Best Practices That Promote Safety and Holistic Assistance for Immigrant and Refugee Survivors

September 11, 2015

Seattle, Washington

Introductions

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Learning Objectives:

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

- Adopt lessons learned from rural programs into your practice
- Build relationships between immigrant community based victim advocates and justice system personnel
- Creatively overcome obstacles through innovation
- Work collaboratively to reform policies and practices and increase access to justice and services for immigrant survivors

What countries do immigrants in your jurisdiction come from and what language do they speak?



Washington Demographics (2013)*

- Total foreign born population – 943,664
- 13.5% of the state's 6.9 million people is foreign born
  - 46.3% naturalized citizens
  - ~30.5%^ legal permanent residents (2012 data)
  - ~22.1%^ undocumented or temporary visa holders (2012 data)
- 53.6% rise in immigrant population from 2000 to 2013
- High proportion of new immigrants
  - 28.5% entered in the 1990s
  - 41.6% entered 2000 or later
- 28.5% of children in the state under age 18 have one or more immigrant parents
  - 87% of these children are native-born U.S. citizens

^ The Department of Homeland Security no longer reports on lawful permanent resident or temporary visa holder statistics

*Source: http://www.migrationinformation.org/datahub/state.cfm?ID=WA (January 2015)

Washington – Countries/Regions of Origin (2013)*

- Asia – 41%
  - China/Taiwan (7.2%)
  - India (6.3%)
  - Vietnam (6.2%)
  - Philippines (6%)
  - Korea (5.6%)
- Latin America – 30.5%
  - Mexico (25%)
  - South America (2%)
  - El Salvador (0.8%)
- Europe – 16.2%
  - Eastern Europe (9.2%)
  - United Kingdom (2.3%)
  - Germany (2%)
- Africa – 5.9%
  - Eastern Africa (3.9%)
- Canada – 4.9%
- Oceania – 1.6%

*Source: http://www.migrationinformation.org/datahub/state.cfm?ID=WA (January 2015)

Working with Immigrant Survivors

Working Cross-culturally

- Offer help what ever the victim's decision making is:
  - Whether she is willing to prosecute
    - Can offer housing assistance
    - Counseling
    - Emergency Medical Care
    - Community Health Clinics
- or choose to return to abusers relief too
  - Immigration assistance
  - Help necessary to protect life and safety

Working Effectively Cross Culturally

- Ask open-ended questions
- Avoid using legal jargon
- Know Your Own Assumptions and Do Not Use Them
- Offer help to women who choose not to leave
- Allow an immigrant survivor to define:
  - what she needs
  - her fears
  - the barriers she must overcome to seek help
- **She will define these from within her own cultural context**
- **Make a list**

Work with Her Creatively to Address Each Need, Fear, Barrier Creatively Through:

- Education and Support
- Immigrant Rights & Women's Groups
- Her Community/Church Resources
- Victim Services
- Protection Orders
- Counseling
- Public Benefits, Social Services
- Her Own Resources

Keys to Success

- Be Creative
- Respond to Clients Needs
- Allow Battered Immigrant to Choose What She Needs
- Collaboration

DYNAMICS OF DOMESTIC VIOLENCE EXPERIENCED BY BATTERED IMMIGRANTS



Immigration Related Abuse

- Refusal to file immigration papers on spouse/child/parent's behalf
- Threats or taking steps to withdraw an immigration case filed on the survivor's behalf
  - Family or work based visas
- Forcing survivor to work with false documents
- Threats/attempts to have her deported
- Calls to DHS to turn her in – have her case denied

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**.
- 65% of immigrant survivors report some form of immigration related abuse (NIJ)

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

Sexual Assault Rates Among Immigrant Women

- High school aged immigrant girls
  - twice as likely to have suffered sexual assault as their non-immigrant peers
- Latina college students
  - experience the highest incidents of attempted rape compared to White, African American and Asian college students
- Immigrant girls are also at increased risk for recurring sexual assault
- Victimization of immigrant children also high
  - child sexual abuse

Immigration Related Abuse as a Lethality Factor

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

Risks of Removal for Victims

- Perpetrators actively reporting for removal victims with pending immigration cases
  - VAWA self-petitioners 38.3%
  - U visa victims 26.7%

