How to Provide Comprehensive Services to Immigrant Survivors in the Justice System

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March 31, 2016

Learning Objectives

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

- Screen immigrant survivor clients for immigration relief and create effective safety plans
- Facilitate access to public benefits that increase as victims move through the process of applying for immigration relief.
- Help immigrant victims win custody of their children and obtain protection orders that contain creative remedies that are effective in helping immigrant victims

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



Ohio Demographics (2013)*

- Total foreign born population – 477,337
- 4.1% of the state's 11.5 million people is foreign born
  - 51.2% naturalized citizens
  - ~33.2%^ legal permanent residents (2012 data)
  - ~15.6%^ undocumented or temporary visa holders (2012 data)
- 40.7% rise in immigrant population from 2000 to 2013
- High proportion of new immigrants
  - 22.1% entered in the 1990s
  - 47.1% entered 2000 or later
- 7.7% 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=OH January 2015)

Ohio – Countries/Regions of Origin (2013)*

- Asia – 40.1%
  - India (9.9%)
  - China/Taiwan (8.1%)
  - Korea (2.4%)
  - Lebanon (1.2%)
- Europe – 23.3%
  - Germany (3.6%)
  - United Kingdom (2.8%)
  - Italy (1.6%)
  - Eastern Europe (12.1%)
- Latin America – 20.2%
  - Mexico (10.7%)
  - Caribbean (2.5%)
  - El Salvador (0.8%)
- Africa – 12.5%
  - Eastern Africa (4.5%)
  - Western Africa (4.3%)
- Canada – 3.3%
- Oceania – 0.4%

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

DYNAMICS OF DOMESTIC VIOLENCE EXPERIENCED BY BATTERED IMMIGRANTS

Department of Homeland Security

- Insert DHS Video

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, 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

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
- Latina college students
  - experience the highest incidents of attempted rape compared to White, African American and Asian college students
- Victimization of immigrant children also high
  - child sexual abuse

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)

Risks of Removal for Victims

- Perpetrators actively reporting for removal victims with pending immigration cases
  - VAWA self-petitioners 38.3%
  - VAWA petitioners arrested at crime scene instead of the abuser 15.4%
  - U visa victims 26.7%
- Traffic stops
  - VAWA self-petitioners 28.6%
  - U visa victims 26.7%

Immigration Relief for Immigrant Crime Victims

Bi-Partisan Congressional Goals of Violence Against Women Act Immigration Protections

- Benefits to law enforcement and victims of language access and immigration relief
- Illustrative stories

How does attaining legal immigration status benefit survivors?

Benefits for Survivors

- Protection from deportation
- Enhanced safety for survivors
- Financial independence from perpetrator
- Legal work authorization (7-24 months of filing)
- VAWA confidentiality
- Temporary legal immigration status
- Protections for family members
- Greater ability to gain/maintain custody of her children
- Better access to survivor services, health care, and benefits

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

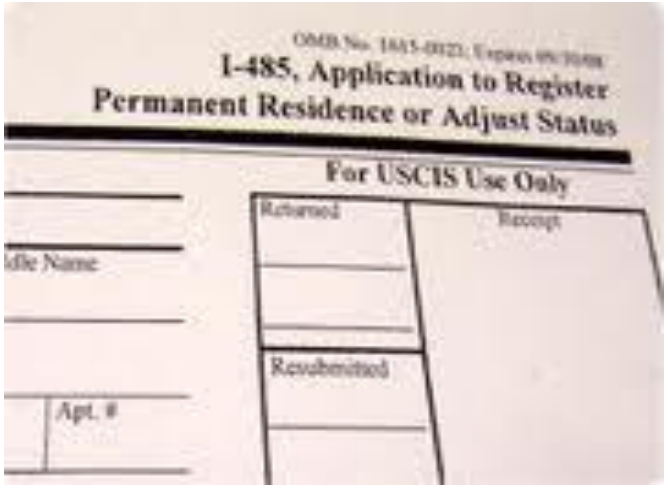
- VAWA self-petition
  - Abused spouses/children of US citizens and lawful permanent residents
  - Abused parents of U.S. citizens over 21 years of age
- VAWA cancellation of removal
  - Abused spouses/children of US citizen and lawful permanent residents protection from deportation
- Battered spouse 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

How many of your have worked with victims who qualified for immigration relief?

- VAWA
- U visa
- T visa
- SIJS
- DACA

VAWA SELF-PETITIONING



Battered Spouse Waivers
(VAWA 2005 defines as self-petitioners)

- For survivors with a 2 year conditional residency card
- Waives the joint filing requirement and two year wait for full lawful permanent residency
- Requires proof of
  - Good faith marriage to U.S. citizen or permanent resident *and*
  - Battered or subjected to extreme cruelty
    - To spouse, child, step-child
- Benefits access exclusion from deeming

General VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
  - spouse;
  - parent; or
  - adult son/daughter (over 21)
- With Whom Self-Petitioner Resided
  - No time period required
- Good Moral Character
- Good Faith Marriage

Battered spouses and children applying for VAWA get following protections

- Deportation: Protection from deportation shortly after filing.
- Immigration Benefits for Children:
  - VAWA self-petitioners' children receive immigration benefits
  - VAWA cancellation parole into US visa process required
- Public Benefits: As qualified immigrants (2-3 months)
  - Health care exchanges (no subsidies during 5 year bar; exception applies to pregnant women and children)
- Employment authorization: (currently ≈ 7 months)
- VAWA confidentiality: protections against the release of information and reliance on abuser provided information
- Lawful permanent residency
  - Citizen perpetrator apply upon approval (6 months to 1 year)
  - Lawful permanent resident perpetrator (≈ 1.5 to 2 years)

The U Visa For Immigrant Crime Victims

Crime Victim ("U") Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful
- 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

U Visa Basics

- Law enforcement certification is just one part of the overall process it does not = Citizenship
- Meant to promote reporting of crime
- Targets offenders who prey on most vulnerable victims
- Increases immigrant victim participation in criminal justice system

Qualifying Criminal Activity

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

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

U Visa Criminal Activities (11/2011 data)

- Domestic violence **45.9%**
- Rape, sexual assault, incest, trafficking **30.4%**
- Felonious assault, murder, manslaughter **9.9%**
- Kidnapping, being held hostage, unlawful criminal restraint, torture **8.47%**
- Blackmail, extortion, perjury, obstruction of justice, attempts, conspiracy, solicitation **5.3%**

NIWAP

DHS Terminology: Who Can Certify?

"law enforcement" **&*"law enforcement agencies"*** **=**

- Federal, state, and local
  - Police, sheriffs, FBI, HSI, ATF…
  - Prosecutors
  - Judges, Magistrates, Commissioners
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and Elder Abuse investigators and agencies
- Other government agencies

What the U-visa Certification Form Asks From a Certifier:

- What criminal activity occurred?
- Identify the victim
  - Include any findings regarding injuries
- Helpfulness of the victim
  - Current,
  - Past, OR
  - Willingness to be helpful
- Any family members implicated in the crime

Things to Know About Certifying

- "Do I believe this person was a victim of a qualifying crime?"
- "Did the person assist or willing to assist in detection, investigation, conviction, prosecution and/or sentencing?"
- Question is **NOT**:
  - Can we prosecute the crime?
  - Can I arrest the offender?
  - Do I have proof beyond a reasonable doubt?
  - Will the prosecutor's office file charges?
  - Is this within the statute of limitations?
  - Did we get a conviction?

