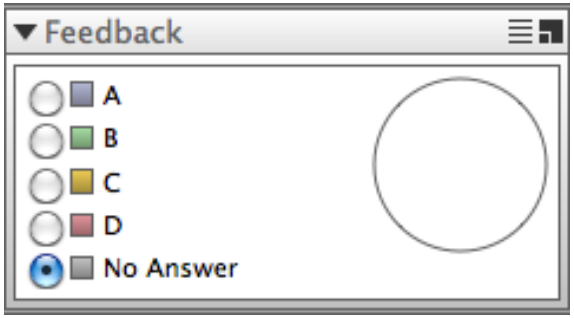
- Immigration legal remedy for unmarried children
- Under the age of majority under state law
- Victims of abuse, abandonment, neglect, or dependency
  - By at least one parent
- To apply must submit the required judicial determinations with findings from a state court with jurisdiction over
  - the care, custody, or dependency of the child
- *2025 time to work authorization ≈ 4 years*

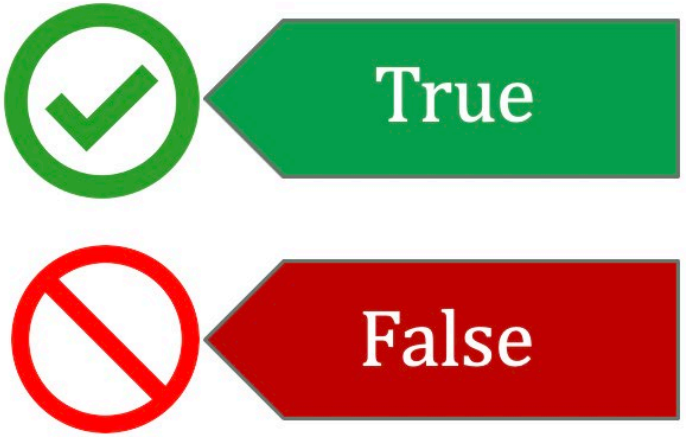
U Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful in
  - Detection, investigation, prosecution, conviction or sentencing
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law
- *2025 time to work authorization ≈ 39.2 months*

Poll: True or False?

- DHS recognizes that human trafficking can occur in domestic violence relationships?
  A. True
  B. False





T Visa for Trafficking Victims

- A victim of a severe form of trafficking in persons
  - Sex or labor trafficking involving victim under 18 or and adult subject to force, fraud or coercion
- Victim is physically present in the U.S. on account of trafficking
- Victim must comply with reasonable requests for helpfulness in investigating or prosecuting trafficking. Exceptions
  - Under age 18
  - Physical or psychological trauma impedes helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
- *2025 time to work authorization ≈ 6 months*

Continued Presence

- Temporary immigration status for victims of trafficking who are "sponsored" by federal law enforcement
- Law enforcement meant to initiate application immediately after identifying victim; cooperation is not required
- Upon approval, Dept. of Health and Human Services allows victim to:
  - Access federal and state benefits
  - Receive work authorization

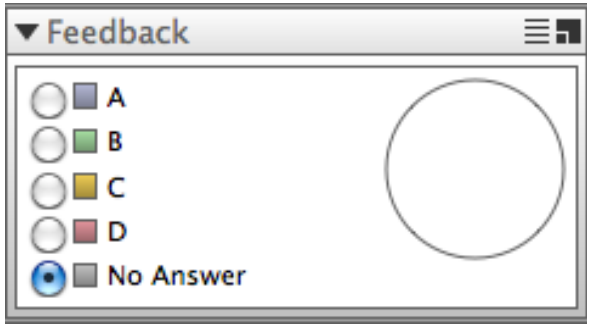
Continued Presence, Cont'd.

- Granted for 2 years; can be renewed
- Does not guarantee any form of long-term immigration relief
- T Visa application is typically filed while the victim has CP
- Can be revoked

Clara and Eduardo Case Scenario

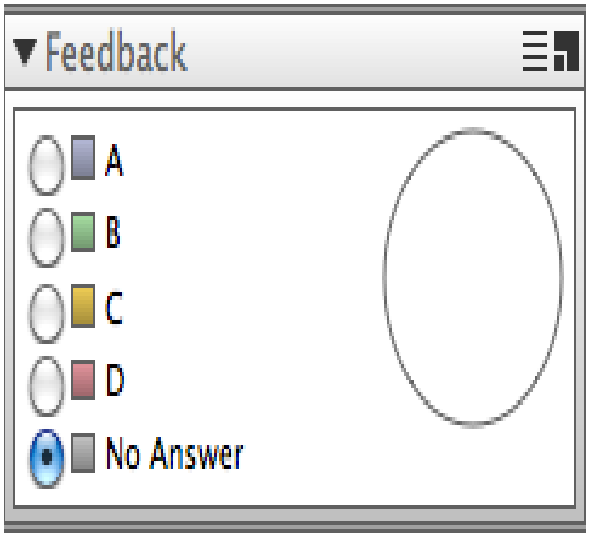
Clara met Eduardo a lawful permanent resident when he came back to his hometown to visit his family in El Salvador. Eduardo started dating, Clara who was raising her 9 year old son Miguel. After Clara became pregnant and gave birth to a baby girl Lupe, Eduardo decided to bring Clara, Miguel and Lupe to the U.S. to live with him. When they arrived in the U.S. Eduardo took Clara, Miguel and Lupe's passports and became physically and sexually abusive of Clara and abusive of Miguel who tried to protect his mother from Eduardo's abuse. Eduardo also physically beat Lupe when he said she "misbehaved". Within a year following their arrival in the U.S. Eduardo forced both Clara and Miguel to work for his family's business and never paid them for their labor. One night when Miguel was 13 and Lupe was 5, Eduardo's rage led to severe beatings with a belt of Miguel and of Lupe. When Clara intervened to protect the children, Eduardo strangled her until she passed out. The neighbors call the police for help, Clara talked to police when they arrived. The police arrested Eduardo for attempted murder and child abuse, took Clara to the hospital and placed the children in the care of the state.

What forms of immigration relief would Clara qualify for:



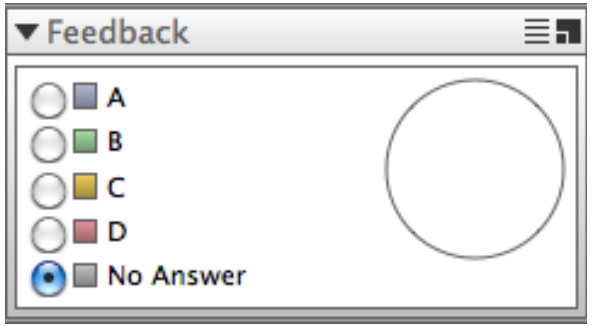
A. U visa
B. Included in Lupe's VAWA self-petition
C. T visa
D. All of the above

What forms of immigration relief would Lupe *NOT* qualify for:



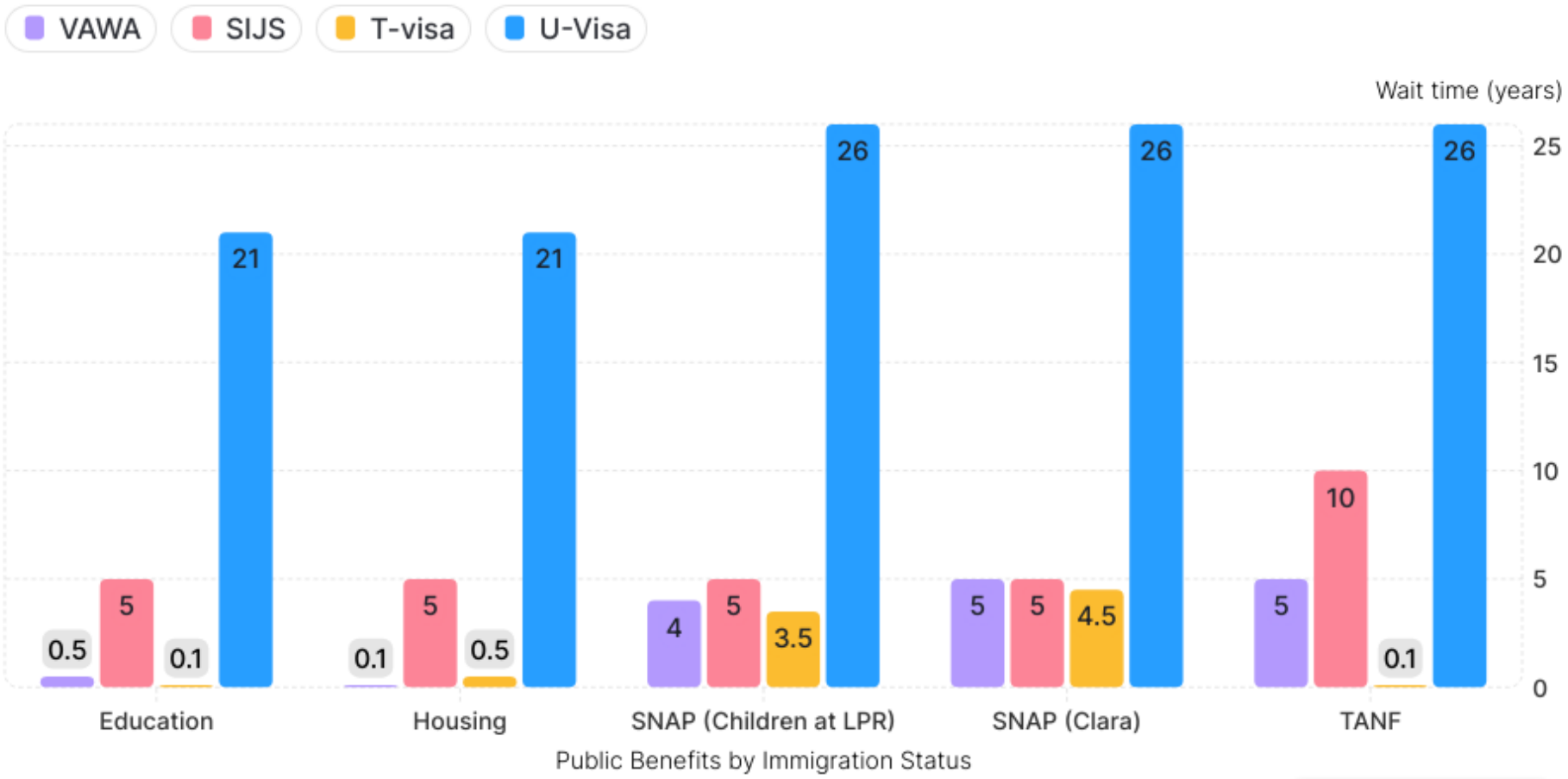
A. VAWA self-petition
B. U visa
C. Special Immigrant Juvenile Status (SIJS)
D. T visa

What forms of immigration relief would Miguel qualify for:



A. VAWA self-petition
B. U visa
C. T visa
D. SIJS

Benefits Impact of Immigration Relief Options for Clara, Lupe and Miguel – Examples



T visa, OTIP and VAWA Clara and Children's Best Options

- Time to work authorization (Sept. 2025)
  - VAWA Abused spouses of citizens - 3 months
  - T visa bona fide - 6 months
  - U visas – 2.9 years
  - VAWA abused spouse of lawful permanent residents – 3.5 years
  - SIJS – 5 years

Helping Victims Filing for Legal Remedies

Helping Victims Filing VAWA Self-Petitions

Small Group Activity

How would you help a survivor prove extreme cruelty in a VAWA self-petition case?

Forms of Extreme Cruelty

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

Immigration Law Definition of Domestic Violence (Battering or Extreme Cruelty)

Battering

- Physical violence against
  - Spouse/intimate partner
  - Child
- Use of a weapon
- Sexual abuse & assault
- Stalking
- Other acts defined as domestic violence under state law
- Attempts or threats to do any of these actions

Coercive Control = Extreme Cruelty:

- Strategies designed to retain control or establish domination through fear, dependence, deprivation, isolation, immigration related abuse
- Deprivation of basic necessities
- Controlling regulating, monitoring the victim
- Compelling through force, intimidation threats to abstain or engage in conduct against victim's will

Extreme Cruelty:

- Withholding medicine or medical care
- Adultery with a minor
- Financial abuse, seeking to destroy victim's credit
- Accusations of infidelity
- Using children as a tool
- Emotional abuse causing physical or psychological harm

NCJFCJ Model Code

Coercive Control

- Range of abusive behaviors beyond physical violence
  - Problematic and dangerous parenting
  - Intimidation, implicit/explicit threats, or compels compliance
  - Purpose of restricting victim's safety or autonomy, trapping them, or using cultural practices/beliefs or immigration status to instill fear and maintain control over the victim

See Revised Chapter Four: Families and Children Model Code on Domestic and Family Violence (December 30, 2022) https://www.ncjfcj.org/publications/revised-chapter-four-families-and-children-model-code-on-domestic-and-family-violence/

Large Group Discussion

- What could be evidence of a good-faith marriage?
- What evidence could you use to prove a spousal or parent-child relationship?