Legal Immigration Status Options for Non-citizen Crime Victims and Children

- VAWA self-petition
  - Abused spouses/children of US citizens and lawful permanent residents
  - Abused parents of U.S. citizens over 21 years of age
- VAWA cancellation of removal
  - Abused spouses/children of US citizen and lawful permanent residents protection from deportation
- Battered spouse waiver
  - Abused spouses of US citizens with two-year conditional permanent residency
- Asylum
  - Well founded fear of persecution on account of race, religion, nationality, political opinion, social group
  - Domestic violence as gender based asylum
- U visa
  - Has been, is being or is likely to be helpful in the detection, investigation, prosecution, conviction or sentencing
  - Substantial harm from criminal activity
- T visa and Continued Presence
  - Victims of severe forms of human trafficking
- Special Immigrant Juvenile (SIJS)
  - Children abused, battered, abandoned or neglected by one or both parents
- Deferred Action (DACA)
  - Deferred action for child arrivals including Dreamers
- DHS Prosecutorial Discretion
  - "low priority" for removal immigrants -- survivors, witnesses, parents, children, elderly, disabled
  - Humanitarian detention release

Materials overview of remedies - http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/benefits

Department of Homeland Security's Roles

Homeland Security
Blue Campaign

- Protecting vulnerable crime victims and children
  - non-citizen crime victims
  - Children
    - SJIS – abused, abandoned, neglected
    - DACA
    - Children included in victim's applications
  - Adjudicating legal immigration status
    - Visas, lawful permanent residency, citizenship
- Remove undocumented immigrants from the U.S. who are high priorities for removal

DHS Priorities for Enforcement and Victim Protection: DHS Memos – Guidance

- DHS victim witness memo
- Humanitarian release
- 384 DHS computer system (VAWA, T visas, U visas)
- Memorandum on DHS detention priorities
- Protection for caretakers of children, elderly, disabled
- Parental interest directive
- *See Web library for –*
  - *Bench Card: DHS Enforcement Priorities Information for State Court Judges*
  - *DHS Victim Protection Resources and Guidance*

Enforcement prohibited locations



- 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, stalking
  - DHS –ICE New courthouse enforcement policies

Prohibition on disclosure:

- **Information about the existence of the case**
- **Any information contained in the case**
- **Action taken on the case by DHS**



NIWAP

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VAWA Confidentiality Violations

- Each violation sanctions against federal government officials
  - Disciplinary action and/or
  - $5,000 fine for the individual



- Dismissal of the immigration proceeding against the non-citizen

NIWAP

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DHS VAWA Confidentiality Computer System

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

Preventative Strategies

- File skeletal immigration applications
- Provide victims with proof of filed VAWA, T or U case
- Object to discovery of information contained in or about the immigration case in family court proceedings
- Have copies of DHS policies to advocate when violations happen

Relying on Information, Locational Prohibitions: Preventative Strategies

- Provide victims with proof of victimization
- Work with DHS and local law enforcement to screen for victimization
- Prevent and not pursue actions against victims
- Train personnel who work at prohibited locations
- File skeletal immigration applications
- Advise victim and everyone working with the victim about these protections…they may need to advocate on the spot
- Distribute copies of DHS policies
  - 384 Computer system
  - Pending applications

Safety Planning and Action Steps for Immigrant Survivor

- Tools
  - New safety planning flow chart
  - Immigrant victim brochure
- Documentation victim can carry with her
  - Evidence that immigration case has been filed
  - Civil protection order
- Understand and intervene early in child welfare system
- Victim must tell DHS enforcement officials that she has children

Safety Planning Challenges Related to Enhanced Immigration Enforcement

- Immigration screening as early as possible essential
  - Whether immigration case was previously filed
- Cannot assume by name or sight that victim is or is not an immigrant
- Changes in strategy – Immigration case filed before
  - CPO, family or criminal court case
  - Victim travels to new location
- Give client number of consular notification if she is detained – essential particularly if she has children

Early Victim Identification, Certification & VAWA/U-Visa Filing

- Cut off perpetrator's ability to trigger the victim's deportation
- Help victim secure
  - Protection from deportation
  - Release from detention
  - Swift adjudication of immigration case for victims detained or in immigration proceedings
  - Lawful Presence
- Provide victim security & support
  - Filing for immigration benefits required for VAWA self-petitioners to become qualified immigrants eligible for federal public benefits
- Victim can more safely cooperate in criminal case against perpetrator
- Set victim on path to legal work authorization

IMMIGRANT SURVIVOR WALKS THROUGH THE DOOR OF YOUR AGENCY

What is the risk level of the survivor being subjected to immigrant enforcement or immigration-related retaliation from the abuser?

HIGH

Is the survivor eligible for immigrant relief under either VAWA or the U-visa?

