



Enhanced Safety Planning for Immigrant Survivors of Domestic and Sexual Violence

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DISCLAIMER

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- Information will change as we learn more about the status of different litigation efforts, the development of additional executive orders and agency guidance, and how these policies are being implemented by Department of Homeland Security and Department of State.
- **This document is not legal advice or authority, rather it is for informational purposes only and not for media attribution.**

Objectives

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By listening to this webinar, participants will be better able to:

- Implement enhanced survivor and family safety planning for immigrant survivors
- Identify key ways to protect immigrant survivors and engage in systems advocacy
- Access reliable and updated resources for immigrant survivors, such as know your rights materials, powers of attorney templates, and other resources

Overview of Executive Orders and DHS Memos

Immigration Executive Orders

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1. Border Security and Immigration Enforcement Improvements
 - (Border Enforcement Executive Order - Issued Jan. 25, 2017)
2. Enhancing Public Safety in the Interior of the United States
 - (Interior Enforcement Executive Order - Issued Jan. 25, 2017)
3. Protecting the Nation from Foreign Terrorist Entry into the United States
 - (Travel Ban for Refugees and those from 7 Muslim-Majority Countries Executive Order - Issued Jan. 27, 2017)

Travel Ban Executive Action

Content:

- 7 country travel ban: Iran, Iraq, Libya, Somalia, Sudan, Syria, Yemen
- Complete halt to refugee processing and resettlement for 120 days
- Limit refugee numbers to 50,000 for the FY
- Complete ban of Syrian refugees

Developments:

- Litigation pending in multiple jurisdictions; Washington and 9th Circuit resulting in current TRO across country
- Potential New Executive Order?

Interior Enforcement Executive Order

- Revives “Secure Communities” Program
- Encourages cooperation between immigration and federal and state law enforcement [287(g) agreements]
- Calls for taking away some funding from “sanctuary jurisdictions”
- Calls for more immigration agents (10K)
- Calls for increased fines & penalties for those “unlawfully present” and those who facilitate their presence

Changes in Enforcement Priorities

Priorities based on existing law

Individuals who are subject to:

- criminal grounds of inadmissibility and deportability
- security and related grounds of inadmissibility and deportability
- suspected of fraud or material misrepresentation to obtain a visa or other document or entry to the U.S

Other new priorities

- Those with pending criminal cases and/or prior criminal convictions
- Those convicted or charged with ANY criminal offense, or have committed any act that constitutes a chargeable offense
- Those with final orders of removal
- Those who have committed fraud or misrepresentation in applications before a government agency;
- Those who “abused” a program related to receipt of a public benefit
- Those believed to pose a threat to public safety or national security

Interior Enforcement DHS Memo

- Terminates all prosecutorial discretion guidance and memos except for DACA
- Those who appear to be most at risk:
 - those in detention or jail,
 - those with a criminal history or potential criminal charges
 - people who've been ordered deported in the past & lost or forfeited any appeals

Interior Enforcement DHS Memo

- Eliminates Privacy Act protections for anyone who is not an LPR or USC.
 - Impact on Survivors
- Establishes Victims of Immigration Crime Engagement (VOICE) Office at DHS

BORDER ENFORCEMENT EXECUTIVE ORDER & DHS MEMO

- U.S.-Mexico border wall
- Calls for detention while cases pending
- Expediting determinations of claims of eligibility
- Promptly removing those whose claims are rejected
- Potential expansion of expedited removal
- Severely limits use of parole
- Effects on Unaccompanied Minors
- Cooperating with State and local law enforcement (287g agreements)
- Add more Border Patrol Agents (5K)

Possible Add'l Executive Orders: NOT YET SIGNED

- **“Protecting Tax Payer Resources by Ensuring Our Immigration Laws Promote Accountability and Responsibility”**
 - Address expansion of definition of public charge
- **“Protecting American Jobs and Workers by Strengthening the Integrity of Foreign Worker Visa Programs”**
 - Closer inspection of non-immigrant visa programs
- **“Ending Unconstitutional, Executive Amnesties”**
 - Ending DACA
 - Rescinding DAPA

Screening for Relief and Confidentiality

Improving Immigrant Victim Safety Through Early Screening

- Know forms of survivor-based immigration relief
- Document history of abuse

- File victim's immigration case ASAP
 - DHS VAWA confidentiality computer system
 - Sufficient evidence for prima facie
- Incorporate into safety planning
 - How victim can safely carry DHS document copies