Helpful Evidence

- Good faith marriage
  - Children
  - Love letters
  - Photos from family vacations
  - Evidence documenting that they lived together
- Parent child relationship
  - Child's birth certificate
  - Child's health care, school, baptismal records
  - Victim's affidavit
  - Marriage license
  - Court orders

Effect of Marriage, Divorce, or Age of a Child

- Must file within 2 years of marriage termination/death
- Stepchildren remain eligible after divorce
- Bigamy exception
- Children abused under the age 21 have up to age of 25 to file
- At least one incident of battering/extreme cruelty occurred during the marriage
  - Abusive spouse could have become a U.S. citizen or Lawful Permanent Resident before or after the abuse

VAWA Self-Petitioners – Timing to Relief

- VAWA Confidentiality Protections: At filing or Notice that victim is seeking/the process of filing VAWA
- Public Benefits: As qualified immigrants (≈ 3 months)
  - At Lawful permanent residency (4 years) subsidized health care, SNAP for children under age 18
- Employment authorization:
  - Citizen abuser (≈ 6 months);
  - Lawful permanent resident abuser upon approval (≈ 3.5 years).
- Lawful permanent residency
  - Eligible to apply upon approval

Assisting Victims Filing U Visa Cases and Obtaining U Visa Certifications

U Visa Requirements

Victim	Helpfulness	Harm

• Qualifying criminal activity
• Possesses information about the crime
• Criminal activity occurred in U.S. or violated U.S. law
	• Victim has been, is being, or is likely to be helpful in *any of the following:*
	  • Detection
	  • Investigation
	  • Prosecution
	  • Conviction
	  • Sentencing
		• Substantial physical or mental abuse as a result
		
		This is not a part of the certification.

Immigration Relief Available for Immigrant Victims of ---

- Domestic violence
  - -- Child abuse
  - -- Elder 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
- Hate Crimes
- Video voyeurism

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

Who Can Certify?

"law enforcement" & "law enforcement agencies" =

- Federal, state, and local
  - Police, sheriffs, FBI, HIS, ATF
  - Prosecutors
  - Head of agency or designee
  - Judges, Magistrates, Commissioners, other judicial official
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and Elder Abuse agencies
- Other government agencies with investigative authority

Which Judicial Officers Can Certify?

- Federal, state, & local
  - **Judges, Magistrates, Commissioners, Judicial Referees, Masters, Alderman, ALJs, Surrogates, Chancellors**
  - Others with delegated decision-making authority
- Judge will need to amend the form
- Procedures for judicial certification in closed vs. open cases

Large Group Discussion

Why might a victim come to a judge for certification?

Why Victims Seek Judicial Certifications

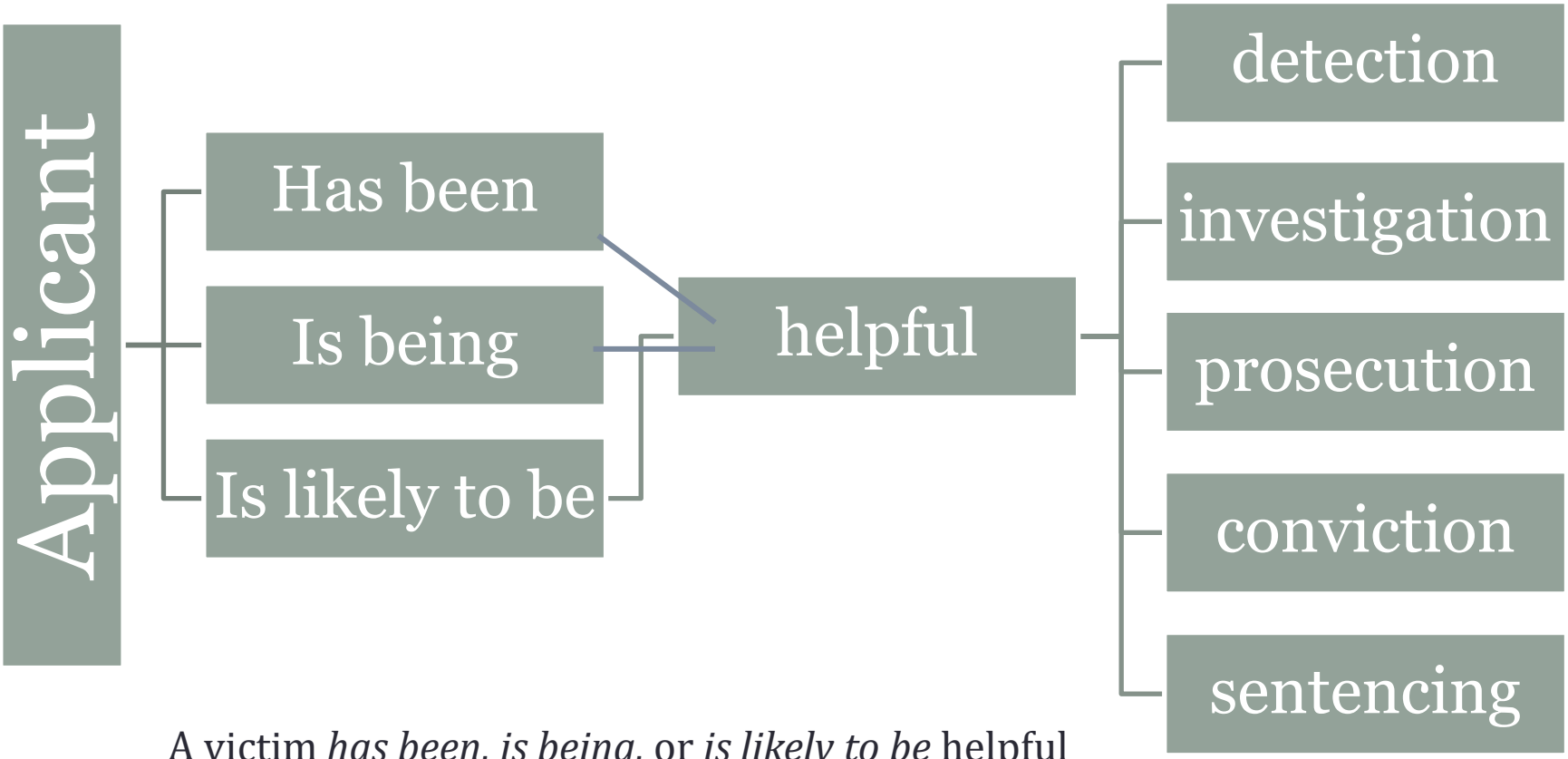
- Only justice system contact a custody, protection order, civil employment or child welfare case
- No language access to police when victim called for help
- Police did not investigate and case never sent to prosecutor
- Judge observed victim's attendance and participation in criminal case

Who can apply?

- Parents and guardians can apply as an "indirect victim" if:
  - The direct victim is a child under 21 years of age and/or is incompetent, incapacitated, or deceased due to murder or manslaughter
  - They demonstrate helpfulness
- When the victim is a child, the helpfulness requirement can be met by a "next friend" or family member being helpful
- Bystander victimization – very limited

Definition of "Helpfulness"

8 C.F.R 214.14(b)(3)



A victim *has been, is being,* or *is likely to be* helpful to law enforcement, prosecutors, judges, or other government officials

Determining Helpfulness

- Certifying agency determines "helpfulness"
- No degree (or timing) of helpfulness required
  - DHS adjudicates helpfulness based on– totality of the circumstances
- Any agency may complete U Visa certification as soon as they assess victim's helpfulness
- Victim's criminal history does not preclude U visa eligibility, particularly when crime connected to the abuse
- The investigation or prosecution can still be ongoing
- Certification can be "revoked"

Small Group Activity

What helpfulness might a victim provide to:

- Law enforcement
- Prosecutors
- Judge
- Child or adult protective services
- A state or federal labor enforcement agency

Helpfulness May Include:

Calling 911	Having a Rape Kit performed	Providing a description of offender or their whereabouts
Allowing photographs to be taken	Filing for a protection order	Bringing a minor victim to court
Providing a statement about "other bad acts"	Providing evidence of abuse in a custody, child welfare, or divorce case	Testifying at a bond hearing, trial, or sentencing

The following are **Not Required** in order to certify that a victim has been helpful

- Certification signed within the statute of limitations of the qualifying criminal activity
- Conviction
- Charges filed
- Offender arrested/prosecuted
- Victim provides testimony at trial
- Victim is a necessary witness
- Offender is identified
- Offender alive
- Case involving offender is open or closed

U Visa Facts - Timing

- Only 10,000 U visas can be granted annually
  - Identify if victim's children qualify for other humanitarian forms of immigration relief
- Bona Fide determination with work authorization years after filing (3.5 years)
- The U visa (20+ year wait) grants a temporary 4-year stay
- Many U visa holders after 3 years will qualify for lawful permanent residency
  - Humanitarian need, family unity, public interest
- U.S. citizenship can only be attained after lawful permanent residency for 5 years + proof of good moral character

Maryland's U Visa Certification Law § §11-930 and 11-931

Effective Date: October 1, 2025

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Certifying agencies:
  - State or local law enforcement agency;
  - State's Attorney or deputy or assistant State's Attorney;
  - any other authority that has responsibility for the detection, investigation, or prosecution of a qualifying crime or criminal activity; or
  - Child protective services, Adult protective services, the Commission on Civil Rights, and the Maryland Department of Labor, etc.

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Who can request certification:
  - The victim, or
  - The victim's parent, guardian, next friend (if victim was under 16 years or incapacitated or incompetent and the parent, guardian or next friend has been helpful), or
  - Attorney, Victim Advocate, or other representative

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Determining helpfulness:
  - "an individual shall be considered helpful if, since the initiation of helpfulness, the individual has not unreasonably refused to cooperate or unreasonably failed to provide information and assistance reasonably requested by a certifying entity"
- Written explanation required if the evidence does not support issuance of certification.

Maryland U-visa Certification Law

Criminal Procedure §11-930 (Enacted April 22, 2025)

- Established time limit to respond: 45 days or 7 days (if in removal proceedings)
- No statute of limitation
- NOT required: Current investigation, filing of charges, prosecution or conviction

LEGAL IMMIGRATION REMEDIES AND HUMAN TRAFFICKING

T Visa Requirements

Applicant is a victim of severe form of human trafficking

- Refers to the federal definition of human trafficking

Applicant is in the U.S. because of trafficking

- Not necessary that the victim came to the U.S. because of trafficking; can be in the U.S. for the investigation

Responds to "reasonable requests for collaboration"

- Trauma exception in specific cases

Hardship upon return to home country

Sex Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1591

Process -Act	Means	Purpose-End

• Recruits
• Entices
• Harbors
• Transports
• Provides
• Obtains
• Advertises
• Maintains
• Patronizes
• Solicits
• Benefits, financially or by receiving anything of value
	• **Force**
	• **Fraud**
	• **Coercion**
	
	• **Proof of force, fraud, or coercion not required for sex trafficked children under 18.**
		• **Commercial Sexual Activity**
		
		• **A commercial sex act is any sexual act for which something of value is given or received**
		  • Money
		  • Drugs
		  • Food
		  • Shelter
		  • Clothing
		  • Transportation

New Regulations
Expanded Explanation– Commercial Sex

Commercial sex act means any sex act on account of which *anything of value* is given to or received by any person.

- DHS explains that "'[a]nything of value' does not always have an exact monetary value" and includes but is not limited to:
  - "safety, protection, housing, immigration status, work authorization, or continued employment."

  2024 Preamble: 89 Fed. Reg. 34864, at 34872.

Labor Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1590

Process-Act	Means	Purpose-End
• Recruits • Harbors • Transports • Provides • Obtains • Benefits, financially or by receiving anything of value	• 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 • **No federal exception for minors**	• Involuntary servitude • Peonage • Debt Bondage • Slavery

Includes "Attempted Trafficking"

- Cases where the applicant has not performed labor or services or a commercial sex act
- When the victim can prove they are otherwise eligible for a T visa and
- But/for some intervention or victim's escape the perpetrator would have trafficked them

81 Fed. Reg. 92271

Human Trafficking Occurring Within Families

How does USCIS describe labor trafficking occurring within families?