NO

Gather information/evidence of crime victimization that could be used to elicit favorable prosecutorial discretion on humanitarian grounds for the survivor, including the following factors:

- **Survivor of a crime (never called the police)**
- **Parent of USC children**
- **School children**[2,3]

File/Serve abuser with notice of a Civil Protection Order (and/or any other family court proceeding, if applicable) to deter abuser from committing further violence against survivor

Abuser attempts to get survivor removed from the U.S. by reporting the survivor to DHS

Victim's representative/ advocate/attorney provides evidence gathered for DHS + copies of DHS memos when DHS arrives[2,3]

DHS stops enforcement[2,4]

YES

File for immigrant relief through either VAWA or the U-visa

[Survivor's case is flagged in the VAWA 384 computer system to prevent immigration enforcement][1,2]

File/Serve abuser with notice of a Civil Protection Order (and/or any other family court proceeding, if applicable) to deter abuser from committing further violence against survivor

Abuser attempts to get survivor removed from the U.S. by reporting the survivor to DHS

DHS enforcement stopped because of 384 system (protection from deportation)

[Approved petition grants survivor work authorization]

LOW

File for a Civil Protection Order to deter abuser from committing further violence against survivor

Abuser attempts to get survivor removed from the U.S. by reporting the survivor to DHS

[Wait approximately 9 months – one year for **VAWA/U-Visa**]

Survivor is detained in immigration custody

Gather information/evidence of crime victimization that could be used to elicit favorable prosecutorial discretion on humanitarian grounds for the survivor, including the following factors:

- **Survivor of a crime (never called the police)**
- **Parent of USC children**
- **School children**[2,3]

Provide information for survivor to be released on humanitarian grounds, if eligible

IF APPROVED…

Survivor is released from detention.

Request a stay of removal with DHS-ICE to buy time to determine what other options are available to the survivor[4]

Determine that the survivor is eligible for U-visa or VAWA, file for immigration remedy and ask for expedited processing[4]

IF APPROVED…

Case against survivor is automatically dismissed even if U-visa or VAWA status has not been approved[2,4]

Immigrant Survivors' Legal Rights to Access Benefits

Immigrants and Benefits: True or False

1. Receiving public benefits can harm an immigrant victim's ability to obtain legal immigration status
2. Undocumented immigrant parents can apply for public benefits for immigrant children
3. Immigrants applying for benefits for their children can refuse to provide immigration or social security information about themselves
4. Undocumented victims and children can access transitional housing programs
5. Federally funded health care is available for undocumented immigrants
6. DHS requires universities to ask about immigration status of applicant or enrolling students

What types of services and assistance are open to all persons without regard to immigration status?

Access for All

Both documented and undocumented immigrant survivors can access:

- Legal Services
- Family Court (Divorce)
- Language Access
- Police Assistance
- Protection Orders
- Child Custody and Support
- Have Their Abusers Criminally Prosecuted
- Assistance for Crime Victims
- Shelter
- Transitional Housing
- Receive Emergency Medical Care
- Obtain Public Benefits for Their Children

Attorney General's List of Required Services



- In-kind services
- Provided at the community level
- Not based on the individuals income or resources
- Necessary to protect life and safety

Benefits Available to All Immigrants

- Crisis counseling and intervention
- Child and adult protection services
- Violence and abuse prevention
- Victim assistance
- Treatment of mental illness or substance abuse
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Short-term shelter or housing assistance for the homeless, victims of domestic violence, or for runaway, abused, or abandoned children
- Nutrition programs for those requiring special assistance



Undocumented Immigrant Survivors and Transitional Housing

- Shelter and transitional housing for up to two years
- Victims of domestic violence, child abuse, neglect or abandonment and persons at risk of homelessness
    - Includes sexual assault victims
- Support for application process
- Research report

Federal Benefits Available to ALL Immigrants



- Elementary and Secondary education
- School lunch and breakfast
- WIC
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid

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

Access to Benefits and Services Grow As Survivors Pursue Immigration Relief

- Filing immigration case leads to
  - Lawful presence
  - Continued presence/HHS certification or eligibility letter
  - State benefits access to some programs in some states
- Prima facie in VAWA , T visa bona fide; and approval of SIJS case leads to Qualified Immigrant Status
  - Federal public benefits
  - Federal Means tested public benefits (5 year bar)
  - State funded benefits
- Health care open to undocumented persons continues to be available to all

Immigration Options and Benefits Available

VAWA Self-Petition

- PRUCOL upon filing
- Prima facie = Qualified Immigrant
- Self-petitioner and children

Battered Spouse Waiver

- Qualified Immigrant
- Can avoid deeming

T Visa

- PRUCOL upon filing
- Benefits access like refugees (7 years) need HHS certification
- Qualified Immigrant with bona fide determination

