NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE of LAW

Beyond the Border: Misconceptions About Immigration Issues - Protections for Immigrant Victims of Crime and Abuse

Parallel Plenary
Institute on Violene, Abuse, and Trauma (IVAT)
San Diego, California
August 20, 2025

Faculty Introduction and NIWAP Resources

- **Leslye E. Orloff**, Adjunct Professor and Director, NIWAP, American University, Washington College of Law
- NIWAP Web library
  - Directory
  - Public Benefits Interactive Map & Demographics
  - Materials: Bench cards, toolkits, training tools, legal research, multi-lingual outreach materials
- Technical Assistance
  - Cases, policies, strategies
  - Email, phone, zoom
- Trainings and Webinars
  - On-line, virtual, in-person
  - Customized
- Communities of Practice
  - Victim advocates, family lawyers, National Judicial Network
  - Law enforcement/prosecutors



DEMOGRAPHICS


Where do foreign born survivors you work with come from?
World

United States (2022)*

- Total foreign-born population – 46,182,177
- 13.9% of the country's ~ 333,287,562 million people are foreign born
  - 53.1% naturalized citizens
  - 18.9% temporary visa holders or undocumented immigrants#
- 48.5% rise in immigrant population from 2000 to 2022

- Length of time immigrants have lived in the U.S.
  - 45.7% entered before 1999
  - 22.9% entered 2000 - 2009
  - 31.4% since 2010
- 25.7% of children under age 18 have one or more immigrant parents
  - 87.1% of these children are native-born U.S. citizens

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

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

- Latin America – 50.3%
  - Mexico (23.1%)
  - Caribbean (10.0%)
  - Other Central America (5.5%)
  - South America (8.6%)
- Asia – 31.1%
  - Southeastern Asia (9.3%)
  - China/Taiwan (6.1%)
  - India (6.1%)
  - Western Asia (2.6%)
- Europe – 10.7%
  - Eastern Europe (5.1%)
- Africa – 5.7%
  - Western Africa (2.3%)
- Canada – 1.8%
- Oceania – 0.6%

- Language spoken
  - 22.0% of people in the U.S. speak language other than English at home
  - 46.0% of foreign-born persons are LEP - speak English less than "very well"

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

Legal Immigration Protections For Immigrant Survivors and Their Children: Tools We Have Today

U.S. Legal Immigration Benefits for Noncitizen Victims of Crime and Abuse



Immigration Relief Available for Immigrant Victims of ---

- Domestic violence
  - -- Child/elder abuse
- Sexual assault
- Rape
- Incest
- Prostitution
- Torture
- Felonious assault
- Manslaughter
- Murder
- Female genital mutilation
- Hate Crimes
- False Imprisonment
- Kidnapping
- Abduction
- Unlawful criminal restraint
- Trafficking
- Involuntary servitude
- Slave trade
- Being held hostage
- Fraud Foreign Labor Contracting
- Peonage
- Blackmail
- Extortion
- Witness tampering
- Obstruction of justice
- Perjury
- Stalking
- Abusive sexual contact
- Sexual exploitation
- Video voyeurism
- Aggravated robbery
- **Parent perpetrated**
  - Child abuse, neglect, abandonment

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

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

Involuntary Servitude in Domestic Violence Relationships

3 USCSIS-PM B.2(B)(4)]

- "An expectation that the victim's life fulfills the orders of the trafficker (such as a demand from the trafficker to perform domestic labor at an unreasonable level, including unreasonable working hours, and constant availability to labor regardless of health or energy);
- Lack of control over the victim's own wages despite laboring under the trafficker's demands; or
- The imposition of unequal living arrangements as part of the campaign of force, fraud, and coercion (for example, unequal sleeping arrangements, living arrangements, or access to nourishment)."

VAWA Confidentiality 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 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 AND

Notice to Appear must state how they complied with VAWA confidentiality

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

VAWA Statutorily Protected Locations For Victims of Crime and Abuse

- 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



VAWA Confidentiality Violations



- Each violation
  - Disciplinary action and/or
  - $5,000 fine for the individual
- VAWA Confidentiality Implementation Guidance (1997, 2005, 2007, 2008, 2013, 2019, 2025)
- ICE required to:
  - Check for “384” flag before enforcement actions
  - Not rely upon perpetrator provided information
  - Obtain supervisor approval
  - Certify compliance to immigration judge
    - Violations can be basis for dismissal of removal action

New Tools That Help Protect Survivors

- Letters that advocates and attorneys can provide to victims
- Letters for law enforcement and prosecutors and their agency staff to provide to victims
- Letters that advocates and attorneys at protected locations can provide should they encounter ICE
- Letters that deter courthouse enforcement against victims



Learning From the Past - How We Helped Immigrant Victims Before VAWA – 1980's & 1990's

- Family Court
  - Civil protection orders
    - Enforcement through civil/criminal contempt
  - Custody, divorce, child support
  - Affidavits of support
- Shelters, rape crisis centers, victim services
- Collaboration with police and prosecutors
- Safety planning, empowering survivors, building upon their strengths
- Creative victim advocacy that met survivors intersecting and diverse 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/GEDs
- Immunizations, testing, treatment communicable diseases
- Emergency medical care

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)

Who are "Qualified Immigrants"?