DHS Recognizes Labor Trafficking Occurs Within Families

- Involuntary servitude
  - Induced by means of any scheme, plan, or pattern
  - Intended to cause a person to believe or to fear that
    - If the person did not enter into or continue in such condition or undertake the forced work
    - That person or another person would *Suffer serious harm,* physical injury, physical restraint, or legal coercion.
- A condition of servitude induced by the abuse or threatened abuse of the law or legal process.

8 C.F.R. § 214.201

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

What would involuntary servitude look like in your domestic violence cases?

Involuntary Servitude in a Domestic Violence Relationship

- Abuser/Trafficker controls victim's liberty creating conditions of servitude
- Expectation that the victim's life fulfills the trafficker's orders
  - E.g., demand from the trafficker to perform domestic labor at an unreasonable level, including unreasonable working hours, and/or constant availability to labor regardless of health or energy;
- Lack of control over the victim's own wages (or not paid) despite laboring under the trafficker's demands; or
- The imposition of unequal living arrangements as part of a campaign of force, fraud, and coercion
  - E.g., unequal sleeping arrangements, living arrangements, or access to nourishment.

https://www.uscis.gov/policy-manual/volume-3-part-b-chapter-2

Raise Your Hand

- How often have you worked with domestic violence victims who based who have also experienced sex or labor trafficking?
  - Often
  - Sometimes
  - Once
  - Never



T Visa Facts

- Bona fide determination (6 months)
- T Visa is a temporary visa for 4 years
- May apply for lawful permanent residence after either 3 years or after the investigation or prosecution is concluded
- Applicants are encouraged to submit a Law Enforcement Declaration along with their application, but it is not required

Raise Your Hand

- If you have helped a victim obtain a
  - T visa declaration?
  - Continued presence?
  - Office of Trafficking in Persons Child Eligibility Letter?



T Visa Declaration

- Identify type of trafficking (sex, child sex, labor)
- Describe the victimization
- Identify the relationship with the crime detected, under investigation, being prosecuted, conviction or sentencing, and dates
- Comments on potential for retaliation or revenge from trafficker if victim is removed from U.S.
- Dates of trafficking
- Statutory citations to crimes
- Information about victim's involvement in case(s) against trafficker
- Names and relationship of any family members involved in the human trafficking

Know About OTIP Letters

- The Office of Trafficking in Persons (OTIP) at HHS issues:
  - Certification Letters to foreign national adults
    - Bona fide T applicants and Continued Presence (CP)
  - Eligibility Letters to foreign national children
    - No DHS application required- may have (CP)
- OTIP Letters provide access to public benefits, as refugees, for life
- Must be accepted by Federal and State agencies
- When under 18 year old victim applies for a T visa USCIS makes OTIP referral

Continued Presence (CP)

- Temporary immigration status (2 years) provided to victims of trafficking who are "sponsored" by federal law enforcement
- Law enforcement initiates application immediately after identifying victim; cooperation is not required
- Upon approval, Dept. of Health and Human Services issues letter that allows victim to:
  - Access federal and state benefits
  - Receive work authorization
- Not long-term immigration relief must file T visa

Federal Agencies That Can File Continued Present Requests

- Department of Homeland Security
  - Local HSI Victim Assistance Coordinator (VAC) or Victim Assistance Specialist (VAS)
- Federal Bureau of Investigations (FBI);
- U.S. Department of State Diplomatic Security Service (DSS);
  - U.S. Attorneys' Offices;
- U.S. Department of Justice (DOJ)
  - U.S. Attorneys' Offices, Civil Rights Division, Criminal Section;
- U.S. Marshals Service;
- U.S. Department of Labor (DOL);
- Equal Employment Opportunity Commission (EEOC).

Trafficking Case Timing

- Office of Trafficking in Persons – Child Eligibility Letters
  - Within a month and possible interim assistance
- Continued Presence
  - Within months of federal agency's application
- T visa
  - Bona fide determination –6 months
  - T visa 17 months

Advocates Role

- Screen for victim eligibility
  - U visa, VAWA, T visa
  - Screen victim's children for eligibility for Special Immigrant Juvenile Status
- Use trauma informed tool to get information for affidavit
- Collaborate with victim's attorney on case
- Obtain a U or T visa certification from law enforcement, prosecutor, or judge
- Help victim make a police report(s)

"First Do No Harm" Trauma-Informed Help for Immigrant Survivors

Large Group Discussion

When a victim comes to your agency for help how do you approach what to do first?

Consult An Immigration Attorney

- With expertise serving immigrant victims in VAWA, T, and U visa cases when victims
  - Have criminal histories
  - Get arrested
  - Have had removal orders issued against them
  - Have open immigration cases
  - Have multiple reentries into the US
- For most other victims filing a VAWA, T or U visa case is generally more protective than not
  - Timing is important
  - Victim advocates can help victims file well documented cases

Identify Immigration Attorneys With Needed Expertise

- Identify and create relationships in advance
- Look to pro bono and low bono attorneys
- Use the NIWAP directory
  - Help us add new programs
- NIWAP can provide TA to
  - Identify qualified attorneys
  - Help recruit pro bono law firm



For most other victims filing a VAWA, T or U visa case is generally --

- More protective than not
- Timing is important
- Must file well documented cases
  - Victim advocates can play an important role
  - NIWAP has trauma informed tools
- Particularly protective for victims who make police reports, work with law enforcement, and prosecutors

What is trauma?

Trauma results from "an event, series of events, or set of circumstances that is ***experienced*** *by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being."*

Ann Lynsen, *Trauma and Violence*, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, https://www.samhsa.gov/trauma-violence

Common Responses to Trauma

Lack of earnest resistance	Crying, laughing, flat affect	Calm or unemotional responses
Inconsistent / piecemeal memories	Delayed disclosure	Self-blame

See, e.g., Edna B. Foa, et al., *Common Reactions to Trauma*, National Center for Posttraumatic Stress Disorder

Common Responses to Trauma
Cont'd

Minimization	Continued contact with offender	Returning to "normal" behaviors
Delayed report	Reluctance / refusal to participate in the process	Recantation / testify for defendant

Id.

Common Cognitive Reactions

- Difficulty concentrating
- Difficulty making decisions
- Flashbacks or preoccupations
- Memory disturbances or amnesia
- Changes in hygiene
- A sense that things aren't real
- Worrying
- Changes in sleeping or eating
- Withdrawal or neediness

Common reactions to traumatic events, MITMedical, http://medweb.mit.edu/mentalhealth/mh-reactions.html

Previous Trauma

- Survivors may have been victimized multiple times in their lives; many have experienced physical or sexual abuse as children
- Survivors may have experienced more than one form of abuse as an adult
- An estimated 68% of women who have been physically assaulted by an intimate partner have been sexually assaulted as well

Judith McFarlane, & Ann Malecha, Sexual Assault Among Intimates: Frequency, Consequences, and Treatments (Oct. 2005)

Poly-Victimization

Human trafficking

Stalking



Sexual assault

Child abuse

Domestic violence

What are common priorities, needs, and interests of victims?

How can we assist in restoring a victim's feelings of safety and security?

Trauma-Informed Tools

legal immigration remedies

Language access

Culturally-responsive services

Survivor-led programs

Documenting A Survivor's Complete Trauma History and Helping Survivors Heal

Trauma Informed Structured Interview Questionnaires for Immigrant Cases (SIQI)

- The SIQI is a tool to help identify
  - Domestic violence, child abuse, sexual assault, coercive control
  - New additions: Stalking, predatory helpfulness, and co-occurring human trafficking, particularly in families
- The SIQI aids advocates and attorneys in eliciting in-depth information from the client.
- The questions are framed in a trauma informed way
- Using a story-writing process that helps victims heal.

Process of Trauma-Informed VAWA, U Visa or T Visa Story Collection

1. Recognize the client as whole human being and as a survivor
2. Explain confidentiality (your relationship & VAWA)
3. Support client's self-regulation
4. Understand client's behavior through a trauma lens
5. Titrate client's exposure to traumatic memories
6. Recognize the impact of exposing the trauma and its effects
7. Use techniques for grounding and soothing
8. Validate completing the process as success
9. Referral for trauma services in collaboration, as needed

Immigration Story Writing

- Affidavit = A Survivor's "Story"
  - Most important pieces of evidence submitted
    - Research on importance of writing the trauma narrative
  - DHS hears directly from the survivor
  - Can be be a traumatic experience for survivors
  - The goal is to develop an approach that:
    - Obtains more complete information
    - Improves outcomes and helps survivors heal

Story Writing
Intervention Method

- Invite the survivor to write/tell her story
  - Support, witness, listen without judgment, allow space
  - Goal: story comes out unedited/uninterrupted
- Follow up with interview
  - Structured Interview Questionnaire for Immigration (SIQI)
  - Take notes for follow up during story telling interview
- Edit together
  - Story + structured interview responses into affidavit
- Survivor reads back the final story

Types of Cases That Could be Strengthened by This Approach

- Immigration
  - VAWA
  - U Visa
  - SIJS
  - T Visa
- Family Law
  - Custody
  - Protection Order
  - Divorce
  - Economic Relief
- Therapeutic relationships

Standardized Tools:

Assessing "What happened to me?"

- Multiple types of trauma exposure
  - Structured Life Events Screening Questionnaire (SLESQ)
  - Stalking behaviors [SLII]
- Domestic Violence
  - Conflict Tactics Scale (CTS-2)
  - Psychological Maltreatment of Women
  - Coercive Control Scale (IPV Coercion Measure)
  - Danger Assessment
- Indigenous Trauma
  - Additional traumatic effects based on oppression and discrimination

Standardized tools:

Assessing "How did it change me?"

- Articulating the impact of battering or extreme cruelty
- IPV (Intimate Partner Violence) Threat Appraisal and Fear Scale
- PTSD Checklist (PCL-C)
- Patient Health Questionnaire (PHQ-9; depression)

Predatory Helpfulness, Coercive Control & Stalking

Stalking: Webinar and Materials (March 7, 20023) Readily Identifying and Effectively Responding to Stalking in Family Court: A Resource for Judicial Officers
https://niwaplibrary.wcl.american.edu/resources-on-stalking-for-judges/

Predatory Helpfulness: Webinar (December 8, 2023) – Let's Put Science First: Assessing Predatory Helpfulness and Coercive Control to More Accurately Understand Domestic Abuse and Sex Trafficking https://niwaplibrary.wcl.american.edu/njn-predatory-helpfulness-coercive-control-dec-2023/

Coercive Control: Revised Chapter Four: Families and Children Model Code on Domestic and Family Violence (May 2024) (Discussing custody and coercive control)
https://archive.legmt.gov/content/Committees/Interim/2023-2024/Law-and-Justice/Meetings/July-2024/2.Revised-Ch.-4-Model-Code_May-2024.pdf

Coercive control?