Continued Presence

- Benefits access like refugees
- Need HHS certification

U Visa

- PRUCOL upon filing
- Lawfully present upon conditional approval

Family Based Visa Petition Approved + Battering or Extreme Cruelty

- Qualified Immigrant
- Not required to file for VAWA

Special Immigrant Juvenile

- Lawfully Present upon filing
- Qualified Immigrant upon approval and receipt of lawful permanent residency

Deferred Action for Childhood Arrival (DACA)

- PRUCOL upon filing
- No access to exchanges or subsidies

When children qualify and their parents 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
- 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

Best Practices: Immigrant Outcomes

Intertwined in the Responses to Violence Against Women in Rural and Urban Communities

Best Practices: Rural Advocates

- Advocate for women in their community
- Represent the experiences of survivors
- Hold systems accountable to public safety mission
- Develop political and community will
- Engage with project partners



Praxis helps rural advocates develop advocacy & leadership skills

Example: Rural Advocacy Initiated Response

- Law enforcement contacts advocacy program after a DV-related call
- Advocates, not victims, initiate contact
- More women receive post-arrest advocacy
- Advocates know more about what is happening – services, language access & immigration
- Advocates can better advocate for system reform



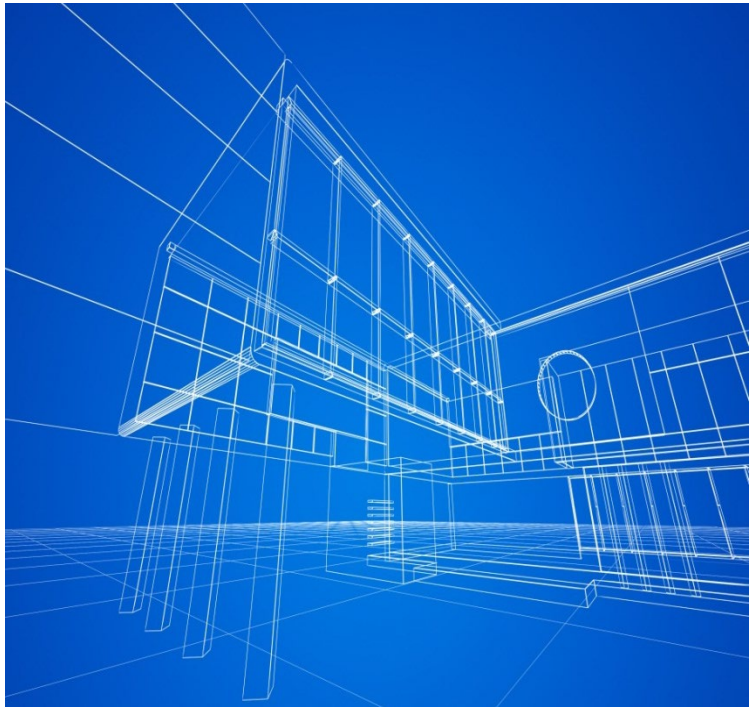
NIJ Funded Immigrant Victims and Protection Order Study Findings (2006)*

- With advocate support immigrant victims will use and benefit from justice system assistance
  - 60.9% of victims first learned about protection orders from their advocates
  - 81% got a protection order with help from advocate
  - 96% found them helpful
  - 68.3% of violations of immigrant victims' protection orders were ongoing immigration related threats and abuse

*Mary Ann Dutton, Nawal Ammar, Leslye Orloff, and Darcy Terrell, Use and Outcomes of Protection Orders By Battered Immigrant Women (November 10, 2006)

Coordinated Community Response (CCR)

- Implement replicable models
- Adopt best practices
- Boost role and profile of community-based advocacy
- Individualized support to CCR leaders
- Customized training and support for criminal justice system (CJS) partners



Praxis helps *rural* CCRs to implement best practices and model responses

Example: Patrol officers assess risk & danger

- Do you think he/she will seriously injure or kill you or your children? What makes you think so? What makes you think not?
- How frequently and seriously does he/she intimidate, threaten, or assault you? Is it changing? Getting worse? Better?
- Describe the time you were the most frightened or injured by him/her



Best Practice: Screen for Immigration Related Abuse

- Immigration Related Abuse as a Lethality Factor
  - 10 times higher in relationships with physical/sexual abuse as opposed to psychological abuse*
  - Lethality factor can predict abuse escalation
  - Corroborates existence of physical and sexual abuse

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

Immigration-Related Abuse Locks Immigrant Women in Abusive Relationships

- Keeps victims from:
  - Seeking help from advocates and attorneys
  - Getting protection orders
  - Calling police
  - Cooperating in prosecutions
- Affects victims who are documented and undocumented
- 65% of immigrant victims 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)