U Visa Applicants and their Children get the following protections

- Deportation: Protection from deportation shortly after filing.
- Immigration Benefits for Children:
  - U visa victim's children receive immigration benefits
- Public Benefits:
  - Government funded help open to undocumented immigrants
  - Health care access (no subsidies) upon approval (≈ 20 months);
- Employment authorization:
  - Upon approval (≈ 20 months);
- VAWA confidentiality: protections against the release of information and reliance on abuser provided information
- Lawful permanent residency
  - Become lawfully present upon applying for lawful permanent residency
  - Can apply 3 years after receiving U visa, not all will qualify



- Human trafficking, domestic violence, sexual assault, other serious crimes
- Roll Call Videos
- U and T Visa Resource Guide
  - November 30, 2015

Deferred Action for Childhood Arrivals (DACA)

Temporary protections for immigrants who entered the U.S. as children (DACA)

- Came to the U.S. **under the age of sixteen**;
- Has **resided in the U.S. for a least five years, since June 15, 2007, up to the present time**;
- Is **physically present in the U.S. on June 12, 2012**;
- Is currently **in school**, has **graduated from high school** or GED, or is an **honorably discharged veteran** of the Coast Guard or Armed Forces of the U.S.;
- Has **not been convicted** of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- Is **not above the age of thirty-one (31) as of June 12, 2012**

The T Visa for Trafficking Victims

How many of you have worked with immigrants who were victims of human trafficking?

Human Trafficking

- Generally: use of force, fraud and/or coercion to exploit a person for profit.

- Federal statute: TVPA 2000
  - Labor and sex trafficking

- Every state now has their own Human Trafficking statute

T Visa Requirements

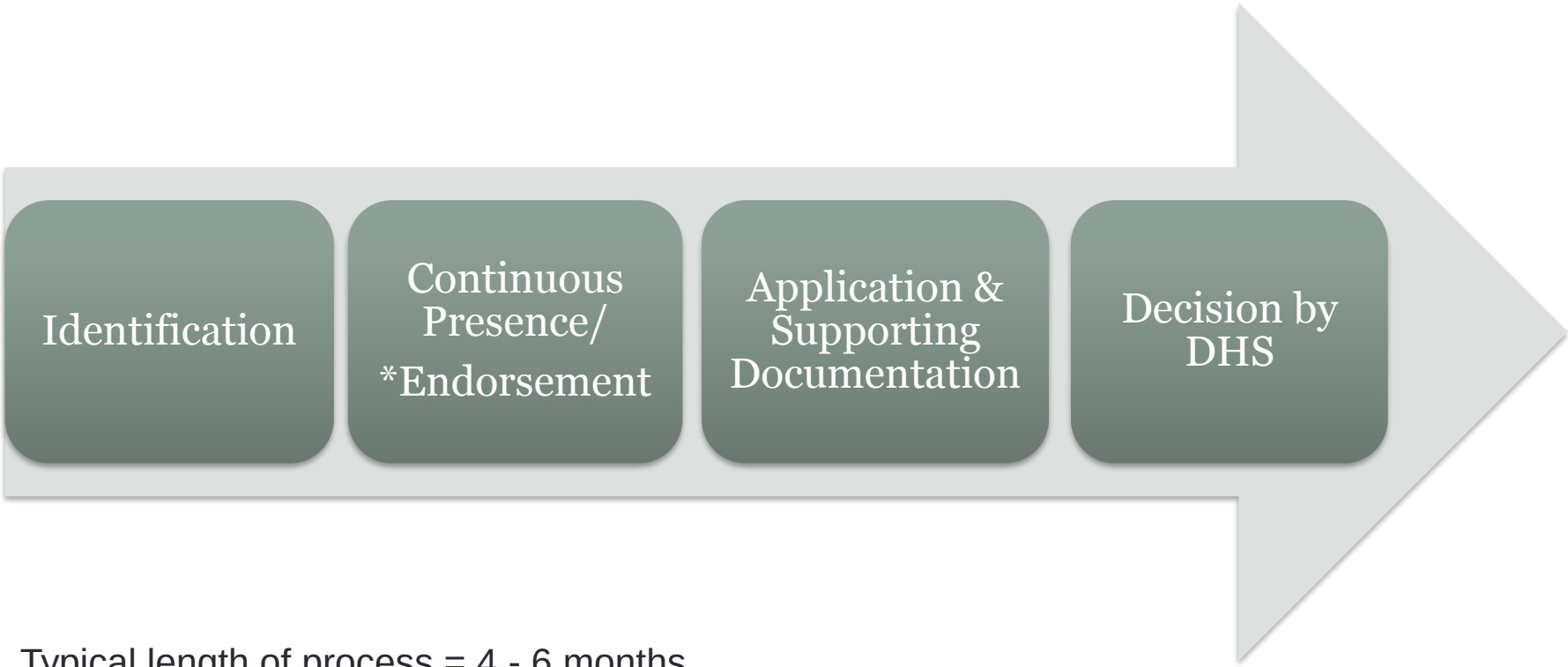
- Survivors of human trafficking who
- (1) Is or has been a victim of a severe form of human trafficking
  - End: trafficker obtains sex or labor
  - Adult victims must prove force, fraud or coercion
- (2) Are physically present in the United States on account of the trafficking,
- (3) Comply with any reasonable request for assistance with an investigation or prosecution, and
- (3) Would suffer extreme hardship involving unusual and severe harm upon removal from the United States

Human Trafficking Simplified

- Process:
  - Recruiting,
  - Transporting,
  - Obtaining,
  - Moving
- Means:
  - Force,
  - Fraud, or
  - Coercion
- End:
  - Labor or
  - Commercial Sex

Common Examples of Force, Fraud, or Coercion	
• Debt servitude • Surveillance • Physical barriers • Physical isolation from protections	• Psychological isolation • Threats to deport or contact law enforcement • Threats to safety

The T Visa Application Process



Typical length of process = 4 - 6 months

T Visa Applicants and Their Children get the following protections

- Deportation: Protection from deportation shortly after filing.
- Immigration Benefits for Children:
  - T visa victim's children receive immigration benefits
- Public Benefits: Same as refugees for first 7 years, then as qualified immigrants
  - Health care access to exchanges and subsidies
- Employment authorization:
  - Upon approval (4-6 months)
- VAWA confidentiality: protections against the release of information and reliance on abuser provided information
- Lawful permanent residency
  - Become lawfully present upon applying for lawful permanent residency
  - Can apply 3 years after receiving U visa

Where Might Trafficking Occur?

- Domestic Workers
- Nannies
- Massage Parlors, Nail Salons
- Commercial Sexual Activity
  - Prostitution; Pornography; Stripping
- Hotels & Restaurants
- Landscaping
- Construction
- Agriculture
- Drugs, Gangs

Benefits Access Comparison

U visa

- 20 month wait for:
  - Health care exchange access
    - No subsidies
  - Work authorization
  - Driver's license
  - All other benefits not available until 5 years after lawful permanent residency
- Get services necessary to protect life and safety

T visa

- 4 months wait for:
  - Health care subsidized
  - Work authorization
  - Drivers license
  - TANF
  - Food stamps
  - FAFSA
  - Public and assisted housing

SPECIAL IMMIGRANT JUVENILE STATUS (SIJS)

Overview Special Immigrant Juvenile Status (SJIS)

- Humanitarian protection that provides a path to lawful permanent residency
- Created by Congress in 1990 to help and protect foreign born children living in the United States
  - who have been abused, or abandoned, or neglected by at least one parent.