- Trafficking victims with T visas or bona fide determinations
- 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
- Lawful permanent residents
- Refugees and asylees
- Cuban/Haitian entrants
- Veterans
- Amerasians
- Persons granted conditional entry
- Persons paroled into U.S. one year or more
- Persons granted withholding of deportation or cancellation of removal

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

- Public and assisted housing
- Post-secondary educational grants & loans
- Access to most subsidized childcare
- Receive payments for providing foster care
- Adoption assistance
- Low income and residential energy assistance programs
- Supportive housing for the elderly or disabled
- FEMA individual family grants and disaster unemployment
- Assistance to developmentally disabled
- Social services block grant programs

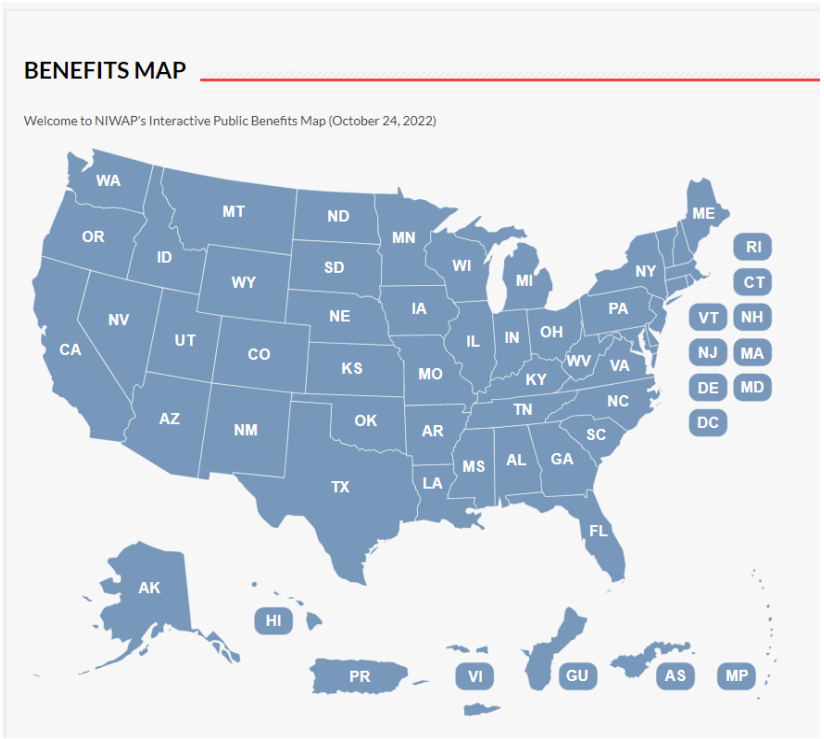
Interactive Public Benefits Map State-By-State

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 Download



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Benefits for Survivors

- Legal immigration status
- Financial independence from the perpetrator
  - Legal work authorization (6 months to 5 years from filing)
  - Issuance of federally recognized driver's licenses and IDs
  - Victims' increased eligibility for federal and state benefits & services
  - Affidavits of support enforcement
- VAWA confidentiality
  - Protection from removal

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 immigration 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 of abusers to use immigration to gain an advantage in family court

Economic Impact of Work Authorization

- 300% increase in jobs that pay at least minimum wage
- 542% increase in formal sector jobs that deduct taxes
- 43% security jobs with health insurance, sick leave, vacation pay & those working in the informal sector pay taxes using tax IDs
- At lawful permanent residency
  - 77% reduction in sexual assault or attempted sexual assault at work

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)

Improvements for Children

- 6.6 fold increase in victim's involvement in their children's schools
- Increases in victim's children
  - 101% being more socially active
  - 134% pursuing their own interests
- At lawful permanent residency
  - 65% improvement in children's grades
  - 125% decrease in disciplinary problems
  - 80% less aggressive

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)

How Crime Victim Based Immigration Relief Improves Victim and Community Safety

- Stories From the Field: The Crime Fighting Effectiveness of the U Visa (August 23, 2021)
- Enhancing Police Services in Immigrant Communities: The Successful Use of T and U Visas in San Francisco and Minneapolis (August 21, 2024)
  - International Association of Chiefs of Police, Police Chief Magazine

Technical Assistance and Materials

- Power Point presentations and materials for this training at
  - **https://niwaplibrary.wcl.american.edu/ivat2025**
- **NIWAP Technical Assistance**
  - Call (202) 274-4457
  - E-mail info@niwap.org
- Web Library:

https://niwaplibrary.wcl.american.edu/