- Setting the stage
  - Creating vulnerabilities
  - Exploiting existing vulnerabilities
  - Wearing down resistance
  - Facilitating attachment
- Coercive demand
- Credible threat
- Surveillance
- Delivery of threatened consequences

Evan Stark: Control tactics include isolation, deprivation, exploitation, and regulation, having the effects of:

- Depriving victim of resources and support systems
- Rules remain in play even when the perpetrator is absent physically
- Micro-managing victim behavior by establishing "rules" for everyday living
- Victims feel abuse is all-encompassing and their partner is omnipresent
  - Compelling obedience
  - Exploiting the victim

Context is Critical

- Context means
  - Intent
  - Meaning
  - Effect
- Who is doing what to whom and with what impact
  - Helps identify primary aggressor
  - Not meant to excuse behavior

NCJFCJ Model Code

Coercive Control

- Range of abusive behaviors beyond physical violence
  - Problematic and dangerous parenting
  - Intimidation, implicit/explicit threats, or compels compliance
  - Purpose of restricting victim's safety or autonomy, trapping them, or using cultural practices/beliefs or immigration to instill fear and maintain control over the victim

See Revised Chapter Four: Families and Children Model Code on Domestic and Family Violence (December 30, 2022) https://www.ncjfcj.org/publications/revised-chapter-four-families-and-children-model-code-on-domestic-and-family-violence/

STALKING

- MULTI-DIMENSIONAL SLII STALKING FRAMEWORK
- S – SURVEILLANCE
- L – LIFE INVASION
- I – INTIMIDATION
- I – INTERFERENCE

SLII FRAMEWORK

SURVEILLANCE Follow, watch, monitor, wait for, show up uninvited, track using software or devices, gather information, proxy stalk (use a third party to stalk and report on the victim)	LIFE INVASION Unwanted/nonconsensual contact or communication at home/work/school/other, phone calls, texts, show up without warning, property invasion, public
INTIMIDATION Explicit and implicit threats, property damage, symbolic violence, forced confrontations, threats to or actually harm self or others, threats to call/report to immigration authorities, or withdraw immigration papers	INTEFERENCE Financial and/or work sabotage, ruin reputation, custody interference (including kidnapping children internationally), keep victim from leaving, road rage, harm friends/family/children/pets/colleagues, physical or sexual attack

14 RISK FACTORS IN STALKING CASES



Resources for Working with Immigrant Victims

- Advocate's & Attorney's Tool for Developing a Survivor's Story:
  - Provides guidance on how people working with survivors can collect their stories.
- Structured Interview Questionnaires for Immigration Cases (SIQI)
  - 6 languages, working on 17
  - Developed by drawing upon evidence-based research on violence against women, coercive control, trauma, acculturation, stalking, predatory helpfulness, human trafficking co-occurring within families
- How to Prepare Your Case: Tips on Using the Structured Interview Questionnaires for Family Court Cases (SIQI)
  - Adopted for family court cases
- *Helping Survivors in Crisis*: Hands On Training for Advocates and Attorneys on Trauma-Informed Work with Immigrant Women Who Are Survivors of Domestic Violence and Sexual Assault
  - Video

Moving Forward

- Know your shield of immigration relief options
- Screen early to promote safety and stability
- Identify co-occurring human trafficking
- Support victims to articulate the reality of their experience using a trauma informed approach

Lunch Break

VAWA Confidentiality in State Court Proceedings

Raise Your Hands: If you have worked with survivors who have …

A. Received threats of deportation from perpetrators
B. Been contacted by immigration enforcement officials



Immigration-Related Abuse

- 25% of perpetrators actively report the victim for removal
  - Rises to 38% for VAWA self-petitioners
- 36% of perpetrators get immigrant and limited English proficient (LEP) victims calling for help arrested for domestic violence
- U visa applicants have higher future crime reporting rates

Krisztina E. Szabo, David Stauffer, Benish Anver, *Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014) and Rafaela Rodrigues, Alina Husain, Amanda Couture-Carron, Leslye E. Orloff and Nawal H. Ammar, *Promoting Access to Justice for Immigrant and Limited English Proficient Victims (2017)*

Key Violence Against Women Act (VAWA) Statutes

- 35 U.S.C. §12291 – Full VAWA
  - (a) definitions
  - (b) grant conditions including
    - VAWA confidentiality protections applicable to all grantees
- 8 U.S.C. §1367
  - VAWA confidentiality immigration
- 8 U.S.C. §1229(e) – INA 239(e)
  - VAWA confidentiality protected locations

VAWA Confidentiality Three Prongs

Non- Disclosure

Protects victims who have filed a protected case with DHS

Abuser-Provided Information Prohibition

Includes family members of abusers, crime perpetrators and their agents

Protects:

*All victims abused by a spouse or parent

*All victims in the process of applying for VAWA, U or T visas

*Abused spouses of visa holders with VAWA work authorization filed

Location Prohibitions

Protects:

All Victims

Requires:

No action at protected locations OR

Notice to Appear must state how they complied with VAWA confidentiality

Violation = $5,000 fine and/or disciplinary action

Bars and Limitations on Reliance on Perpetrator Provided Information Apply to All Victims

Poll: Why do you think Congress barred DHS from relying on perpetrator provided information? (Check all that apply) Perpetrators were---



A. Stalking victims with information obtained from DHS
B. Sending ICE to courthouses when victims sought protection orders, custody or to testify in a criminal case
C. Sending ICE to shelters and victim services programs to remove victims
D. Reporting victims for removal to undermine criminal investigations and elude prosecutions
E. Trying to learn about, obtain information from and interfere with VAWA, T and U visa case adjudications

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)

Bars Limiting Reliance Upon Information Provided by a Perpetrator

- The government cannot gather and/or use information provided solely by:
  - A domestic violence or child abuser
  - A sexual assault or stalking perpetrator
  - A trafficker
  - The perpetrator of any U visa listed criminal activity
  - The perpetrator's family member
  - Other persons associated with the perpetrator
- To take an adverse action against a victim
- 8 U.S.C. 1367(a)(1)

Adverse Actions Include Using Perpetrator Provided Information To…

- Deny a victims immigration case
- Detain a victim
- Deport a victim
- Initiate an immigration enforcement action against a victim
- Seek out, question or detain a victim at a prohibited location, including courthouse

Poll: When do victims get VAWA confidentiality protections? Check all that apply



A. Victim has filed a VAWA, T, or U visa case
B. Victims shows a protection order to an immigration official
C. Victim shows letter from an advocate, lawyer, law enforcement, or prosecutor stating that victim is seeking VAWA, T or U immigration relief
D. When abuse occurs in a spouse or parent child relationship

Victims Protected by Non-Reliance Prohibition

- No immigration case filing required
  - With the following relationships
    - Spouse abuse victims
    - Child abuse victims including of stepchildren
    - Immigrant parents of child abuse victims
    - Victims of family violence perpetrated by another family member residing in the same household
  - When the victim is seeking or in the process of filing one or more of the following cases
    - T Visas, U Visas, all VAWAs (including battered spouse waivers)

All DHS Memo 002-02-001.1 Rev.00.1 (May 29, 2019) Confirmed (Jan. 2025)

- States that the VAWA Confidentiality prohibited source and non-disclosure protections apply to victims who *are seeking, are in the process of preparing an application, have filed for, and have been approved* for a victim-based form of immigration relief covered by 8 U.S.C. 1367

VAWA Confidentiality 8 U.S.C. 1367
All DHS Directive 002-02-001.1 (2019)

- Protections apply "*even if the alien has not applied for or does not intend to apply* for a victim-based application or petition"
- "If a *DHS employee suspects* that the provisions and relevant policy were not followed, the employee immediately *brings the issue to the attention of his or her immediate supervisor* rather than issuing the NTA."
- "[I]t is clear that Congress intended that arrests of aliens at such locations to be handled properly given that they may ultimately benefit from VAWA's provisions"

DHS VAWA Confidentiality Computer System

- Directs to check for "384" computer system flag that identifies victims who have already filed for or have been granted victim-based immigration relief
- Reminds immigration officers, agents, and attorneys about immigration law protections for
  - Survivors of domestic violence and child abuse
  - Crime victims survivors
    - (stalking, sexual assault, dating violence and all U visa or T visa criminal activities)
  - Human trafficking survivors

Cases With VAWA Confidentiality Red Flags

- VAWA self-petitions
  - VAWA self-petitioner
  - Battered spouse waivers
  - VAWA Cuban Adjustment Act
  - VAWA Haitian Refugee Immigration Fairness Act
  - VAWA Nicaraguan Adjustment & Central American Relief Act
- VAWA cancellation of removal
- VAWA suspension of deportation
- U visa
- T visa
- Continued presence
- VAWA work authorization as abused spouses of visa holders (A, E(iii), G & H)

All DHS Memo 002-02-001.1 (May 29, 2019)

- "Whenever a DHS officer or employee receives *adverse information* from a spouse, family member of a spouse, or unknown private individual, the employee will check the Central Index System (CIS) for the COA '384' flag. Employees will be sensitive to the fact that the alien at issue may be a victim and that a victim-abuser dynamic may be at play."

All DHS Memo 002-02-001.1

- Adverse information about the victim from a prohibited source should be treated as *"inherently suspect"*
- "Violations of Section 1367 could give rise to serious, even life-threatening, dangers to victims and their family members. Violations compromise the trust victims have in the efficacy of services that exist to help them and, importantly, *may unwittingly aid perpetrators retaliate against, harm or manipulate victims and their family members, and elude or undermine criminal prosecutions*." emphasis added.

Violations of perpetrator provided information bar

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



- Have led to DHS investigations that resulted in demotions and other job sanctions

VAWA Sensitive Location Prohibitions

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



Locational Prohibitions

- Enforcement actions at VAWA Confidentiality protected locations actions are not to be taken:
  - "[A]bsent clear evidence that the alien is not entitled to victim-based benefits"
  - Actions taken must "be handled properly given that they may ultimately benefit from VAWA's provisions"
  - Officers are to follow a specific process aimed at protecting victims that includes obtaining advance permission from a supervisor or ICE general counsel for enforcement actions at statutorily protected sensitive locations
- John P. Torres and Marcy Forman, Interim Guidance Relating to Officer Procedure Following the Enactment of VAWA 2005 (January 22, 2007)

New Tools Demonstration

- Letters for law enforcement and prosecutors and their agency staff to provide to victims
- Letters that advocates and attorneys can provide to victims
- Letters that advocates and attorneys at protected locations can provide should they encounter ICE
- Letters that judges, court staff, CPS, prosecutors can provide to ICE if they seek a victim at a court



Sample Letters for Victim Advocates, Victim Attorneys and Victims

Sample: VAWA Confidentiality Notices: Victims to Immigration Enforcement Officials

Current as of April 21, 2025

Sample letters for victim advocates, victim's attorneys and victims

- Letter for Victims from Victim Advocates and Attorneys 2
- Letter for Attorneys-Advocates Accompanying VAWA, U and T Visa Victims to Court 6
- Letter for Attorneys-Advocates Accompanying Other Victims to Court.....9
- Letter for VAWA Confidentiality Protected and OVW, OVC, FVPSA Funded Locations 11
- Letter for Other VAWA Confidentiality Protected Locations 14
- Attachment to Provide to ICE Officials 17
  - Text of ICE 2025 Victim Policy 17
  - Text of VAWA Confidentiality Statutes.....21
  - Text of DHS VAWA Confidentiality 2019 Policy.....25
  - VAWA Confidentiality Legislative History 41
  - Text of ICE 2025 Courthouse Enforcement Policy 43

MONTH DATE, 2025

RE: Victim Seeking and in the Process of Applying for a Victim-Based Form of Immigration Relief Protected by 8 U.S.C. §1367

Dear Officer,

Please be advised [INSERT VICTIM'S NAME] is a victim of battering, extreme cruelty, human trafficking, or other U visa listed criminal activit(ies) making the victim legally entitled to VAWA, T visa, or U visa immigration relief under the Violence Against Women Act (VAWA) and/or the Trafficking Victims Protection Act. This letter is to notify Department of Homeland Security employees that the victim is seeking and is in the process of applying for or has applied for immigration relief and is entitled to statutory protections under 8 U.S.C. §1367.

[INSERT VICTIM'S NAME] is currently receiving [advocacy and supportive services/legal assistance] from [INSERT NAME OF AGENCY].