SIJS Requirements

- Must be under the jurisdiction of a "juvenile" court
  - Federal statute accepts applications up to 21 years old but the age of majority is 18 in most states
  - Must be unmarried
- Must have qualifying state court order that:
  - Places the child with an individual, entity, or agency; and
  - Makes three findings based on state law
    - That the child was abused, abandoned, or neglected by one or both parents;
    - That reunification with the abusive parent is not viable; and
    - That it is not in the child's best interest to be returned to the child's home country
- All as defined under state law

All of the Following are Potentially Eligible for SIJS

- A minor who is:
  - Abused, abandoned or neglected
    - In the U.S.
    - In the home country
  - Living with their
    - Non-abusive parent
    - Guardian
    - Adopted parent
    - State foster care
    - Federal foster care (ORR)

Court Order: Custody, Dependency, Placement

- Declaring the minor is dependent on the court*; ***OR***
- Placing the child in the care, custody or guardianship of:
  - An individual person;
    - Order should include in the name of the person and their relationship to the child
      - Parent, family member, friend, next friend, other
  - A state agency or department; OR
  - A private agency

**Statutory Amendment 2008, no longer requires the child is dependent on the state, the child may be placed with an individual including relatives.*

State Courts Regularly Make Custody & Care Determinations

- Who will be the custodian/guardian of the minor
- Who the minor will live with
- Who will receive child support for the child living with them
- Whether the minor will be committed to the custody of the state or private agency for care, treatment, or rehabilitation
- Issue orders directing the child's care
  - Child support, health care, applying for benefits or services for the child

Types of Proceedings With Jurisdiction To Make SIJS Findings:

- Dependency
- Delinquency
- Termination of parental rights
- Guardianship
- Paternity
- Child support
- Custody
- Custody Modification
- Divorce
- Legal Separation
- Motions for a declaratory judgment

Courts with jurisdiction under state law to make judicial determinations regarding the custody, placement, care of children = *juvenile courts* for SIJS immigration purposes

Immigrant Children Eligible for SIJS

- Case before the court involving care, placement, custody, dependency of a child:
  - Child without a U.S. birth certificate or lawful permanent residency
  - When there is evidence of abuse, abandonment, or neglect by one parent
  - Foreign born child may be SIJS eligible
- The state court order does **not** award SIJS
  - **ONLY DHS can provide legal immigration status**

Finding: Abused, Abandoned, OR Neglected by one OR Both Parents

- Finding must be based on the state court definition of abuse, abandonment, or neglect or similar basis under state law.
- States have multiple statutory definitions of these terms
  - Any state definition can be applied for SIJ purposes
- Qualifying activity may have happened in the US or in the child's home country
  - The state law definition should be applied to the facts
- DHS may not inquire about details of the abuse from youth applicant or contact abusive parents

What Children with SIJ Status Receive

- While case is pending
  - Protection from deportation and removal
  - As lawfully present children – health care exchanges (no subsidies)
  - Legal work authorization
  - Programs and services necessary to protect life and safety
- At approval
  - Lawful permanent residency
  - Eligible for citizenship after 5 years
  - Food stamps, Post secondary educational grants and loans, public and assisted housing

SIJ's may NEVER file family petition their natural parents

U Visa vs. SIJS

U Visa

- Cannot file for immigration relief for abusive parent
- Suffered substantial physical or mental abuse as a result of the victimization (Child abuse)
- No findings regarding viability of reunification
- Less family law implications
- Benefits: Limited includes Health Care

SIJS

- Cannot file for immigration relief for abusive parent
- Abuse, abandonment, neglect by family court
  - Can include extreme cruelty
- Requires finding that reunification not viable
- Greater family law implications
- Benefits: Same as lawful permanent resident

Immigration Status and Safety Planning

Department of Homeland Security's Roles

- Protecting vulnerable crime victims and children
  - Immigrant victims of domestic violence, sexual assault, and human trafficking
  - 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*

DHS VAWA Confidentiality Computer System

- Directs use of "red flag" "384" computer system to identify victim who have already filed for or have been granted victim-based immigration relief
- Reminds immigration enforcement officials and DHS attorneys about immigration law protections for
  - Victims of domestic violence
  - Crime victims
  - Human trafficking victims

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



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

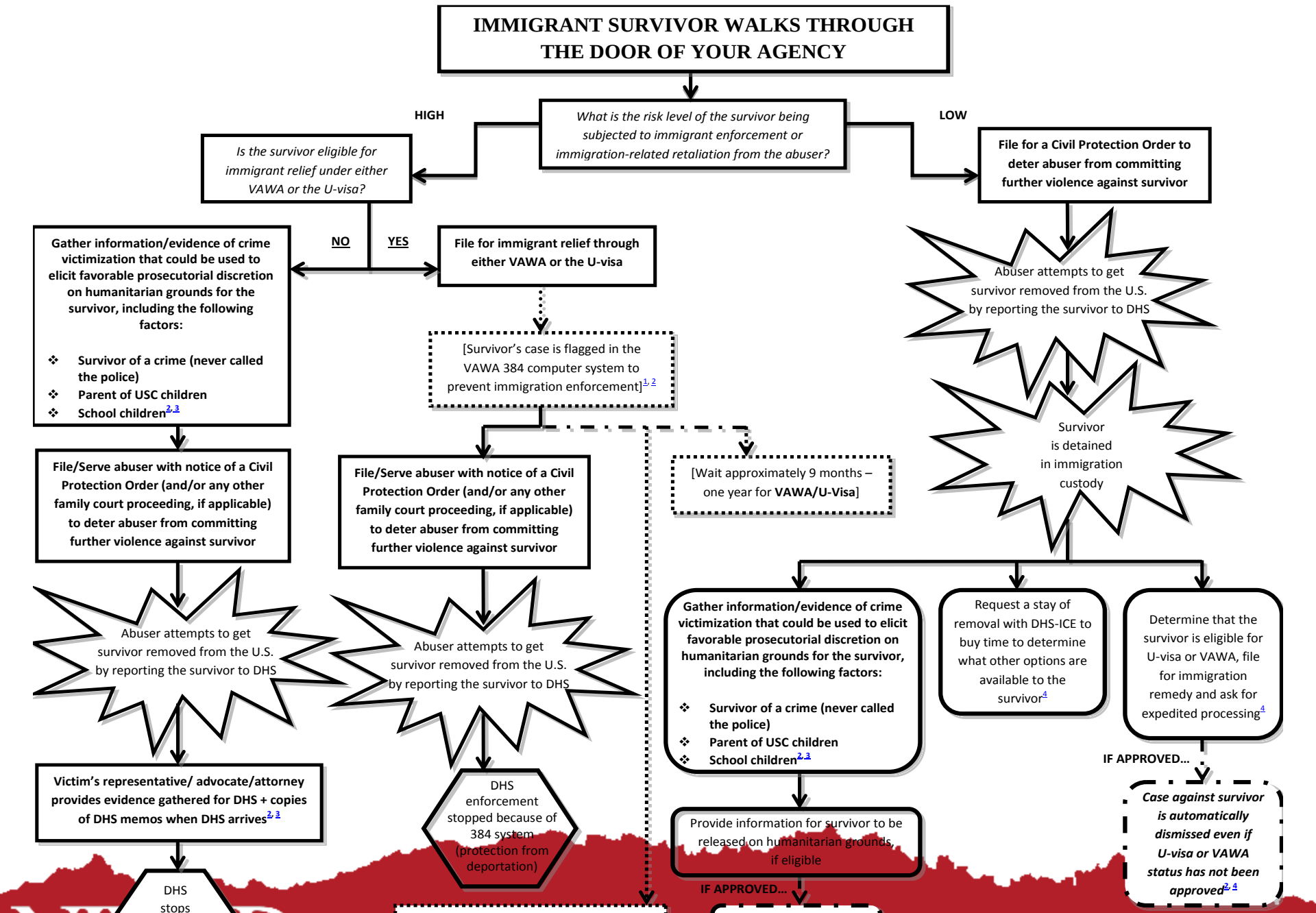
A New Era In Safety Planning With Immigrant Survivors

Quiz: What Helps Avoid Detention? True or False?