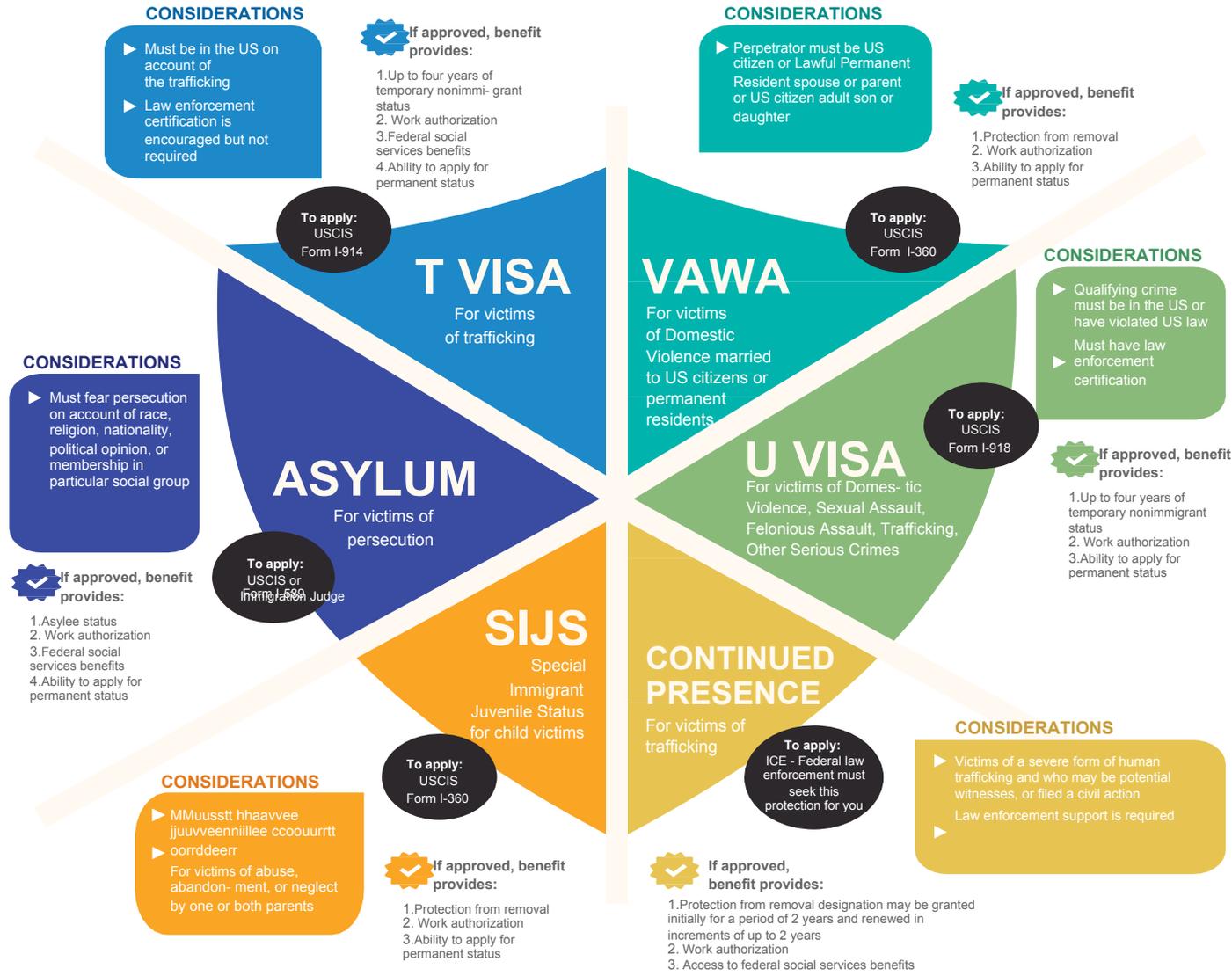
Immigration Options for Immigrant Crime Victims and Children

(Red = VAWA Confidentiality Protected Case)

- 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
- VAWA suspension of deportation
 - 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
- 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
- Abused Spouse of Visa Holders
 - Spouses battered or subjected to extreme cruelty by spouses with the following visas: A(diplomats), E(3)(Australian specialty occupation workers), G (foreign gov- Int'l orgs), H (work visas)
- 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
- Asylum
 - Well founded fear of persecution on account of race, religion, nationality, political opinion, social group
 - Domestic violence as gender based asylum

Prohibitions on Release of Information Apply to Following Cases

- VAWA self-petition
 - VAWA self-petitioner
 - Battered spouse waivers
 - VAWA Cuban Adjustment Act
 - VAWA Haitian Refugee Immigration Fairness Act
 - VAWA Nicaraguan Adjustment & Central American Relief Act
- VAWA cancellation of removal
- VAWA suspension of deportation
- U visa applicants
- T visa applicants
- VAWA work authorization abused spouses of visa holder applicants



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

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

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

Locational Prohibitions

- Enforcement actions are not to be taken unless the action is certified in advance through a specific process aimed at protecting victims:
 - 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