[INSERT SHORT DESCRIPTION OF AGENCY – INCLUDING EXPERTISE IN WORKING WITH VICTIMS AND IMMIGRANT VICTIMS]

The name of the person responsible for this victim's case is:

Insert Name
Insert Cell Phone Number
Insert Email Address

[INSERT VICTIM'S NAME] has provided information and reported the criminal activity and abuse suffered to [INSERT NAME OF LAW ENFORCEMENT, PROSECUTION, STATE GOVERNMENT AGENCY OR COURT] and [is being/has been helpful] to that agency in efforts to hold the offender accountable. The contact information for agency staff working with this victim is:

Insert Name
Insert Cell Phone Number
Insert Email Address

ICE Victim Policy 11005.4: Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits (January 30, 2025) requires:

"*Adherence to Laws*
In implementing this guidance, ICE personnel remain bound to adhere to all applicable statutory and policy requirements including the provisions of 8 U.S.C. § 1367 and Department of Homeland Security (DHS) Instruction No. 002-02-001, Rev. 00.1: Implementation of Section 1367 Information Provisions (May 28, 2019)."[1]

Consult An Immigration Attorney

- With expertise serving immigrant victims in VAWA, T, and U visa cases when victims
  - Have criminal histories
  - Get arrested
  - Have had removal orders issued against them
  - Have open immigration cases
- For most other victims filing a VAWA, T or U visa case is generally more protective than not
  - Timing is important
  - Victim advocates can help victims file well documented cases

For most other victims filing a VAWA, T or U visa case is generally --

- More protective than not
- Timing is important
- Must file well documented cases
  - Victim advocates can play an important role
  - NIWAP has trauma informed tools
- Particularly protective for victims who make police reports, work with law enforcement, and prosecutors

Raise Your Hands: If the perpetrator in a family court case you have worked on tried to …

A. Raise the victim's immigration status to gain advantage in the case
B. Obtain information about or contained in a victim's immigration case file through family court discovery



Large Group Discussion

- What, if anything is discoverable in a state family, criminal, or civil court case when a victim has filed a ---
  - U visa application
  - T visa application
  - VAWA self-petition
  - Petition for SIJS

VAWA Confidentiality Law's Statutory Disclosure Exceptions

Limited Disclosure in Narrow Circumstances – Law Enforcement

- Disclosure to law enforcement, prosecutors, or national security officials
  - Solely for a legitimate law enforcement or national security purpose; and
  - In a manner that "protects the confidentiality of such information"

Other Limited Exceptions

Public Benefits

- Federal, state and local public benefits agencies, and to private agencies providing public benefits
- Determine eligibility for public benefits

Anonymous Information

- Congressional oversight same privacy protections as census

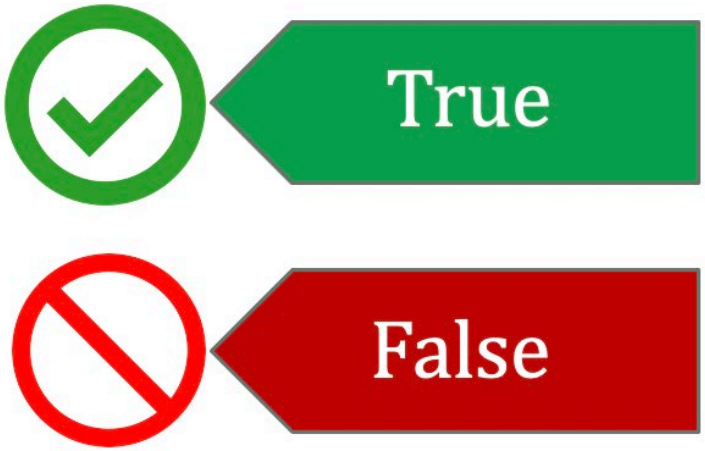
Victim Directed

- Victim can authorize DHS to refer them for help to victim service providers
- Must have consent from all adult victims to waive confidentiality

Raise Your Hand - True or False?

VAWA confidentiality's judicial exception applies to State Court judges hearing criminal, family, and/or civil court matters.





Limited Disclosure in Narrow Circumstances – Judicial

- A judicial exception applies only to appeals of the victim's immigration case
- Exception does not extend to state or federal judges hearing other civil, family, or criminal court matters

Hawke v. Dep't of Homeland Security
(N.D. CA, 2008) – VAWA Self-Petition Case
(Judicial Review Exception)

- VAWA Confidentiality Protects cases:
  - All cases unless denied on the merits
- Judicial exception applies to appeals of victim's immigration case
  - Does not apply to civil, family, or criminal court proceedings
- 6th Amendment right to compulsory process does not permit access to absolutely privileged information
- "Primary purposes of the VAWA confidentiality provision, namely *to prohibit disclosure of confidential application materials* to the accused batterer"

Demaj v Sakaj (D. Conn, 2012) U Visa/Custody Case

- Although relevant to credibility and impeachment
- Family court discovery barred as contrary VAWA confidentiality purpose --
  - Prevent disclosure of documents & information in a protected case file to alleged criminals
  - Stop perpetrator's actions to interfere with & undermine a victim's immigration case
- Seeking to obtain protected information through discovery in a custody case = interference with the victim's immigration case barred by the federal statute
- VAWA confidentiality applies to protect the case file contents, including in cases when
  - The victim discloses in state court that DHS has approved her protected immigration case

Ramirez v. Marsh, and New Mexico Immigrant Law Center v. Leos (May 7, 2024) New Mexico Supreme Court

- Criminal court judge cannot order disclosure of U or T visa applications or related materials from
  - The victim
  - The victim's parents
  - The victim's counsel
- New Mexico Supreme Court invalidated subpoenas issues by state criminal court judges requiring disclosure
- *Ramirez v. Marsh*, S-1-SC-39966, and *New Mexico Immigrant Law Center v. Leos*, S-1-SC-40114.

People v. Jun Du – Criminal Case "Sanctuary For Families"

[NY Sup Ct Kings County 2024](Sept. 27, 2024)

- Based on VAWA confidentiality laws, the Judge reversed their previous decision grating an *in camera review* and denied the request for in *camera review* of the T-visa application (Form I-914).
- VAWA Confidentiality protects the disclosure of the T-visa application (Form I-914).
- Party seeking disclosure must show that the application is so relevant or material that it outweighs VAWA confidentiality.
- The Court decided the materials (T-visa application) are protected and confidential. No exceptions are permitted.

What is discoverable in a state court?

- Criminal case
  - U visa and T visa case
    - The request for certification letter
    - The U certification itself
    - The T visa certification is there was one
  - VAWA self-petition, VAWA cancellation/suspension cases: Nothing
  - Discovery from prosecutor only, cannot discover immigration file directly from victim, victim's parents, victim's advocate or victim's immigration attorney
- Family Case - Nothing
- Civil Employment Case
  - Multiple victims redacted certifications may be discoverable
- The victim's immigration case file and its contents are not discoverable

Motion in Limine

- Precluding irrelevant or prejudicial evidence
- Limiting disclosure of confidential records
- Restricting testimony or questions
  - Collateral questions, not necessarily about immigration status
- Excluding Personally Identifiable Information
- Sample: https://niwaplibrary.wcl.american.edu/pubs/conf-vawa-samp-motionlimine/

Issues That Arise For Immigrant Survivors In Family Law Cases

PROTECTION ORDERS



NIJ Funded CPO Study Found

With support immigrant victims will use and benefit from justice system assistance

- 60.9% did not know about CPOs
- 81% got CPO with help from advocate/attorney
- 96% found them helpful
- 68.3% of violations immigrant related

Ammar, Orloff, Dutton, and Hass, Battered Immigrant Women in the United States and Protection Orders : An Exploratory Research Criminal Justice Review 37:337 (2012)

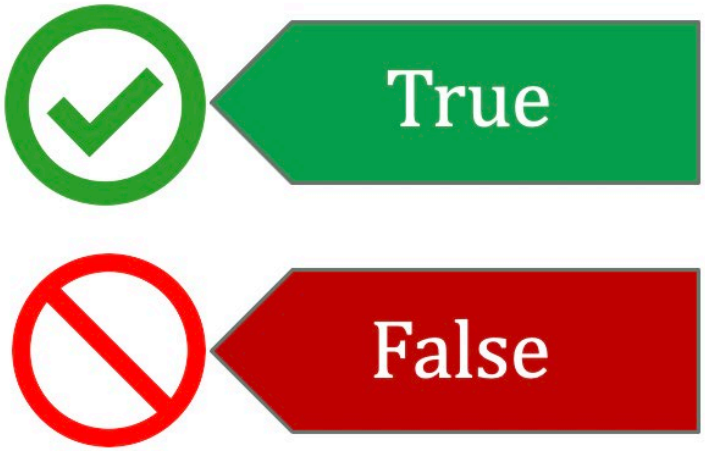
Immigrants and Protection Orders

- 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
- Immigrant victims and their children often need creative protection order remedies using the state catch-all provisions

Raise Your Hand - True or False?

Violation of a Protection Order is a Deportable Offense?





Protection Orders and Immigration Considerations

- Violation of a protection order is a deportable offense
  - Can lead to loss of lawful permanent residency and other immigration consequences for the perpetrator
  - Victims should not consent to issuance of a protection order against them
  - Victims should not be charged with violation of orders issued for their own protection
  - Best Practice – Padilla advisals in all CPO cases

Raise Your Hands: Which the following are deportable offenses?



A. Domestic violence criminal conviction
B. Finding in a custody case that a protection order was violated by further abuse of the victim
C. Criminal conviction for violating a protection order
D. Agreeing to diversion in a protection order enforcement case where upon violation diversion turns into a conviction

Large Group Discussion

What are the dangers of issuing a protection order against a domestic violence victim?

Effect of Protection Order Issued Against *Immigrant Victims*

- Victim is one step away from deportation
- A violation of a protection order is a deportable offense
  - Findings enough – conviction not required
- Perpetrators who are successful in convincing courts to issue protection orders are often also successful in obtaining findings that the victim violated the order
- Undermines access to victim based immigration relief which requires proof of good moral character
  - VAWA self-petition, VAWA cancellation, Naturalization

Importance of Self-Defense and Primary Aggressor Determinations

- Importance of determining was there an offense
- Was a person acting in self-defense
- Who is the primary aggressor in the relationship
  - When the party against whom a protection order is sought may be the victim
  - This is particularly important for immigrant victims

Creative Protection Order Remedies

- Catch all provisions in civil protection order statutes, opportunity to offer relief designed to help:
  - Curb future abuse, harassment
  - Interfere with abuser/perpetrator's ability to exert power and/or coercive control
  - Offer victim remedy relief for past abuse
  - Help victim overcome victimization and build new post-abuse life
- Nexus with victimization
- Opportunity for courts to counter immigration-related abuse and order culturally helpful remedies

Raise Your Hand: Why Might Victims Not Separating From Their Abusers Seek Protection Orders?



A. Living in extended families
B. Limited housing options
C. Awaiting legal work authorization
D. To curb abuse
E. Help shift power and control in relationship

The Majority of Immigrant Victims Stay With Their Abusers …

- Until the victim receives work authorization as part of their immigration case or their case is approved
- Percent who leave before receiving work authorization or approval
  - VAWA self-petitioners 33.9%
  - U visa victims 30.1%

Victims Who Stay: No Unlawful Contact Protection Orders

- No state's protection order statute requires separation of the parties
- Provisions:
  - No abuse
  - No unlawful contact
  - Batterer's treatment

Small Group Creative Protection Order Exercise

- Meet in small groups to develop list of creative protection order remedies helpful for immigrant victims specifically
- Split room in 2 –competition to see which side runs out of remedies first
- Judge rules on whether proposed remedies are immigrant specific

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

Stopping Immigration Related Abuse

- Defendant must obtain prior court approval before contacting any government agency (immigration officials, CPS, IRS, Welfare, etc.) concerning the petitioner except
  - Police emergency
  - Subpoena
- Cooperate in and not withdraw any case he has filed for petitioner with immigration authorities (e.g. work visa holders, I-130s)
- Abuser ordered to sign FOIA form to obtain information from the abuser's or victim's immigration case file

Helpful Evidence

Evidence of Legal Marriage

- Marriage certificate
- Wedding/family pictures
- Health insurance

Good Faith Marriage

- Children birth certificates
- Love letters, cards, text, emails
- Copies of joint leases/utility bills
- School records
- Letters and other mail addressed to the victim and to the abuser at the same address

Evidence of Abuse or Extreme Cruelty

- Police, medical, court documents about the relationship
- Protection order
- Affidavits of neighbors, relatives, friends

Evidence of Abusers Legal Status

- Abuser's green card or passport
- Copy of I-130 petition
- Social security number

Provisions that Deter Parental Kidnapping

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

Economic Relief

- Child support
- Spousal support
- Enforce Affidavit of Support
- Rent/Mortgage
- Pay for relocation
- Payment of Medical bills
- Household maintenance
  - Utilities, home insurance
- Maintain spouse & children on health insurance
- Pay for Repairs/replacement
  - Car, tires, windows, locks, cell phones, passports, identification cards, important documents
- Payment of
  - Credit card debt
  - Children's sports, travel, music lessons, religious school expenses
- Shall not dissipate assets

Tax Related Remedies

- Turn over income tax statements
- Respondent ordered to pay victim ½ of refund
- Victim named trustee for receipt of tax return funds
- Respondent ordered to sign over check
- Victim awarded exclusive right to claim children as tax exemptions

Custody of Children in Immigrant Families

Tool: Immigrant Victims and Custody Bench Card

What are the immigration-related issues you have seen perpetrators raise against victims in custody cases?

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
1. Deportation is imminent	1. Less risk for victims with pending victim-based immigration cases and over 2 years in the US
2. Parent is likely to flee U.S. with child	2. US citizens and lawful permanent residents are more likely to flee with children, especially when – There have been threats of kidnapping children – They are dual nationals – They travel freely to and from U.S.
3. The parent has no livelihood	3. Abused immigrant parents in family court can receive child support & have a path to immigration relief, work authorization & some benefits
4. Legally present parent must have custody in order to file for benefits for child	4. Custody does not affect parent's ability to file for or gain immigration benefits for their children.