- Telling the immigration enforcement official the survivor has children
- Telling the immigration official she has an #A number in a domestic violence, sexual assault, stalking, or human trafficking related immigration case
- Obtaining a protection order before filing a victim based immigration case
- Telling the immigration enforcement officer the survivor has been a victim of domestic violence, sexual assault, stalking, human trafficking or workplace sexual harassment

Prevention & Safety = Filing Immigration Case Early

- Screen for VAWA, T and U visa eligibility
- File skeletal immigration applications early
  - Use trauma informed interviewing tool and request for further evidence process
- Best practice strategy – file immigration case before
  - Protection order, divorce, or custody case
  - Victim travels to a new location
- Teach clients to memorize "A" numbers of their VAWA, T, and U visa cases
- Train client to tell DHS officials they encounter about
  - Victimization and primary caretaker of children


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
LOW
Is the survivor eligible for immigrant relief under either VAWA or the U-visa?
NO
YES
File for a Civil Protection Order to deter abuser from committing further violence against survivor
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 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]
Abuser attempts to get survivor removed from the U.S. by reporting the survivor to DHS
Survivor is detained in immigration custody
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
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
[Wait approximately 9 months – one year for VAWA/U-Visa]
Abuser attempts to get survivor removed from the U.S. by reporting the survivor to DHS
Abuser attempts to get survivor removed from the U.S. by reporting the survivor to DHS
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]
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]
Victim's representative/ advocate/attorney provides evidence gathered for DHS + copies of DHS memos when DHS arrives[2,3]
DHS enforcement stopped because of 384 system (protection from deportation)
Provide information for survivor to be released on humanitarian grounds, if eligible
IF APPROVED...
DHS stops enforcement[2,4]
[Approved petition grants survivor work authorization]
Survivor is released from detention.

VAWA, T or U Visa Case Filing

- Cuts off perpetrator's ability to trigger the victim's deportation
- Helps victim secure
  - Protection from deportation
  - Release from detention
  - Swift adjudication of immigration case for victims detained or in immigration proceedings
- Provides victim security & support
- Victim can more safely cooperate in criminal case against perpetrator
- Sets victim on path to legal work authorization and access to health care exchanges

ACCESS TO BENEFITS AND SERVICES GROWS AS CHILDREN AND VICTIMS PURSUE IMMIGRATION RELIEF




FACT
OR
MYTH?



Undocumented immigrant survivors have access to services necessary to protect life and safety



national latin@ network
casa de esperanza

Undocumented Immigrant Victims Have Legal Right to Access Shelter and Transitional Housing



NIWAP
national latin@ network
casa de esperanza

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

Help Open to All Immigrants Without Regard to Immigration Status

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



Federal Benefits Available to ALL Immigrants



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



- Free Health Care through
  - Emergency Medicaid
  - VOCA
  - Community & Migrant Health Clinics

    www.hrsa.gov

    Enter zip code

- Not health care 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

Helping immigrants applying for federal or state funded public benefits

How might accompanying an immigrant victim applying for benefits help overcome these barriers?

Reporting Requirements Under Section 404 of PRWORA

- Requires certain government entities, 4x/yr, to notify DHS of any immigrant the entity "knows" is not lawfully present in the U.S.
  - SSI
  - TANF & Welfare-to-Work
  - Public Housing
  - HHS, SSA, DOL, HUD, DOJ
  - Food Stamps
  - Medicaid
    - NO mandatory reporting requirement

Reporting Requirement Bottom Line

- "Non-applicant" family members *immigrant family members who do are not seeking to receive benefits for themselves*
- Must not be required to disclose:
  - Proof of immigration/citizenship status; *or*
  - SSNs
- Federal requirements for benefits workers if they ask about immigration status or SSN of non-applicants

Immigrant Survivors' Legal Rights to Access Federal Funded Benefits

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

Federal Benefits Immigrant Restrictions

- Only programs that as a matter of law have immigrant restrictions are those categorized as:
  - "federal public benefits" or
  - "federal means-tested public benefits"

Only considered a Federal Public Benefit if:

- Payment made or assistance provided directly to:
  - An individual
  - A household
  - A family eligibility unit

Examples of "Federal Public Benefits"

- **US Agency Funded/Provided:**
  - Grants
  - Contracts
  - Loans
  - Professional or commercial licenses
    - Drivers licenses

- **Federally Funded Benefits for**
  - Retirement
  - Welfare
  - Health
  - Disability
  - Postsecondary education
  - Public or assisted housing
  - Food assistance or
  - Unemployment

Immigrant Benefits Classifications

- Citizens
- "Qualified Immigrants"
  - Entering U.S. before Aug. 22, 1996
  - Entering U.S. on or after Aug. 22, 1996 subject to 5 year bar on federal means tested public benefits (e.g. TANF, Medicaid, Child Care, SSI, Food Stamps)
  - Can access federal public benefits that are not means tested (e.g. public and assisted housing, FAFSA student grants/loans)
- Lawfully Present
  - Health care exchange access is provided
  - NO subsidies
- Undocumented Immigrants

Immigration Options and Benefits Available

VAWA self-petition

- Prima facie = Qualified Immigrant
- Self-petitioner and children

Battered spouse waiver

- Qualified Immigrant
- Can avoid deeming

T visa

- 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

- 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

- Qualified Immigrant upon approval and receipt of lawful permanent residency

Deferred Action for Childhood Arrival (DACA)

- No access to exchanges or subsidies under ACA
- No public benefits

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
- 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

How do *immigrant survivors* prove that they are "qualified immigrants"?

- Family-based immigration cases
  - Prima facie determination in VAWA self-petition or cancellation
  - Approved VAWA self-petition or VAWA suspension/cancellation
  - Approved visa petition filed by an abusive spouse or parent
- Trafficking victims
  - Prima facie determination in a T visa case
  - Approved T visa
  - Continued Presence
- Special Immigrant Juvenile Status
  - Upon receipt of lawful permanent residency status through SIJS

Additional requirements for a battered immigrant spouse or child to be a "qualified immigrant":

- The child's immigrant parent must not have actively participated in the battery or cruelty
- There must be a "substantial connection" between the battery or extreme cruelty and the need for the public benefit sought
- The battered immigrant or child no longer resides in the same household as the abuser.

"Substantial Connection" Exists When

- Access to benefits helps ensure the safety of the survivors, their children or a parent
- A survivor had to leave her job for safety reasons
- The survivor loses a dwelling or a source of income following separation
- The survivor needs medical attention or mental health counseling or has become disabled
- The survivor's fear of the abuser jeopardizes the survivor's ability to take care of her children

"Substantial Connection" Exists When Public Benefits Are Needed…

- To alleviate nutritional risk or need resulting from the abuse or following separation
- When the survivor has lost her job or earns less because
  - of the battery or cruelty or
  - because of involvement in legal proceedings
- To provide medical care during a pregnancy resulting from the relationship with the abuser
- To replace medical coverage or health care services lost following separation.

