AMERICAN UNIVERSITY
WASHINGTON COLLEGE of LAW
WASHINGTON, DC

NIWAP

Community of Practice for Family Law Attorneys Representing Immigrant Survivors

Safely Accompanying Immigrant Survivors to Court Consistent with VAWA Confidentiality Statutes and Current ICE Policies

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The following slides are intended to be a guide to lead our discussion on this topic and to provide substantive material for your future reference.



VAWA Confidentiality's Protections for Immigrant Survivors: What You Need to Know About Courthouse Protections

VAWA Confidentiality Three Prongs

(8 U.S.C. §1367; 8 U.S.C. §1229(e))

Non- Disclosure

Protects victims who have filed a protected case with DHS

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

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 OR

Notice to Appear must state how they complied with VAWA confidentiality

VAWA Sensitive Location Prohibitions

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



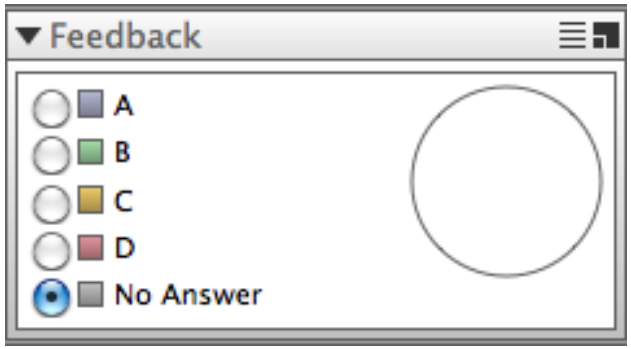
Key Violence Against Women Act (VAWA) Statutes

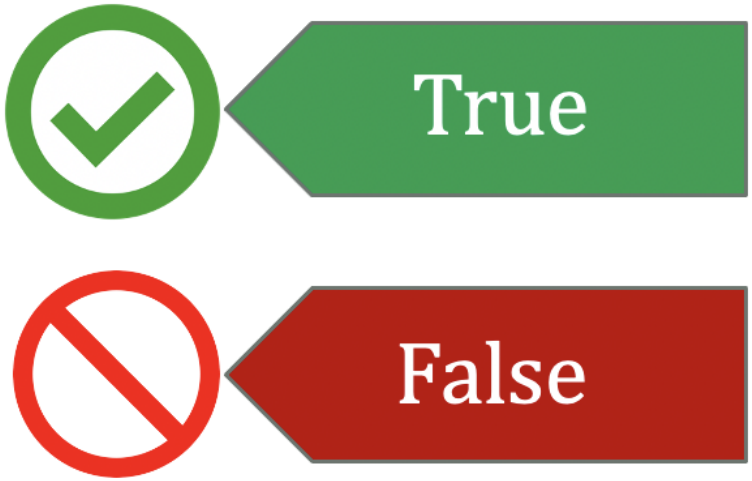
- 35 U.S.C. §12291 – Full VAWA
  - (a) definitions
  - (b) grant conditions including
    - VAWA confidentiality protections applicable to all grantees
- 8 U.S.C. §1367
  - VAWA confidentiality immigration
- 8 U.S.C. §1229(e) – INA 239(e)
  - VAWA confidentiality protected locations

Poll : True or False?

- Courthouses are protected locations for immigrant victims?

A. True
B. False





Key 2025 Policies

- Enforcement at Protected Areas (Jan. 20, 2025) & Courthouse Enforcement (Jan. 2025) Policies
  - Sensitive location policies cancelled
  - *Require supervisor approval for courthouse enforcement in family, protection order and noncriminal cases and courthouses*
- Interim guidance on Victims 11005.4 Jan. 31, 2025
  - Revoked 2011 and 2021 Policies
  - *Required ongoing adherence to VAWA confidentiality statutes and implementing policies*

Are Courthouses Protected Locations? 8 U.S.C. Sec.1229(e)(2)(B) – INA 239(e)

- Generally prohibits immigration enforcement at Courthouses **against victims**:
  - "(B) At a courthouse (or in connection with that appearance of the alien at a courthouse) if the alien is appearing in connection with a protection order case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subject to extreme cruelty or if the alien is described in subparagraph (T) or (U) of section 101(a)(15) [8 USCS § 1101(a)(15)]."

VAWA Confidentiality Statutes Govern Immigration Enforcement Against Victims – At Courthouses

- 8 U.S.C. §1229(e) -Requires ICE certification re: non-reliance on perpetrator provided information
- 8 U.S.C. §1367(c) imposes disciplinary action and fines for violation
- DHS VAWA Confidentiality Implementation - Instruction 002-02-001, Implementation of Section 1367 Information Provisions (May 28, 2019) https://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001/ (cited as still in effect Jan. 2025 & Feb 2026)
  - ICE is required to check the Central Index System for the "COA 384" flag identifying victim-based cases filed under the Violence Against Women Act and the Trafficking Victim's Protection Act
  - Requires supervisory approval and advanced permission
  - Officers are to be "sensitive to the fact that the alien at issue may be a victim and the victim-abuse dynamic may be at play."