Poll: Who is the *least* likely to flee with children from the United States?



A. U.S. citizens
B. Undocumented immigrant victim mothers
C. Dual national parents
D. Multiple entry visa holder parents

Fact: Legal immigrants/naturalized citizens are more likely to flee with children

- **Particularly when**
  - There have been threats of kidnapping children
  - They are dual nationals
  - They can travel freely to and from U.S.
- The Ninth Circuit found that "there is no evidence that undocumented status correlates closely with unmanageable flight risk." *Lopez-Valenzuela v. Apaio*, 770 F.3d 772, 786 (9th Cir. 2014).

2025 Parental Interests Directive

- ICE must "affirmatively inquire upon parental or legal guardian status upon ICE's first encounter with an alien."
- After apprehension, ICE should allow the individual to arrange care for their minor.
  - If no arrangements are made, local child welfare or law enforcement must be contacted to take custody of the minor.
- ICE may not take custody of or transport a child, except when enforcing against that child.
  - If the child is determined to be an unaccompanied "alien," ICE must notify the local Department of Health and Human Services about transfer to third party.
- ICE must not remove the individual from the area of apprehension while child welfare or guardianship proceedings are pending there, unless maintaining custody within the area is not "operationally feasible."

2025 Parental Interests Directive (cont.)

- The detained parent's POC (point of contact) must arrange participation in family court, child welfare, or guardianship proceedings if:
  - The appearance is required to maintain or regain custody or guardianship.
  - ICE is timely notified, proof of the hearing is provided, and attendance does not hinder ICE's mission or public safety.
  - If physical presence is not possible, ICE must facilitate teleconference.
- If no contact visits are allowed at a facility, ICE must:
  - Arrange one within 30 days upon written request;
  - Afterward, ICE must consider transfer requests or coordinate monthly visits if transfer is denied.
- ICE must consider a minor's U.S. citizenship or path to it when reuniting them with a deported parent, and detained parents who choose to leave their child in the U.S. must submit a written statement.

Immigrant Parents and Child Custody

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

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

Trends in Case Law

- Flight risk:
  - Finding that undocumented immigration status does not make an individual a flight risk. *See* Huff v. Vallejo, 347 Ga. App. 127, 817 S.E.2d 696 (2018).
- Ability to provide financially for children
  - Undocumented immigrants "…suffer disadvantages. For example, they cannot enter into an employment relationship. But plenty of people have worked, and thrived, as independent contractors all their lives." *See* Hupp v. Rosales, 2013 IL App (4th) 130433-U.

Divorce and Economic Support

Impact of Divorce

- VAWA self-petitioners:
  - Spouse must file within two years of final divorce
  - Step-children must file before divorce
- Ends legal immigration status for spouses and children of visa holders:
  - Students, Work Visa Holders, Diplomats
- Divorce cuts off access to lawful permanent residency for spouses and children of people seeking lawful permanent residency based on:
  - Employment
  - Asylum
  - Family relationships
  - Cancellation of removal

Annulment Instead of Divorce

- Annulment can lead to a marriage fraud finding that:
  - Permanently bars approval of any visa petition
  - Is a ground for deportation
  - Can lead to an unfavorable exercise of discretion by an immigration judge not to grant immigration relief
- Impacts
  - Spousal support
  - Property division

Affidavits of Support

- Each person who petitions for a family member to immigrate to the United States must execute a legally enforceable affidavit of support. 8 U.S.C. § 1182(a)(4)(C)(ii)
  - Contractually committed to support sponsored family member at annually at 125% of Federal Poverty Guidelines
- Affidavits of Support are enforceable as contracts by the sponsored immigrant
- Support obligation lasts till immigrant spouse
  - Naturalizes, dies, earns 40 quarters of work credit, or gives up lawful permanent residency and leaves the U.S.

Large Group Discussion

- What are the benefits of seeking and paying court ordered child support for immigrant parents?

Child Support & Immigration: The **Parent Paying Child Support**

- Payment of child support through the court provides a non-citizen parent with a history of child support payments
- This is helpful evidence of good moral character for immigration cases
  - Cancellation of removal
  - Naturalization
  - Obtaining relief in immigration court
    - Can be used to show hardship to family members

Child Support & Immigration: The **Parent Receiving Child Support**

- Provides a custodial immigrant parent with evidence of child support that can be used as income in when applying for lawful permanent residency
- Obtaining child support awards can provide helpful evidence of good moral character
- Importance of court orders maintaining immigrant children on their non-custodial parent's health insurance policies

Immigration Issues Arising in Child Support Cases

- Lack of legal work authorization is not a valid defense to non-payment of child support
- Can order child support, but not a job search, of an undocumented non-custodial parent
- Can order non-custodial parent to obtain an ITIN and pay taxes
- Criminal convictions for willful failure to pay child support can be deportable theft/fraud related crimes of moral turpitude

Importance of Wage Withholding

- Creates documented track record of payment
- Improves safety for immigrant victims
- Courts have found employers who willfully violate wage withholding orders liable to the custodial parent for the amount of child support ordered withheld.
  - State v Filipino, Conn. Super. LEXIS 266 (2000)
  - Belcher v Terry, 420 S.E.2d 909 (1992)
  - Child Support Recovery Srvs., Inc. ex rel S.C. v. Inn at the Waterfront, Inc., 7 P3d 63 (Alas. 2000)

Special Immigrant Juvenile Status (SIJS)

Special Immigrant Juvenile Status (SIJS)

- Immigration legal remedy for unmarried children
- Under the age of majority under state law
- Victims of abuse, abandonment, neglect, or dependency
  - By at least one parent
- To apply must submit the required judicial determinations with findings from a state court with jurisdiction over
  - the care, custody, or dependency of the child
- *2025 time to work authorization ≈ 4 years*

Special Immigrant Juvenile Status (SIJS)

- **State court judicial determination is a required SIJS filing prerequisite**
  - Provides evidence for child's immigration case
  - The state court order reflects judge's expertise on children's best interests
  - State court order does **not** grant immigration status

SIJS Judicial Determinations Can Be Issued When a Juvenile or Family Court Judge Awards Custody or Placement Of a Child

- Child is dependent on a juvenile court or **legally committed *to or placed under the custody of*** an agency or department of State, or ***an individual*** or entity appointed by a State court.
- **Child's best interest** would not be served by being returned to his or her country of origin.
- **Reunification** with one or both parents **is not viable due to** abuse, neglect, abandonment, or a similar basis under state law (through adjudication by USCIS)

8 U.S.C. § 1101(a)(27)(J)

Raise Your Hand

If you have requested SIJS judicial determinations from a family court judge for children of your domestic violence victim clients?



Large Group Discussion

How does seeking SIJS for a domestic violence or sexual assault survivor's child help the immigrant survivor?

Under federal law and regulations, in what types of proceedings are state court judges authorized to issue SIJS judicial determinations?



A. Dependency
B. Delinquency
C. Custody
D. Divorce
E. Guardianship
F. Protection order
G. Adoption
H. All of the above

In What Types of Case Scenarios Could A Child Obtain SIJS Court Orders?

- Care, Custody, and/or placement by a judge
  - Dependency/Delinquency cases
  - Civil protection order cases
  - Custody cases
  - Divorce cases
  - Guardianship
  - Paternity and child support cases
  - Adoption cases
  - Includes all state court cases in which CPS appears
- DHS states: All are of the above = *Juvenile courts*
  - Juveniles = all children
- SIJS Bench Book has chapters on each case type https://niwaplibrary.wcl.american.edu/sijs-manual-table-of-contents

Return to Home country not in child's best interests

- Identify each potential custodian state law requires the court to consider in U.S. and home country
- Apply state best interests factors to each placement
- Court order states the factual findings that support chosen placement
- Make findings that illustrate why under state best interest factors, court is not choosing placements in child's home country
- Compare the supports, help, services child needs U.S vs. home country
- Then, if relevant, address other country conditions
  - Gangs, other harmful factors

Reunification Not Viable

- Reunification with a parent is not viable due to abuse, neglect, abandonment, or similar state law basis
- Does not require termination of parental rights
- Viability of reunification does not necessitate no contact with parent – Visitation can occur
- Means granting the abusive parent custody is not envisioned by the court as a viable option
  - Duration: through adjudication of SIJS application
- Changes in circumstances can occur
  - But not granting full legal/physical custody to abusive parent

In the Clara and Eduardo Scenario in which of the following cases could the court NOT issue SIJS findings for Lupe as part of the court's order?



A. A protection order case in which the order grants Clara custody
B. A custody case brought by Clara
C. The criminal prosecution of Eduardo
D. A child welfare case in which the court made findings of Eduardo's abuse and placed the children with Clara

Apply Same Jurisdiction and Procedural Rules as All Other Cases

- Include a statement of the court's jurisdiction citing the state law under which the court is exercising jurisdiction.
- Follow your state court procedures and note that you do so to demonstrate that the court made an informed decision.

Family and Civil Court Orders Best Practices

Best Practices to for Court Orders

- Make findings as to:
  - The age of the child and the evidence relied upon
  - The child's parentage, naming each parent specifically
  - That the parent's identity is unknown (e.g., rape)
  - Abuse, abandonment, neglect suffered & impact on child
    - Address each occurring abroad and/or in the U.S.
  - Facts of domestic violence, stalking, sexual assault, human trafficking and coercive control
  - Existence of a marriage and termination of marriages
  - Details of who the court awarded custody to and why
  - Include no-contact and other protective provisions
- Cite and apply only state laws:
  - Definitions of domestic violence, abuse, abandonment, neglect, Best interest, Jurisdiction, service upon required parties

Access to Publicly Funded Programs and Legal Services Open Immigrant Survivors

Understanding Immigrant Benefits Eligibility Returning to Clara and Eduardo who are now married

Clara and Eduardo Case Scenario

Clara met Eduardo a lawful permanent resident when he came back to his hometown to visit his family in El Salvador. Eduardo started dating, Clara who was raising her 9-year-old son Miguel. After Clara became pregnant and gave birth to a baby girl Lupe, Eduardo decided to bring Clara, Miguel and Lupe to the U.S. to live with him. When they arrived in the U.S. Eduardo took Clara, Miguel and Lupe's passports and became physically and sexually abusive of Clara and abusive of Miguel who tried to protect his mother from Eduardo's abuse. Eduardo also physically beat Lupe when he said she "misbehaved". Within a year following their arrival in the U.S. Eduardo forced both Clara and Miguel to work for his family's business and never paid them for their labor. One night when Miguel was 13 and Lupe was 5, Eduardo's rage led to severe beatings with a belt of Miguel and of Lupe. When Clara intervened to protect the children, Eduardo strangled her until she passed out. The neighbors call the police for help, Clara talked to police when they arrived. The police arrested Eduardo for attempted murder and child abuse, took Clara to the hospital and placed the children in the care of the state.

What help is available to Clara, Miguel and Lupe meet basic needs?

Open to All Immigrant Victims of Crime/Abuse/Neglect Including Children

- Legal Services
- Family Court (Divorce, custody, economic relief, protection orders)
- Interpreters/Translators
- Police Assistance
- Perpetrators Can Be Criminally Prosecuted
- Public Benefits for Their Eligible Children
- SANE Exams
- VOCA
- Assistance for Crime Victims
- Shelter/Transitional Housing
- WIC/school lunch & breakfast
- Primary/Secondary education/Headstart/GEDs
- Immunizations, testing, treatment communicable diseases
- Emergency medical care
- Health Centers

In-Kind Services Necessary to Protect Life and Safety, Open to All Immigrants

- Child and adult protection services
- Crisis counseling and intervention
- Violence and abuse prevention
- Victim assistance
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Shelter & transitional housing assistance



8 U.S.C. Section 1611(b)(1)(D)

Emergency Shelter and Transitional Housing

Large Group Discussion

- Have you worked with immigrant victims who were turned away from transitional housing?
- On what basis?

HUD, DOJ and HHS Confirmed in August 2016

- Housing providers must not turn away immigrants based on their immigration status, citizenship, nationality, or English language proficiency from:
  - Emergency shelter
  - Transitional housing
  - Rapid re-housing

Housing Programs
With No Immigration Restrictions

- Low Income Housing Tax Credit (LIHTC)
- Section 202 Housing for the Elderly
- Section 811 Housing for the Disabled
- Section 221 (d)(3)
- Indian Housing
- CDBG
- HOME
- HOPWA
- McKinney-Vento/HEARTH Act*
- Rental Rehabilitation
- HOPE 2
- Section 515 Rural Rental Housing Program (without Rental Assistance)
- Rural Housing Preservation Grants
- Section 538 Multi-family Loan Guarantees

Anti-Discrimination Protections

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

How might Clara's and the children's legal immigration options impact their economic security?