Survivors of Human Trafficking

- To be eligible for benefits, survivors of trafficking:
  - Must receive certification from the Office of Refugee Resettlement (ORR) that they are eligible for benefits as victims of trafficking; *Or*
  - Have received bona fide determinations in their T visa case making them qualified immigrants
- Benefits agencies must accept ORR certification letter in place of typical Immigration documentation
- Also eligible for refugee programs

VAWA 2013
Public Charge Exemption

- VAWA self-petitioners and U and T visa holders
- Can access public benefits and services with no impact on any future immigration case
- USCIS was accepting waivers to public charge for VAWA, U and T visas

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 child care
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Job opportunities for low income individuals
- Adoption assistance
- Foster care
- Social services block grant programs
- Supportive housing for the elderly or disabled

Education

- DHS does not require universities to ask about immigration status of applicant or enrolling students
- Immigrants eligible for student federal student loans
  - VAWA self-petitioners and their children
  - Permanent residents including SIJS
  - Trafficking victims
  - Refugees/asylees

Post secondary educational grants and loans

- Battered immigrant self-petitioners and their children are qualified immigrants eligible to receive DOE funded grants and loans
- Universities are to accept DHS/Immigration Judge
  - Documentation of VAWA self-petition/cancellation status
- On FAFSA check "eligible noncitizen" and provide "A" number
- Explains no-match with DOE/DHS computer system and
  - DOES NOT require verification
- DHS documents must be current at each time of re-application
- Students remain eligible after age of majority unless
  - VAWA case is denied

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

- **TANF**
  - 5 yr. bar if entered the U.S. after August 22, 1996
- **SSI**
  - Lawful permanent residents only if 40 quarters or work credit + "qualified immigrant" status and 5 year bar if entered the U.S. after August 22, 1996
  - Refugee
  - Trafficking victim
  - Veteran and "qualified immigrant" spouses, children
- **Food Stamps**
  - "Qualified Immigrants" 5 year bar post August 22, 1996 and children
- **Medicaid and Child Health Insurance Program**
  - Health Care reform opened up access to immigrants who are "lawfully present"

The Five Year Bar

- Due to 1996 welfare reform, qualified immigrants, including battered immigrant women, that enter the United States after August 22, 1996 are ineligible for "federal means-tested public benefits" for the first five years of holding qualified status.
- Certain immigrants are not subject to the five year bar including: refugees, persons granted asylum, Amerasian immigrants, Cuban/Haitian entrants, immigrants granted withholding of deportation and victims of trafficking.

Food Stamps

- Qualified immigrant children under 18 regardless of date of entry
- Qualified immigrants who receive a disability benefit, regardless of date of entry
- Qualified immigrants living in the US for five years

Immigrants and Health Care Reform

- Citizens and Legal Immigrants
  - Subject to individual mandate and tax penalties (unless low income)
- Lawfully present immigrants
  - May purchase from state insurance exchanges (no wait)
  - Eligible for tax credits & cost-sharing reductions (no wait)
  - Eligible for state's temporary high risk pools and basic health plans
  - 5 year bar to Medicaid for all post 8/22/96 entering qualified immigrants in Ohio

Immigrants and Health Care Reform

- Citizen or lawfully present children of undocumented immigrant parents
  - May purchase child-only coverage on state insurance exchanges
  - Are eligible for premium tax credits and reduced cost-sharing
  - May be eligible for Medicaid or CHIP

Access to the Exchanges for Lawfully Present Immigrant

- Lawfully present =
  - Lawful permanent residency
  - Approved visa petition + application for lawful permanent residency filed
  - Persons fleeing persecution (e.g. refugees, asylees, withholding, conditional entrants
  - Humanitarian immigrants (e.g. Cuban Haitian Entrants, TPS, DED, Deferred Action Status)
    - U visa conditional approvals
  - Parolees (lawfully present) if parole for 1yr + (also qualified immigrants)

Child Care: Immigrant Restrictions Depend on Funding source CCDF vs. TANF

Child Care Development Fund

- Only the citizenship/immigration status of the child considered (child is the primary beneficiary of the child care benefit)
- Open to "qualified immigrants" and victims of trafficking and their children
- CCDF child care open to all without immigration restrictions if
  - Subject to public educational or Head Start standards, or
  - Eligibility determined by a non-profit organization
- CCDF parents have the right to choose their child care provider, (e.g. relative, a family child care home, or child care center)
- Provider may be required to have an SSN
- State agencies *cannot require* an SSN from persons seeking CCDF-funded child care and cannot deny the benefit to families that do not provide an SSN (even if TANF funds included in CCDF)

Access to Housing for Immigrant Survivors of Domestic Violence and Sexual Assault

Qualified Battered Immigrant Eligibility for Public and Assisted Housing

- At least one eligible family member
  - Can be a citizen child
- Mixed Families
- Proration
- Advocacy required for qualified battered immigrant access

Battered Immigrants and Access to Public Housing

- 8 U.S.C. 1641(c)
- Battered immigrants
  - who establish prima facie cases
  - who have approved VAWA applications or family-based petitions
- Are "qualified immigrants" for the purposes of receiving federal public benefits, including Public and assisted housing

Federal Housing Programs

- Public Housing
- HUD subsidized
- Low Income Housing Tax Credit
- Housing Vouchers

What To Bring With You to Advocate

- 8 U.S.C. 1641(c)
- 2003 Budget Bill Report Language
- Letter from DHS to HUD 2007
- Public and Assisted Housing Advocacy memorandum
- Transitional Housing fact sheet

Social Security Numbers

- Are not required to apply for public housing
- Refusal to provide a social security number that has not been issued is not grounds for rejecting the application

State Funded Benefits in Ohio

- TANF & and TANF Funded Child Care
  - Only pre August 22, 1996 entrants
- Medicaid/SCHIP
  - Only pre August 22, 1996 entrants
  - Access to the health care exchanges under federal law – no subsidies
    - VAWA self-petitioners with prima facie determinations
    - Wait list approved U visa victims
    - SIJS children

State Funded Benefits in Ohio

- Driver's Licenses
  - Not available to undocumented immigrants
  - Available to immigrants with employment authorization
    - DACA, T visas, U wait list approval, VAWA approvals
  - Can provide USCIS documentation
- In-State Tuition
  - T visa holders
  - VAWA self-petitioners upon approval
    - Prima facie may not be enough to show permission for temporary residence
  - DACA may qualify as having the right to reside temporarily in the U.S.
  - U visas –extremely limited

T Visa and Continued Presence Trafficking Victims Get (OH):

- Before filing:
  - Health care open to undocumented immigrants
- Upon filing: protection from deportation
- Upon Bona Fide Determination
  - Work authorization, Driver's license, Ohio In-state tuition
  - Post secondary educational grants and loans (Federal)
  - Public and assisted housing (Federal)
  - Food stamps- SNAP (Federal)
  - TANF and TANF Funded child care (Federal)
  - Access to healthcare marketplace, no subsidies
  - LIHEAP (Federal)
  - SSI- only eligible during first 7 years after status is granted (Federal)

VAWA Self-Petitioners Get (OH):

- Before filing:
  - Health care open to undocumented immigrants
- Upon filing: protection from deportation
- Upon approval:
  - Work authorization
  - Ohio driver's license
  - Ohio in-state tuition
- Upon Prima Facie Determination
  - Post secondary educational grants and loans (Federal)
  - Public and assisted housing (Federal)
  - Health care exchanges (Ohio is on the federal marketplace) Children get food stamps- SNAP (Federal)
  - LIHEAP (Federal)