Small Group Activity

- List examples of immigration related abuse
- List the benefits of including identifying immigration related abuse as part of this assessment of risk and danger in a domestic violence case for
  - Law enforcement
  - Victim advocacy
  - Attorneys

Large Group Report Back

Best Practice: Advocacy Makes a Difference*

- Safety planning and advocacy work
  - Victims learned about protection orders
  - Advocates assessed lethality
    - Including immigration related abuse
    - Coercive control in the relationship
  - When there was a high risk of lethality, more immigrant victims sought orders
  - With this help, process was easier than women expected

*Nawal H. Ammar, Leslye E. Orloff, Mary Ann Dutton and Giselle A. Hass, Battered Immigrant Women in the United States and Protection Orders : An Exploratory Research (August 1, 2012)

Barrier: When Service Providers DO NOT Have Accurate Information About….

- Immigrant victims' legal rights to
  - Legal services
  - Life and safety programs including
    - Shelter, transitional housing, and victim services
  - Certain forms of health care
  - Language access
  - Immigration relief
  - Non-discrimination

Benefits to These Collaborations*

- Factors positively affecting LEP/immigrant victim's willingness to call the police:
  - To protect children
  - Severity of abuse
  - Learned from others in the community who received help
  - Safety planning/victim advocacy
  - Obtained a protection order that was violated

*Natalia Lee, Daniel J. Quinones, Nawal Ammar & Leslye E. Orloff, National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access (April 16,2013)

Impact Without Collaborations*

- When immigrant/LEP victim called for help, of law enforcement who responded:
  - 24.3% used the perpetrator or child to interpret
  - Spoke only with perpetrator in cases of
    - DV (10.7%); SA (8.1%); Trafficking (4.8%)
  - Did not take police report despite visible injury
    - DV (9.6%); SA (10.4); Trafficking (11.8%)

*Natalia Lee, Daniel J. Quinones, Nawal Ammar & Leslye E. Orloff, National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access (April 16,2013)

Research Findings: Benefits of Collaboration

- Collaborations between law enforcement and community based victim advocates improves
  - Language access
  - U visa certification
- Collaborations on
  - Cases (81.3%); Trainings (71.9%); Community Education (69.2%); SART (58.8%); CCR (57.9%); immigrant community outreach (51.5%)

*Natalia Lee, Daniel J. Quinones, Nawal Ammar & Leslye E. Orloff, National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access (April 16,2013)

Resources

- **U-Visa Legal Advocacy: Overview of Effective Policies and Practices** (December 12, 2013)
  - LAV grantee lessons learned successful collaborations with law enforcement
- **Immigrant and Limited English Proficient Victims' Access to the Criminal Justice System: The Importance of Collaboration** (2013)

NIJ Research Examining Effective Responses to Serving Immigrant Survivors Found

Rachael Rodriguez, 2007
(NIJ 1999-WT-VX-0011; 2000-WT-VX-0005)

- Rural CCR partnerships involving blend of
  - Community based victim advocates
  - Professionals with knowledge and expertise helping victims access the justice and other systems offering help
- Most effective model leading immigrant victims to receive justice system help

"Making Do" Seeding Innovation Best Practices: Characteristics of Effective Partnerships

- Involves advocates from the community
  - Authentic, develop from living realities of the community
  - Have/gain women's trust
  - Help others step forward
- Real relationships with systems personnel
  - Work together on cases/systems reforms
  - On first name basis
  - Communicate with each other regularly

Technical Assistance and Materials

- Power Point presentations and materials for this conference at www.niwap.org/go/NOLA2015
- **NIWAP Technical Assistance:**
  - Call (202) 274-4457
  - E-mail niwap@wcl.american.edu
- Web Library: www.niwaplibrary.wcl.american.edu

Questions



Evaluations



Thank you!

THIS PROJECT WAS SUPPORTED BY GRANT NO. 2013-TA-AX-K009 AWARDED BY THE OFFICE ON VIOLENCE AGAINST WOMEN, U.S. DEPARTMENT OF JUSTICE. THE OPINIONS, FINDINGS, CONCLUSIONS AND RECOMMENDATIONS EXPRESSED IN THIS PUBLICATION/PROGRAM/EXHIBITION ARE THOSE OF THE AUTHOR(S) AND DO NOT NECESSARILY REFLECT THE VIEWS OF THE DEPARTMENT OF JUSTICE, OFFICE ON VIOLENCE AGAINST WOMEN.