T visa, OTIP and VAWA Clara and Children's Best Options

- Time to work authorization (Sept. 2025)
  - VAWA Abused spouses of citizens - 3 months
  - T visa bona fide - 6 months
  - U visas – 2.9 years
  - VAWA abused spouse of lawful permanent residents – 3.5 years
  - SIJS – 5 years

Benefits in Maryland- TANF, Child Care, Food

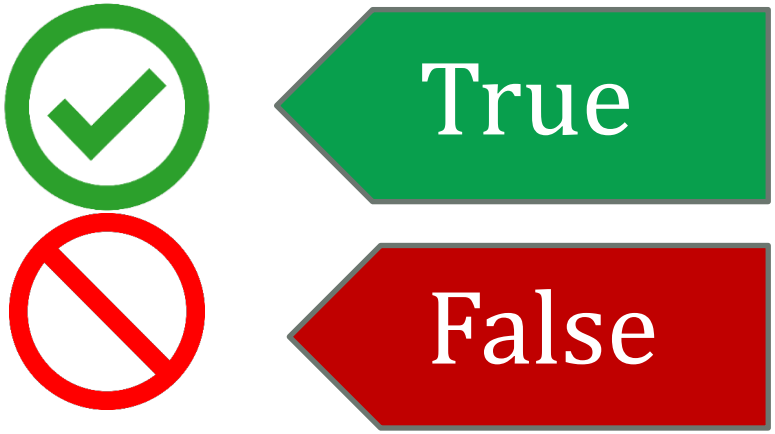
- TANF
  - At filing - SIJS & VAWAs
  - T visas/asylees (6 mos); U visas (2.9 yrs); SIJS (5 yrs)
- Childcare
  - TANF same as above
  - Child Care Development Fund – no restrictions
- SNAP (Food stamps)
  - "Qualified Immigrants" who are lawful permanent residents
    - Children: visas (2.9 years); VAWA (4.5 years); SIJS (5 years); U visa (18+ years)
    - Adults – 5 years longer
- WIC – open to all no restrictions

Clara tells you that she does not want to get any public benefits for herself or the children because she has been told that applying for benefits will result in any immigration case filed will be denied.

True or False?

Receiving public benefits can harm an *immigrant victim's* ability to obtain legal immigration status.





List of Exemptions from Public Charge

- VAWA self-petitioners;
- VAWA cancellation of removal;
- VAWA suspension of deportation;
- Battered spouse waiver;
- Abused approved family-based visa applicants (I-130);
- VAWA NACARA,
- HRIFA or Cuban Adjustment;
- U visa;
- T visa applicants and holders*
- Refugees;
- Asylees;
- Special Immigrant Juvenile Status (SIJS);
- (DACA) applicants;
- Amerasians;
- Afghan and Iraqi military translators;
- certain Cuban and Haitian adjustment applicants;
- certain Nicaraguans and Central Americans under NACARA;
- Registry applicants;
- Soviet and Southeast Asian Lautenberg parolees;
- Certain visa holders**;
- Green Card holders

Public Charge Determination

- USCIS will review the following:
  - Non-citizen age, health, family status, financial status (including assets and resources), education, and skills;
  - Form I-864, *Affidavit of Support Under Section 213A of the INA*
  - Whether the person themselves (not a family member)received or are receiving:
    - Supplemental Security Income (SSI); Cash assistance for income maintenance Temporary Assistance for Needy Families (TANF); State or local income assistance "General Assistance"; or Long-term institutionalization at government expense.
- Other public benefits are excluded from the public charge determination – examples include:
  - Food stamps, nutritional assistance, CHIP, Medicaid, public or assisted housing, educational grants and loans

Miguel and Lupe need eye exams, glasses, and regular health care check ups and when Clara was at the hospital she learned she was pregnant what are they eligible for in Maryland?

Lawfully Present Immigrants Can *Purchase* on Exchange Under Federal Law

- Qualified immigrants
  - VAWAs, T visa bona fide, T visas, refugees, asylees, LPRs
- SIJS applicant children
- Visa holders who have not violated the terms of their visas
- Parolees, Temporary protected status
- Deferred action (Continued Presence, U visa bona fide; DACA)
- Immigrants with pending applications for lawful permanent residency
- Asylum/Convention Against Torture applicants with work authorization
- Full list: Health Care Access for Lawfully Present Immigrants – Definitions (May 27, 2024) https://niwaplibrary.wcl.american.edu/pubs/lawfully-present-healthcare/

Benefits in Maryland - Health

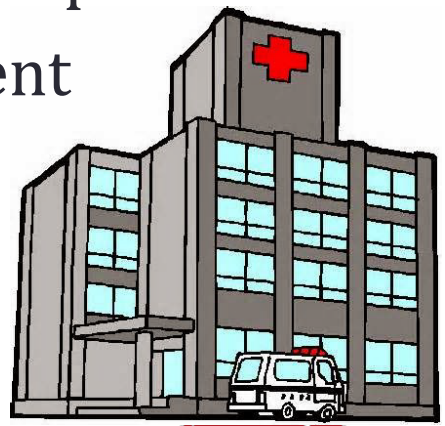
- **CHIP:** Until 21 – lawfully present children eligible for medical assistance
  - SIJS applicants, VAWAs (3 mons)
  - T visa bona fides (6 mos), U visa bona fide (3 yrs)
- **All pregnant persons with incomes up to 259% Federal poverty level –**
  - Prenatal care, full healthcare and 1 year post partum care
- **Adults Medicaid after 10/1/26:**
  - When granted lawful permanent residency (LPR) = T visa (3.9 yrs)
  - LPR + 5 yrs: VAWAs (9.5 yrs); SIJS (10 yrs); U visa (23+ yrs)
    - VAWAs and U visas if entered the US before 8/22/96 the wait to subsidized health care is 5 years less

Large Group Discussion

Where can immigrant survivors receive health care that is subsidized without regard to immigration status?

Emergency Medicaid

- Available only in cases where the person needs treatment for medical conditions with acute symptoms that could:
  - place the patient's health in serious jeopardy;
  - result in serious impairment of bodily functions; or
  - cause dysfunction of any bodily organ or part
  - Includes COVID-19 testing and treatment



Health Care Open to All Immigrants

- Community and migrant health clinics
  - www.nachc.com
  - www.hrsa.gov
  - Enter zip code
- State-funded programs
- Post-assault health care paid by VOCA
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid



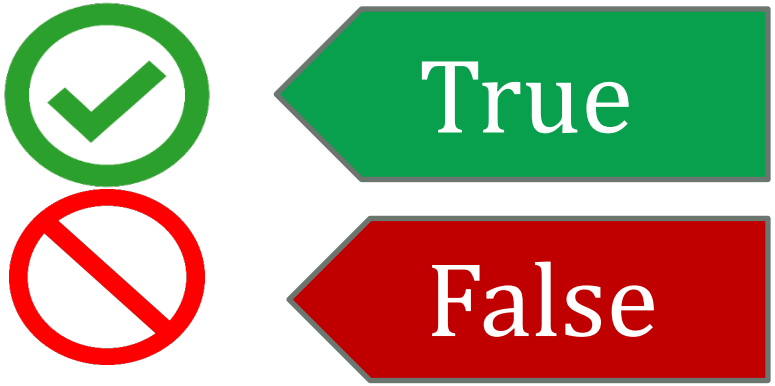
Federally Qualified Health Centers

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

When Clara has a U.S. born child how can she obtain public benefits for that child?

True or False?

Immigrants applying for benefits for their children can refuse to provide immigration or social security information about themselves.



When children qualify and their parents/guardians do not:

- If a child qualifies for benefits as a citizen or qualified immigrant
  - the benefits granting agency *may only ask questions* about the child's eligibility
- Although questions about income may be asked
  - *No questions may be asked* about the immigration status of the child's parent if the parent is not applying for additional benefits for themselves
  - Must provide accurate income information and keep it up to date. If not = fraud

Importance of Accompanying Immigrants in Applying for Public Benefits

- Help educate state benefits workers
- Accompanying immigrant applicants helps
  - Children and survivor get what they are legally entitled to access
    - Varies by state, immigration status, benefits program
  - Helps undocumented parents/guardians file for benefits for their eligible citizen and immigrant children
  - State welfare worker reporting requirements

Clara and Eduardo are living in a Section 8 housing unit what happens to the housing if Clara gets a protection order removing Eduardo from the home?

Multiple Choice:

Which of the following immigrants NOT eligible for Public and Assisted Housing?



A. Lawful permanent residents, refugees & asylum recipients

B. VAWA self-petitioners

C. U visa applicants/recipients

D. Bona Fide T visa

E. Continued Presence

Self-Petitioners and T Visa Victims Eligible for Public and Assisted Housing

- Trafficking victims
  - T Bonafide, T visas, OTIP child eligibility letters, Continued Presence
- Victims with VAWA self-petition filed
  - Children included in VAWA self-petition
- VAWA cancellation of removal and VAWA suspension of deportation applicants
  - Victims' children are not included in these applications
  - Will only appear in SAVE system if have work authorization
- Victims with approved I-130 visa petitions filed by their abusive spouse or parent
  - Children included in I-130 visa application filed for victim

Section 214 Eligible Immigrant Categories

- U.S. Citizens/U.S. Nationals
- Lawful Permanent Residents
- VAWA self-petitioners
- Refugees and Asylees
- Parolees
- Persons granted withholding of removal/deportation
- Victims of trafficking – Continued presence and T visa bona fide
- Persons granted admission for emergent or public interest reasons
- Persons granted amnesty under the Immigration Reform and Control Act of 1986
- Immigrants eligible for registry who entered the U.S. before June 30, 1948
- Lawful U.S. residents under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam
- Immigrants admitted for lawful temporary residence prior to January 1, 1982

Large Group Discussion

What has been your experience assisting VAWA self-petitioners and T visa applicants in accessing public and assisted housing?

SAVE Program

- The SAVE Program provides immigration status information to authorized agencies providing federally funded benefits
- VAWA confidentiality: DHS does not place victims into SAVE until they receive work authorization
  - VAWA cases require housing provider to "Institute Additional Verification"
  - DHS conducts this additional verification in a VAWA confidentiality compliant manner
  - HUD special verification process for: VAWA confidentiality protected to VAWA self-petitioners, VAWA cancellation, Battered Spouse Waiver, T visa, and abused spouse with approved I-130 visa applications

How Housing Providers Are to Complete DHS -SAVE System Online

1) Enter into SAVE the VAWA immigrant victim's:
   - Name + A# + Date of birth
2) System issues "Match" or "No Match" response
3) If "No Match" - Click "Institute Additional Verification" AND Enter in the note field either
   - "Verify VAWA Self-Petition" or "Verify I-130 Visa Petition" AND
   - Upload a copy of the victim's DHS document:
     - I-360 VAWA self-petition
     - I-130 Family-based visa petition
     - I-797 Notice of Action: Used for receipt notice, prima facie determination, and approval notice

Non-Work SSNs – HUD Housing VAWA Self-Petitioners & T Bona Fides

- HUD regulations require that public and assisted housing recipients provide a Social Security Number.
- VAWA self-petitioners and trafficking victims can request a non-work social security number from SSA.
- The victims' advocate or attorney should simultaneously request that the Public Housing Authority which received the victims' application for public or assisted housing issue a letter that the victim can request a non-work social security number from SSA.
- Obtaining Non-work Social Security Numbers Needed by VAWA Self-Petitioners to Maintain Public and Assisted Housing (2019)

Be Prepared to Advocate…

- For survivor and children remain in the unit when perpetrator is removed
- Based on a child's or survivor's legal status able to avoid proration and include the survivor as a qualified immigrant in the subsidy
- DHS or immigration judge (not HUD adjudicate battering or extreme cruelty
  - Exception: family petition (I-130) filed by abuser

What if Lupe and Miguel have special educational needs due to trauma or if Miguel wants to go to college?