Importance of DACA in Ohio

- Victims who are DACA eligible
- Will potentially have most benefits access in Ohio
- Could have entered US prior to 8/22/1996
- Now in their 20s and are victims
- Could be VAWA self-petitioners eligible without a 5 year bar for
  - TANF
  - Subsidized health care

SIJS Get (OH):

- Before Filing
  - Healthcare open to undocumented immigrants
- Upon Filing
  - Protection from deportation
  - Work authorization (If they also file LPR application because they are not in removal proceedings)
    - Driver's licenses
    - In state tuition based on work authorization
- Upon Approval of SIJS
  - Health care exchanges – no subsidies
- Upon Approval of lawful permanent residency (LPR)
  - All benefits available to LPRs

U Visa Victims Get (OH):

- Before filing:
  - Health care open to undocumented immigrants
- Upon filing: protection from deportation
- Upon wait list approval
  - Work authorization
    - Driver's License
  - Health care exchanges – no subsidies
  - In-State tuition –
    - only if financially dependent on an Ohio Resident who is a citizen, permanent resident, asylee, refugee, or limited categories of visa holders

Issues That Arise for Immigrant Victims in Family Law Cases

Protection Orders and Immigrant Victims

Protection Orders and Immigration Status

- Issuance of a protection order has no effect on immigration status of the abuser
- Violation of a protection order is a deportable offense
  - Violations of " the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable"
  - Not custody and support provisions
- If a protection order is issued against a victim it can place her one-step away from deportation

Mutual Protection Orders and Protection Orders Issued Against Victims

- Typical Scenario
  - Police arrive at domestic violence incident, perpetrator speaks English, Perpetrator interprets for the police
  - Police see victims injuries but take no action and advise the parties about protection order
  - Perpetrator files for a protection order against the victim
  - Victim is served and then also seeks a protection order
  - Perpetrators seek such orders against immigrant victims as a tactic to undermine the victim's immigration case

Effect of protection order issued against immigrant victims

- Increases perpetrators power and coercive control because the victim is one step away from deportation
- Perpetrators who are successful in convincing courts to issue protection orders are often also successful obtaining findings that the victim violated the order
- This can pose serious safety concerns for victims
  - **A violation of a protection order is a deportable offense**

Creative Protection Order Remedies

- Catch all provisions included in all state statutes
- Offer any additional relief that may potentially
  - Curb future abuse, harassment
  - Interfere with abuser/perpetrators ability to exert power and/or 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

What Examples Have You Obtained of Creative Protection Order Provisions?

Suggestions for Court Orders that help VAWA applicants: Examples

- Turn over documents/evidence in abuser's control that she needs for her immigration case. E.g.,
  - Passports
  - Identification documents
  - Copies of documents from any immigration case filed on the victim's or the children's behalf
  - Love letters
  - Family photos

A protection order or discovery can help a victim obtain needed evidence:

- Marriage certificate
- Wedding/family pictures
- Birth certificates
- Love letters
- Copies of joint leases/utility bills
- Police, medical, court documents about the relationship,
- Copy of abuser's green card or passport

Protection order or discovery continued

- School records
- Medical records
- Employment records
- Social security number information
- Health insurance
- Children's birth certificates
- Letters and other mail addressed to the victim and to the abuser at the same address
- Copy of I-130 petition

Catch-all Provisions Preventing 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

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
- Bond

Important Economic Provisions

- Maintain medical, car, house insurance, mortgage, rent, utility and/or debt payments
- Child support and spousal support
- Injunctions against third party institutions not to respond to acts by the abuser that would harm her (banks, retirement funds, utility companies)
- Taxes
  - Turn over income tax statements
  - Victim named trustee for receipt of tax return funds, respondent ordered to sign check
  - Victim awarded exclusive right to claim children as tax exemptions
  - Respondent pays victim ½ of return

Custody of Children in Immigrant Families

Protecting Immigrant Mothers, Protects Children

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

Materials Immigrant Victims and Custody Bench Card -http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/family-law

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



Best Interests and Immigration

- Not factors:
  - Immigration status
  - English language proficiency
- Laws discouraging no award of custody to abuser apply equally to immigrant victims
- Immigration information distracts the judge from best interest factors in the statute
- Immigrant victims in custody cases will qualify for
  - VAWA, U visa
  - DHS victim/witness protections
  - Humanitarian Release

ABA Center on Children & The Law

- "Parties should not be able to raise, and courts should not consider, immigration status of domestic violence victims and their children in civil protection order, custody, divorce or child support proceedings."
- "Batterers whose victims are immigrant parents use threats of deportation to avoid criminal prosecution for battering and to shift the focus of family court proceedings away from their violent acts…When the judicial system condones these tactics, children suffer."
- "This … will ensure that children of immigrant domestic violence victims will benefit from …laws (like presumptions against awarding custody or unsupervised visitation to batterers) in the same manner as all other children."

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

Myth vs. Fact: Parents Without Legal Immigration Status

Myth

1. Deportation is imminent
2. Parent is likely to flee U.S. with child
3. The parent has no livelihood
4. Legally present parent must have custody in order to file for benefits for child

Fact

1. DHS policies prevent detention/removal of immigrant parents who are:
   - Parents of U.S. citizen/Lawful permanent resident children
   - Primary caretaker parents of minor children without regard to the child's immigration status
2. Legal immigrants/naturalized citizens 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. Abused immigrant parents in family court have a path to immigration relief , work authorization & some benefits
4. Custody does not affect parent's ability to file for or gain immigration benefits for their children.

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How Immigrant Parents End Up In Department of Homeland Security Custody

- Abusers/crime perpetrators/employers report them
  - VAWA self-petitions 38.3%; U visas 26.7%
- Traffic stops
  - VAWA self-petitions 28.6%; U visas 30.1%
- Immigration enforcement at the worksite
- CPS, welfare workers, health care providers, others
- Victims call the police for help and police
  - Make a dual arrest;
  - Fail to obtain qualified interpreter and arrest the victim
  - Under Secure Communities program all arrested persons reported to DHS

Parental Interest Directive Aug 2013

- If parents are detained:
  - Placement near children and family court
  - Bring parents to family court to participate in cases involving children
  - Facilitate visitation
  - Help children travel with deported parent – obtain passports for children
  - Bring deported parents back to the US for custody and parental rights cases

BEST PRACTICES: COLLABORATIONS THAT IMPROVE IMMIGRANT OUTCOMES

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)

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

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)