Relying on Information Provided by: Abuser, Perpetrator, Trafficker

- The government cannot gather and/or use information provided solely by:
 - an abuser;
 - trafficker;
 - crime perpetrator or
 - People closely associated with the perpetrator (e.g. family members) (ICE 2007)
- To take an adverse action against a victim includes
 - Arrests for civil immigration violations
 - Placing the an immigrant in removal proceedings or detention
 - Seeking or using information provided by the perpetrator in the victim's immigration case

Protecting Information About a Survivor's Immigration Case

- Prohibits disclosure of any information about
 - The existence of the case
 - Actions taken in the case
 - Information contained in the case file
- Disclosure prohibited to all persons, not just the perpetrator
- Protections apply from the time of filing permanently unless
 - Case denied on the merits
 - All appeal options have been completed

VAWA Confidentiality Provisions

- Apply to the following:
 - VAWA
 - Including self- petitions, DV-based I-751 waivers, other forms of VAWA relief
 - U visa
 - T visa
 - Abused Spouses of A, E (iii) G, and H visa holders

Exceptions to VAWA Confidentiality

- Exceptions:
- Disclosure to law enforcement, national security officials, immigration case judicial review
 - Solely for a legitimate law enforcement or national security purpose; and
 - In a manner that “protects the confidentiality of such information”
- Benefit granting or public benefits purposes
- Congressional oversight and data collection
 - Omitting personally identifying information
- Adult victim waived confidentiality protections

Enhancing Safety Planning

For clients, For Cases, For your Agency

Safety planning - System risks AND risks posed by perpetrator/abuser

Perpetrator/Abuser generated:

- Immigration related coercion
- law enforcement & criminal legal system as protection?
- civil legal system (family law, protective orders) as protection?
- victim services
- financial resources/housing?

System(immigration) generated:

- Enforcement priority categories
- 287(g), Secure Communities, LE collaboration w/ DHS
- immigration relief available?
- public charge
- increased ICE/CBP presence?

Know Your Rights

■ In Public Places

- Right to ask if one is “free to go”
- If they say YES: Say, “I don’t want to answer your questions” or “I’d rather not speak with you right now.”
- Don’t answer questions about your immigration status or where you were born. Do not hand over any foreign documents, such as a passport, consular IDs, or expired visas
- Right to walk away if not being detained

■ If Detained

- Right to Remain Silent
- Right to say “I want to speak to attorney”
- Right to refuse consent to a search
- Right to refuse to sign documents
- No right to lie or show false documents or resist arrest
- Understand that providing proof of foreign citizenship or informing ICE where one was born can be used as basis for deportation

What should clients carry with them?

- Carry the contact information of your attorney or legal representative
- Carry a know-your-rights card that you can show to ICE or the police if you are stopped. For example: <https://www.ilrc.org/red-cards>
- Valid license, work permit or green card if have one. DO NOT Carry False Documents

<p>Usted tiene derechos constitucionales.</p> <ul style="list-style-type: none">• NO ABRA LA PUERTA SI UN AGENTE DEL SERVICIO DE INMIGRACION ESTA TOCANDO A LA PUERTA.• NO CONTESTE NINGUNA PREGUNTA DEL AGENTE DEL SERVICIO DE INMIGRACION SI EL TRATA DE HABLAR CON USTED. Usted tiene derecho a mantenerse callado. No tiene que dar su nombre al agente. Si está en el trabajo, pregunte al agente si está libre para salir y si el agente dice que sí, váyase. Usted tiene derecho de hablar con un abogado.• ENTREGUE ESTA TARJETA AL AGENTE. NO ABRA LA PUERTA	<p>I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5th Amendment rights under the United States Constitution.</p> <p>I do not give you permission to enter my home based on my 4th Amendment rights under the United States Constitution unless you have a warrant to enter, signed by a judge or magistrate with my name on it that you slide under the door. I do not give you permission to search any of my belongings based on my 4th Amendment rights.</p> <p> 1324-M</p> <p>I choose to exercise my constitutional rights.</p> <p><i>These cards are available to citizens and noncitizens alike.</i></p>
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KNOW YOUR RIGHTS

AT YOUR DOOR

- If agents show up at door, find out if police or ICE
- If ICE agents do not have a warrant signed by a judge (not ICE), they cannot enter a home without permission from an adult.
 - See Dropbox for Samples
 - Ask to see warrant and have them slip it under door. If not signed by a Judge, you do not have to let them in.
- If asking for household member, ask them to leave contact information. You do not have to tell them where the person is and you should not lie.