Education – Miguel, Lupe, and Clara

- Elementary, secondary education, and Headstart including Individualized Education Programs (IEPs)
  - Same rules apply for all children no restrictions
- Federal post-secondary educational grants and loans
  - Eligible - Ts, CP, OTIP, VAWAs and lawful permanent residents (LPRs) (SIJS 5 yrs, U visa 23+ years)
- In-state tuition, scholarships, grants and loans at all Maryland public & private colleges and universities
  - If student graduated/GED MD high school &
  - 3 years of state taxes paid by parent/guardian/student

How does the form of immigration relief Clara and Miguel pursue affect their access to a driver's license or a state issued ID?

Driver's License – Miguel and Clara

- Federally recognized REAL ID driver's license or identification card
  - Eligible: Trafficking victims T visas, CP, OTIP, and Immigrants with Employment Authorization
    - T bona fide (6 mos)
    - VAWAs: USC abusers (3 mos); LPR abusers (43 mos)
    - SIJS – LPRs (4 years); U visa bona fide (35 mons)
- Maryland state issued driver's licenses
  - Without regard to immigration status if
    - Resided in Maryland 2 years and they or their parent filed 2 years income tax returns in Maryland

Access to Benefits and Services Grows as Children and Victims Pursue Legal Remedies



Children and Crime Victims Qualified to Receive Public Benefits— Common Examples

- Qualified Immigrants benefits eligible
  - Refugees/Asylees
  - VAWA self-petitioners
  - Trafficking victim with
    - Continued presence or
    - Bona fide determination in T visa case
    - OTIP letters
  - Lawful permanent residents (LPR)
    - SIJS and U visas must be LPRs
- Not generally benefits eligible some variation by state
  - Asylum applicants
  - DACA recipients
  - U visa applicants & recipients
  - Work/Student visa holders
  - Undocumented

Who are "Qualified Immigrants"?

- Lawful permanent residents
- Refugees and asylees
- Cuban/Haitian entrants
- Veterans
- Amerasians
- Trafficking victims filing for or with T visas
- Persons granted conditional entry
- Persons paroled into U.S. one year or more
- Persons granted withholding of deportation or cancellation of removal
- VAWA: Persons who (or whose children) have been battered or subject to extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent

Qualified Immigrant Access to Federal Public Benefits

- All qualified immigrants can access some federal public benefits
  - Which benefits they can access depends on:
    - Immigration status
    - When they entered the United States
    - Whether they meet heightened program requirements for some programs
    - What benefits are offered by the state

Partial List of Federal Public Benefits Open to All "Qualified Immigrants"

- Public and assisted housing
- Supportive housing for the elderly or disabled
- Post-secondary educational grants & loans
- Purchase health care on state/federal exchanges
- Receive payments for providing foster care
- Adoption assistance
- LIHEAP – heating, cooling energy assistance
- FEMA individual family grants and disaster unemployment
  - Beyond the emergency mass assistance

Public Benefits Eligibility by States

The Five-Year Bar

- Qualified immigrants, including battered immigrants who entered the U.S. after August 22, 1996 are ineligible for "federal means-tested public benefits" for the first five years of holding qualified status.
- Restricts access to federal means-tested public benefits:
  - TANF, TANF child care, Medicaid, CHIP, SNAP, SSI
- Certain immigrants are not subject to the five year bar e.g.:
  - Refugees,
  - Asylees
  - Amerasian immigrants
  - Cuban/Haitian entrants,
  - Immigrants granted withholding of deportation
  - Victims of severe forms of human trafficking
    - T visas, T bona fide, continued presence and OTIP letters

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

Food Stamps	• "Qualified Immigrants" who are lawful permanent residents (LPR) *and* either children OR adults who have met the 5-year bar
Medicaid and Child Health Insurance Program	• Children (CHIP): Eligible at LPR status • Adults (Medicaid): Qualified immigrant LPRs after 5-year bar
TANF	• 5 yr. bar if entered the U.S. after August 22, 1996
SSI	• LPRs only if 40 quarters/work credit + "qualified immigrant" status + 5-year bar (if entered after Aug. 22, 1996) • Refugee and Trafficking victim • Veteran and "qualified immigrant" spouses, children

State Option

- States have the option to provide state funded benefits to immigrants
  - During the 5 year bar and/or
  - Those who are abused
- Varies by state and type of benefit
  - Can be important to look up neighboring states
- Advocacy includes safety planning during the 5 year bar

Where can you look up what benefits and services immigrant children and their parents who are before the court qualify to receive?

State-By-State Public Benefits Maps, Charts, and Tables With Citations



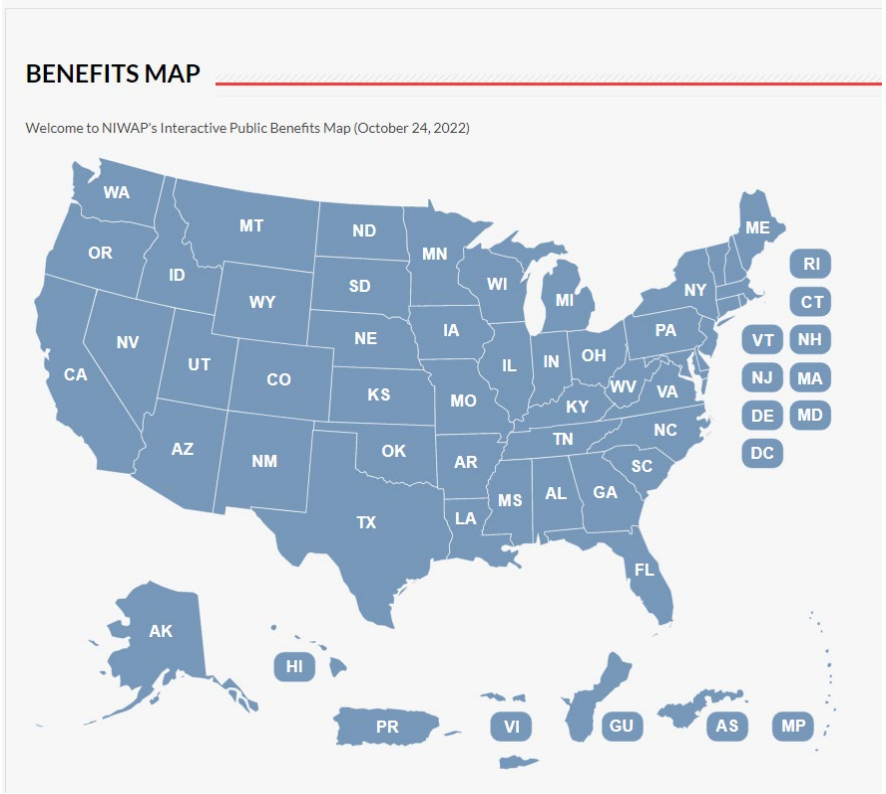
Interactive Public Benefits Map Demonstration

Hide fields | Filter | Group | Sort | ...

	Ben...	STATE & TERRITORY	Benefit Name	VAWA Self-Petitioner
1	309	Florida Public Benefits	Child Care - TANF Funded	Eligible for TANF funded child care if receiving TANF.
2	308	Florida Public Benefits	Child Care: Child Care Development Fund (CCDF)	Eligible for CCDF
3	310	Florida Public Benefits	Children's Health Insurance Program (CHIP)	Eligible up to age 19 upon prima facie determination. ...
4	311	Florida Public Benefits	Earned Income Tax Credits (EITC)	Eligible with conditions upon receipt of work ...
5	313	Florida Public Benefits	Emergency Medicaid	Eligible.
6	315	Florida Public Benefits	Family Medical Leave Act - State Law	No state law, federal law applies.
7	316	Florida Public Benefits	Federal Education Student Aid, Grants, and Loans	Eligible upon prima facie determination.

30 records um 13017

Airtable



https://niwaplibrary.wcl.american.edu/benefits-map

Maps by Benefit

- Cash Assistance (TANF)
- Child Care
- Children's Health Insurance Program
- Driver's License, IDs, & Professional Licenses
- Earned Income Tax Credit
- Emergency & Transitional Housing & Safety Programs
- Emergency Medicaid
- Family Medical Leave
- Federal Education Benefits
- FEMA Assistance & Restricted Programs
- Food Stamps
- Health Insurance Exchanges
- Income Tax Credits
- Legal Services
- Medicaid
- Prenatal Care
- State Education Benefits
- Supplemental Security Income
- VOCA
- Weatherization & Energy Assistance
- WIC
- Unemployment Insurance

Small Group Activity

Choose a state and navigate on the public benefits map to find what type of public benefits your client is eligible for.



- Groups 1:
  - Clara as a U visa recipient
- Groups 2:
  - Clara as a VAWA Self-petitioner
- Group 3:
  - Lupe as a Special Immigrant Juvenile Status recipient
- Group 4:
  - Miguel as a T-visa recipient

State Benefits Eligibility

- How can the benefits map help when
  - A victim or a child is considering moving to a new state; or
  - As trafficking victim ends up in a new state because
    - They ran away
    - Were moved by their trafficker

What to Bring with you to Advocate

- The law indicating the benefit (you can find it on NIWAP's Public Benefit Map)
- Check also https://www.benefits.gov/
- Documentation of income eligibility
  - See links by program on state screening charts
- Documents from DHS
  - For SAVE verification
  - If eligibility requires immigration status



Maryland Overview Slides

Benefits in Maryland Part 1

TANF and TANF funded Child Care:

- **No wait** for state-funded TANF: VAWA, T visa, T bona fide, OTIP, CP, SIJS applicants, asylees, refugees, DACA, U visa bona fide
- Child Care Development Fund: **No restrictions**

SSI

- **Eligible 1st 7 years**: T visas, OTIP, Continued Presence, Refugees, asylees
- **Wait times**: VAWAs (10 yrs); SIJS (14 yrs); U visa (31 yrs)

SNAP (Federal)

- **Children / Elderly / Disabled (LPRs):**
  - **Wait times**: VAWAs (4.5yrs), T visas (2.9 yrs), SIJS (5 yrs), U visa (21 yrs)
- **Adults LPR**
  - **Eligible:** T-visas, T bona-fide
  - **Wait times:** LPR + 40 quarters work credit (10 yrs); VAWAs (10.3 yrs); SIJS adults (15 yrs); U visa (33+ years)

Health Care in Maryland

Health Care Exchanges:

- **Eligible:** VAWA, T visa, T bona fide, *OTIP*, CP, asylee, refugees, U visa bona fide/waitlist, SIJS applicants

Health care for pregnant persons

- **Eligible for**: prenatal care, full-scope health care including 12 months post partum care - regardless of *immigration status*

Health Care for Children (up to 21) - CHIP:

- **Eligible:** VAWA s, T visa/T bona fide, U visa bona fide/waitlist, SIJS applicants , OTIP, CP, refugees, asylees
- Montgomery – Under 250% FLP *without regard to immigration status*
- Prince Georges – Under 300% FLP *without regard to immigration status*

Health care for non-pregnant adults:

- **Eligible** When LPRs without 5-year bar: T visa, T bona fide, *OTIP*, CP, asylee, refugees (VAWAs, LPRs, SIJS, Us = LPR & have 5-year bar *measured from qualified immigrant date*)
- Montgomery County – Under 259% FLP *without regard to immigration status*

Education

- **Post Secondary Educational Grants and Loans (Federal)**
  - **Eligible**: VAWAs, T visas, T bona fide, OTIP, CP, LPRs
- **Maryland in-state tuition, state financial aid, and scholarships**
  - **Available regardless of immigration status** if:
    - Graduated/GED MD High School, and
    - 3 years Maryland tax filings (student/parent/guardian, SSN or ITIN)

Drivers' licenses

- **REAL ID - federally recognized - Eligible at work authorization**
  - VAWA approved (LPR abusers), prima facie (USC abusers), T visa bona fide, T visas, CP, U visas bona fide, DACA, , SIJS –LPRs
- **MD State Driver's License**:
  - Requires Maryland residence + 2 years of Maryland tax returns filings

Family Medical Leave Act

- Effective July 1, 2026 – **No immigrant restrictions**

LIHEAP and Weatherization

- **Eligible:** VAWAs, refugees, asylees, T visa bona fide, T visas and LPRs (e.g. SIJS (5 yrs) and U visas (21+ yrs) if income eligible
- **Eligible:** Weatherization – no immigrant restrictions if at or under 200% poverty

NIWAP Web library

niwaplibrary.wcl.american.edu



Technical Assistance and Materials

- Slides and materials for this training at
  - https://niwaplibrary.wcl.american.edu/victimadvocatesmd2025/
  - **NIWAP Technical Assistance**
  - Call (202) 274-4457 | E-mail info@niwap.org
- Web Library: https://niwaplibrary.wcl.american.edu/
- **Evaluation**