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

Best Practices: Rural Advocates

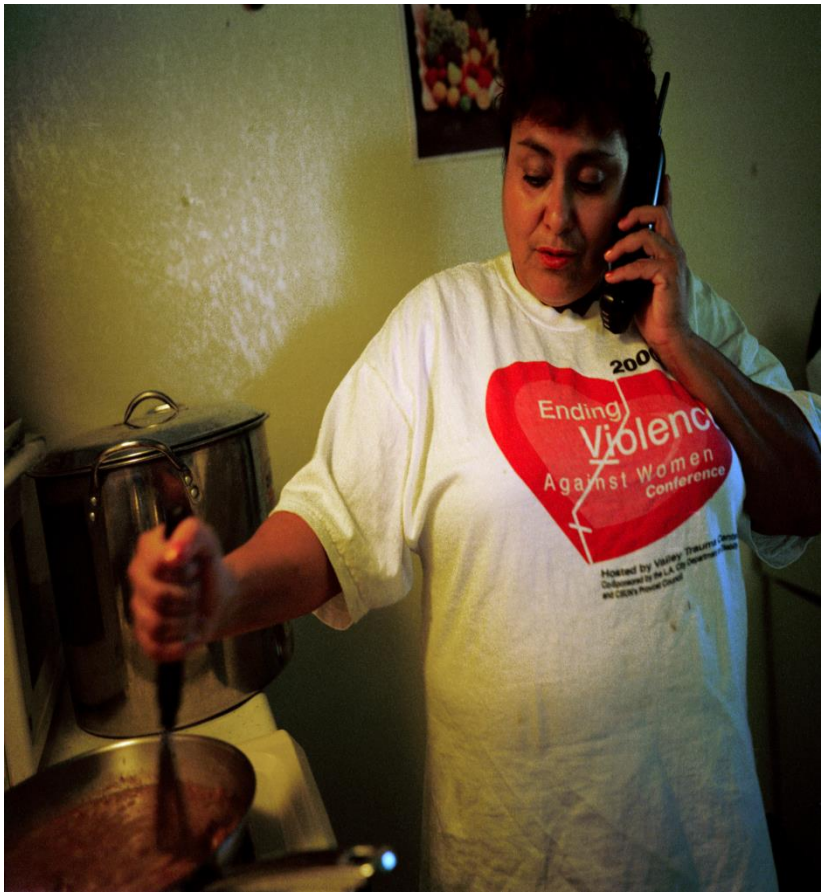
- Advocate for women in their community
- Represent the experiences of survivors
- Hold systems accountable to public safety mission
- Develop political and community will
- Engage with project partners
- Creative advocacy "Making do"



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 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

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)

NIWAP



Immigrant Victims in the Justice System -Raquel

NIWAP

CIVIL PROTECTION ORDER SYSTEM



Civil Court hearing including creative orders for immigrants

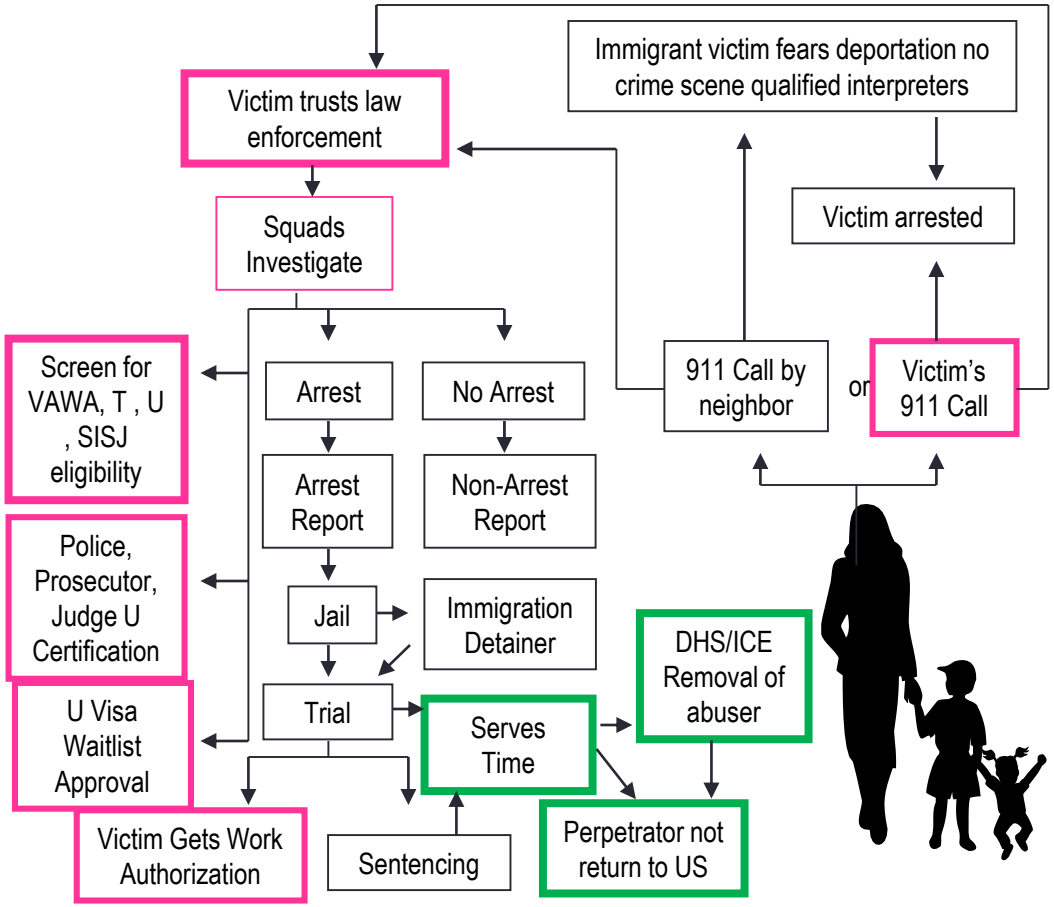
- DHS shows up at court
- Abuser introduces immigration status to prevent protection order
- Court denies discovery of immigration case file
- CPO Granted
- U Visa certification signed

Sheriff Serves Respondent

Files CPO

- Must get notice in native language (LEP)
- Temporary/ Permanent

NIWAP



CRIMINAL JUSTICE SYSTEM:

DOMESTIC VIOLENCE/ ARREST INCIDENT

NIWAP

FAMILY COURT SYSTEM



Files for Divorce

DHS shows up in court

Family Court Hearing

Abuser is served and calls DHS on victim

Temporary Custody

Custody Evaluation

Victim's case gets VAWA protection from removal

Abuser raises immigration status as a factor in custody.

Custody Hearing, including issues of parental kidnapping and immigration related abuse

Reunification case plan

Reunified

Immigration considerations detention?

Termination of parental rights

Child Protective System Case

Home evaluation/ cultural competency issues

Custody Awarded

Supervised Exchange/Visitation, money required

Final Divorce Hearing

Child Support Established

Abuser Removed

Abuser undocumented, court imputes income orders wage withholding – collection issues