ICE Policy 11072.3 Court House Enforcement (January 2025) – Family and Non-Criminal Court Limitations

- "ICE officers and agents should generally avoid enforcement actions in or near courthouses, or areas within courthouses, that are wholly dedicated to non-criminal proceedings (e.g. family court, small claims court). When an enforcement action in the above situations is operationally necessary, the approval of the respective Field Office Director (FOD), Special Agent in Charge (SAC), or his or her designee is required prior to conducting the enforcement action."

https://niwaplibrary.wcl.american.edu/pubs/2025-01_ice_courthouse_enforcement_guidance/

What Should You Take to Court? ICE and DHS Policies

- ICE Interim Guidance Policy Number: 11072.3: Civil Immigration Enforcement Actions In or Near Courthouses (January 2025)
- ICE Victim Policy 11005.4: Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits (January 30, 2025)
- Instruction 002-02-001 Rev. 00.1, Implementation of Section 1367 Information Provisions (VAWA Confidentiality) (May 28, 2019)



https://niwaplibrary.wcl.american.edu/vawa-confidentiality-statute-and-courthouse-enforcement-ice-policies/

What Should You Take to Court? Statutes

- VAWA Confidentiality – Immigration Law 8 USC 1367: Penalties for Disclosure of Information
- VAWA Confidentiality – Immigration Protected Locations for Victims 8 USC 1229(e): Certification of Compliance In Removal Proceedings



https://niwaplibrary.wcl.american.edu/vawa-confidentiality-statute-and-courthouse-enforcement-ice-policies/

Large Group Discussion

- How do you use these printouts when you are accompanying a victim to court?
  - With a judge?
  - With court staff?
  - With prosecutors?
  - With ICE or CBP?

ICE Policy 11005.4 Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim Based Immigration Benefits

- "ICE officers and agents should coordinate and deconflict internally, and with local, state, and other federal law enforcement, as appropriate, when determining whether to take civil immigration enforcement actions to ensure criminal investigative and other enforcement actions will not be compromised."
- When encountering an alien who is the beneficiary of a victim-based immigration benefit, ICE officers and agents should consult with the Office of the Principal Legal Advisor (OPLA) through their Field Office Directors or Special Agents in Charge prior to conducting a civil enforcement action against such known beneficiaries, or against primary and derivative applicants or petitioners for such benefits, to ensure any such action is consistent with applicable legal limitations.

New Tools

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



https://niwaplibrary.wcl.american.edu/letters-that-promote-ice-compliance-with-2025-policies-and-statutes/

Videos on How to Use Letters Password: Letters4Victims!

- Videos for
  - Judges
  - Law Enforcement and Prosecutors
  - Victim Advocates and Attorneys



https://niwaplibrary.wcl.american.edu/videos-explaining-how-to-use-sample-letters/

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

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

Benefits for Survivors of Filing

- VAWA confidentiality
  - Protection from removal
- Financial independence from the perpetrator
  - Legal work authorization (significant delays in obtaining)
  - Issuance of federally recognized driver's licenses and IDs
  - Victims' increased eligibility for federal and state benefits & services
- Path to legal immigration status
  - Can include children

Considerations for Survivors

- Immigration History:
  - Prior detentions or contact with ICE
  - Prior deportations
  - Prior applications filed/relief sought and outcomes
- Criminal History:
  - Arrests and convictions
  - Juvenile records

How does this all impact ….
Timing of filing family court case?
Advance planning for hearings?





Useful Links – Preparation is Key

- Getting info on cases:

  USCIS for cases with receipt notices (WAC, IOE, EAC) https://egov.uscis.gov/
- EOIR for cases in immigration court (need A# + country of origin) https://acis.eoir.justice.gov/en/ Or (800) 898-7180 (need A# and country of origin)
- Online Detainee Locator (English, plus 10 other languages) https://locator.ice.gov/odls/#/search

Large Group Discussion

- How do you check whether your client has a criminal history?

What are the risks and benefits of filing quickly for immigration relief for survivors without immigration or criminal histories?





Steps to Take Before Appearing At Court With An Immigrant Victim

- Check survivors' immigration and criminal history.
- Is there immigration related abuse in the case?
- Has the victim filed a VAWA, T or U visa case?
- Consider remote and virtual hearing options
- How will victim travel to court safely?
- Have qualified interpreters been scheduled?

Advance Planning

- Safety Plan for the survivor – in case of ICE enforcement.
- Emergency info & contact list, including A#, DOB & Country
- Release on-file to allow notice to emergency contacts & other key people
- Powers of Attorney, childcare & travel docs
- Immigration attorney ready with signed Form G-28 or Form E-28

Consult An Immigration Attorney

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

Identify Immigration Attorneys With Needed Expertise

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



Anticipating Enforcement Risks at Court

Prepare a folder with:

- Statutes and policies
- Documentation that your client has a pending or approved VAWA, T or U visa case
- Release forms for contact with key people
- Documentation that client has pending criminal or family court case
  - With contact information for child welfare & criminal justice system professionals

What if the Client is Detained?

- Attempt to determine client's A# (if not yet known)

- Contact client's immigration attorney, emergency contacts and key contacts in pending criminal or family law cases

Resources

- Page with key statutes and ICE/DHS policies
- Screening tool:
  - Bench Card: Identifying Victims Who May Qualify for Immigration Relief (March 9, 2022)
  - Sample attorney interview questions Safety plan check list
  - Sample emergency preparedness package
- ICE Parental Directive

Questions and Answers

Technical Assistance and Materials

- NIWAP Technical Assistance:

  -Call (202) 274-4457

  -E-mail info@niwap.org

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

  -Directory

https://niwaplibrary.wcl.american.edu/home/directory-programs-serving-immigrant-victims/

-Materials for the COP

https://niwaplibrary.wcl.american.edu/peer-to-peer-opportunities/family-law-community-of-practice/

Next Community of Practice Call

- Public Benefits for Immigrant Survivors: Updates Following H.R.1- August 25, 2026



Thank You!


Arigato
Mahalo
Grazie
Spasiba
THANK YOU
Thoinks Moite
Gracias
Merci
Danke
Shukran

Post Evaluation Survey

https://www.surveymonkey.com/r/EvaluationFL2026