PUBLIC BENEFITS SYSTEM MAP



Immigrant victim seeks to benefit without help

Denied

Advocate helps with Immigration Relief

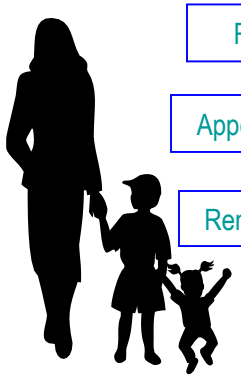
Receives Benefits Child and/or Self

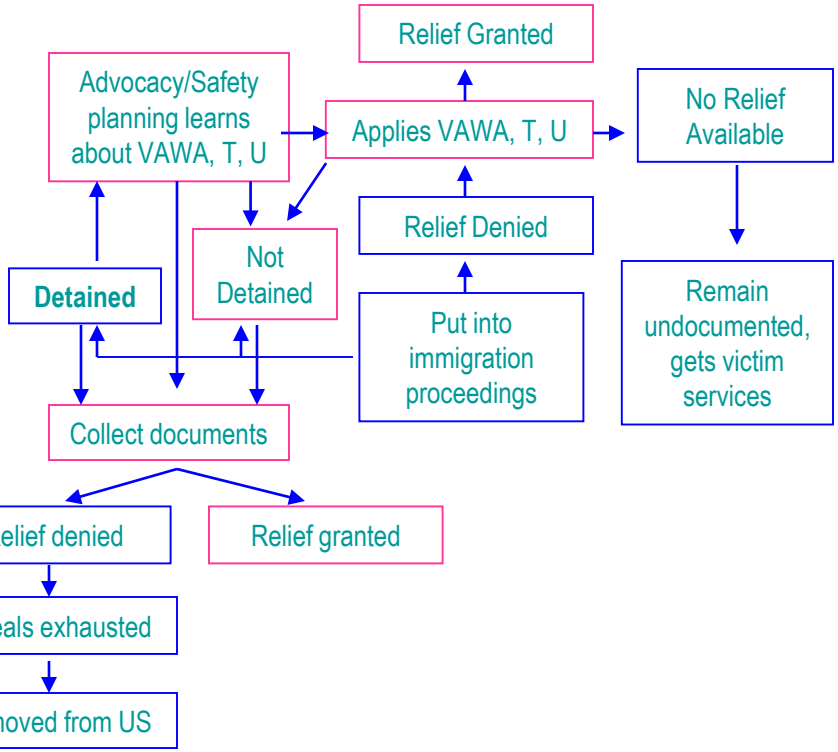
No Benefit

Reported to DHS Children taken away

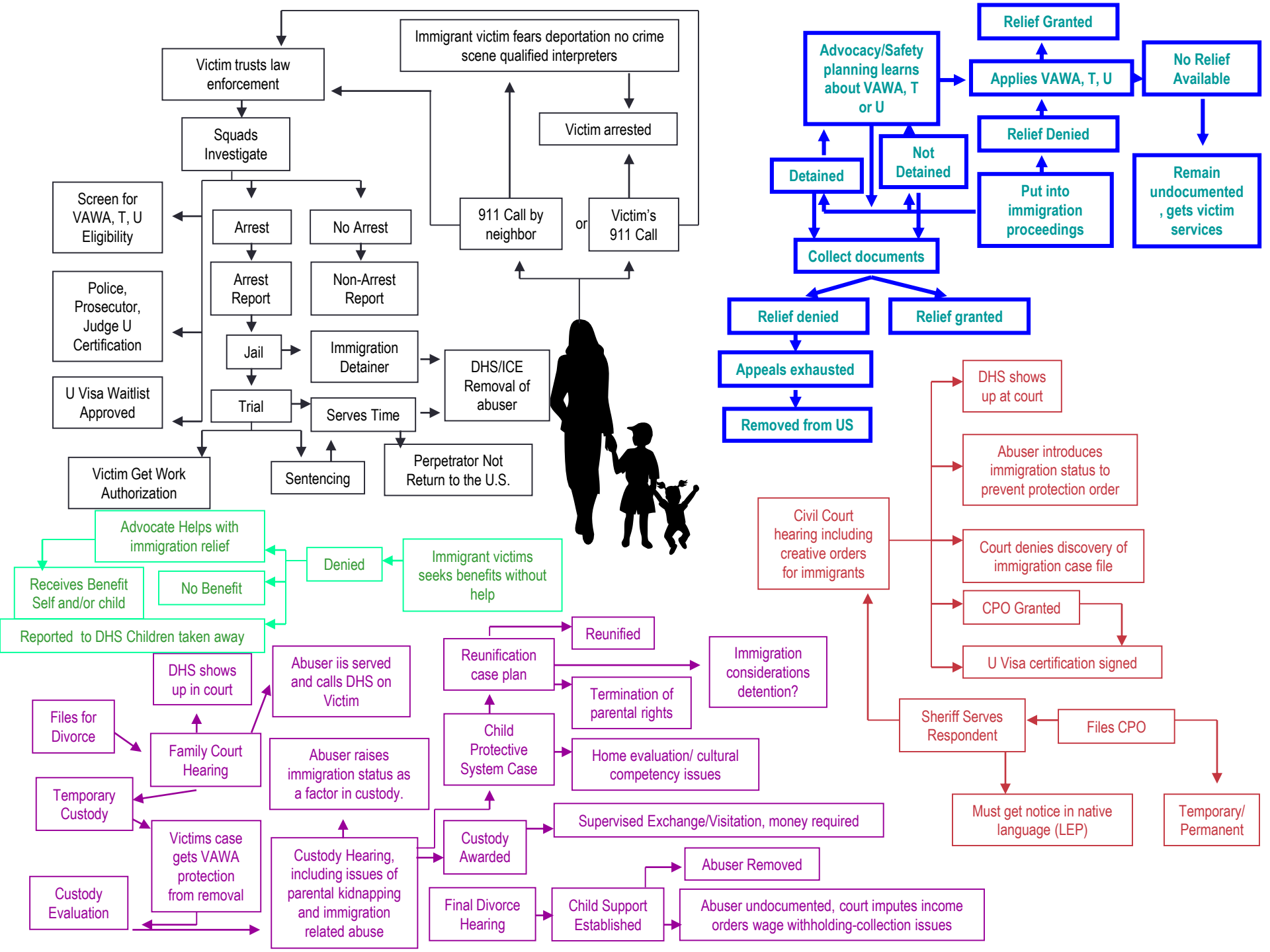
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IMMIGRATION SYSTEM MAP





NIWAP


Immigrant victim fears deportation no crime scene qualified interpreters
Victim trusts law enforcement
Victim arrested
Squads Investigate
Screen for VAWA, T, U Eligibility
Arrest
No Arrest
911 Call by neighbor
or
Victim's 911 Call
Police, Prosecutor, Judge U Certification
Arrest Report
Non-Arrest Report
Jail
Immigration Detainer
DHS/ICE Removal of abuser
U Visa Waitlist Approved
Trial
Serves Time
Victim Get Work Authorization
Sentencing
Perpetrator Not Return to the U.S.
Advocate Helps with immigration relief
Denied
Immigrant victims seeks benefits without help
Receives Benefit Self and/or child
No Benefit
Reported to DHS Children taken away
DHS shows up in court
Abuser iis served and calls DHS on Victim
Files for Divorce
Family Court Hearing
Abuser raises immigration status as a factor in custody.
Temporary Custody
Victims case gets VAWA protection from removal
Custody Evaluation
Custody Hearing, including issues of parental kidnapping and immigration related abuse
Reunification case plan
Reunified
Termination of parental rights
Immigration considerations detention?
Child Protective System Case
Home evaluation/ cultural competency issues
Custody Awarded
Supervised Exchange/Visitation, money required
Final Divorce Hearing
Child Support Established
Abuser Removed
Abuser undocumented, court imputes income orders wage withholding-collection issues
Advocacy/Safety planning learns about VAWA, T or U
Applies VAWA, T, U
Relief Granted
No Relief Available
Relief Denied
Remain undocumented , gets victim services
Detained
Not Detained
Put into immigration proceedings
Collect documents
Relief denied
Relief granted
Appeals exhausted
Removed from US
Civil Court hearing including creative orders for immigrants
DHS shows up at court
Abuser introduces immigration status to prevent protection order
Court denies discovery of immigration case file
CPO Granted
U Visa certification signed
Sheriff Serves Respondent
Files CPO
Must get notice in native language (LEP)
Temporary/ Permanent

Technical Assistance and Materials

- Power Point presentations and materials for this conference at www.niwap.org/go/Ohio2016
- **NIWAP Technical Assistance:**
  - Call (202) 274-4457
  - E-mail info@niwap.org

- Web Library: www.niwaplibrary.wcl.american.edu

Questions



Evaluations



Thank you!