KNOW YOUR RIGHTS

If ICE is inside your home (or shelter) to make an arrest

- Tell them if there are children or other vulnerable residents at home if true
- Ask them to step outside unless they have a warrant signed by a judge. Again, an administrative warrant is not enough to enter your home (I-200, or I-205)
- If they came inside without your permission, tell them **“I do not consent to you being in my home. Please leave.”**
- If they start to search rooms or items in your home, tell them **“I do not consent to your search.”**
- If ICE is arresting you, tell them if you have medical issues or need to arrange for childcare, if that is the case

What to Do If Detained

- Same rights against self-incrimination, you don't have to share any information about where you were born, your immigration status, or any criminal history
- Ask to speak to an attorney instead of answering questions
- Contact attorney/legal services as soon as possible
- Do NOT Sign Anything (Even if there is pressure to do so!)
 - Until you've had opportunity to consult with attorney
 - Some people may be eligible for release on bond
- Have a plan in place for your family if detained

Safety Planning - Safeguarding Documents

- Create Emergency Contact Sheets with information for family members in the U.S. and in home country
- Organize Documents
 - Identity documents including passports for children
 - Medical (including immunization records) and financial
 - School Records
 - Immigration Papers
 - Criminal records if applicable
 - Physical presence documents
- Memorize or safeguard their “alien registration number” or A# if they’ve had prior contact with ICE or USCIS

Family Safety Planning

- Child Care Plan: Who will care for children if parent is detained?
 - ILRC Caregiver Affidavit
 - Provide affidavit to caregiver, with copies of child's records and contact info
 - Consult with Family Law Attorney whether more formal document like power of attorney may need to be prepared for long-term care
 - Emergency contact sheet at schools
 - Provide all medical information for child including insurance cards, SSNs
 - Make sure your family members can find you if you are detained. They can use the ICE detainee locator (<https://locator.ice.gov/odls/homePage.do>)
- Financial Issues

Agency Safety Planning

- Be pro-active; identify internal challenges
- Rely on confidentiality obligations (i.e. VAWA, FVPSA, VOCA, state law, privilege) to not provide information
- Be aware of difference between DHS issued warrant vs a Court-issued warrant (which would need to be signed by a judge)
- Develop internal protocols to respond effectively to clients at risk of detention and removal, including authorization of release of portions of her file
- Provide a business card to client with a direct number
- Train your staff on handling ICE calls
- Keep “ positive equities” for clients on file

Systems Advocacy

Systems Advocacy

- Coordinated Community Response (CCR)
- Strengthening collaborations with immigrant advocacy organizations
- Improved protocols and training for U visa certifications
- Language Access
- Access to Services Necessary for Life or Safety
- Gathering stories to highlight impact
- Other

Re-Framing the Narrative

- 1) Addressing the myth that immigrants perpetrate more crimes AIC
One-pager on Crime in Dropbox
- 2) Educating the public that limiting victim and witness trust in law enforcement undermines public safety
- 3) Elevating a Human Rights framework for why access to safety and justice is important for ALL victims

Enhanced Collaborations

- Coordinated Community Response
 - Review issues of access to courts, LE, and services for immigrant victims
 - Offer trainings on VAWA provisions and confidentiality issues
- Collaborations with immigrant advocacy organizations and immigration attorneys in your community
 - Know your rights presentations
 - Leveraging relationships with law enforcement
 - Understanding implications of Secure Communities, Sanctuary Cities, or 287(g) programs in your jurisdiction
 - NILC Report in Dropbox

Improving Protocols for U visa Certification

- Meet with Law Enforcement to discuss U visa certification protocols
- Review model codes and policies
- Resources in Dropbox:
 - DHS U and T visa certification guidance
 - NIWAP's OVW and BJA funded toolkit on certification
- Expand access to legal assistance for immigrant victims

Ensuring Language Access

- Ensuring “Meaningful Access” to services for individuals with Limited English Proficiency (LEP) under Title VI of the Civil Rights Act
- Organizations that receive federal funds are not allowed to discriminate based on race, color, or national origin
 - Protection against national origin discrimination includes LEP individuals

www.LEP.gov

- Develop and implement Language Access Plans for service providers, law enforcement, courts, etc..

<http://nationallatinonetwork.org/lep-toolkit-home>

Access to Services Necessary for Life or Safety

- DOJ, HUD and HHS issued a joint letter in August, 2016, to remind recipients of federal funds that services that meet the 3-prong test established in PRWORA must be made available regardless of immigration status:
 - 1) Necessary for the protection of life or safety;
 - 2) Provided in-kind
 - 3) Not means tested
- Includes shelters, transitional housing, child protection and adult protective services, etc..

Gathering Stories

- Important to monitor the impact of immigration enforcement actions and policies on immigrant survivors and their children
- Provide information regarding specific cases (protecting client confidentiality) using the survey form available at this link:

http://bit.ly/ASISTA_ICEsurvey

Resources

Our agencies

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities:
www.casadeesperanza.org and www.nationallatinonetwork.org

ASISTA Immigration Assistance:
www.asistahelp.org

Tahirih Justice Center:
www.tahirih.org

Asian Pacific Institute on Gender-based Violence:
<http://www.api-gbv.org>

NIWAP resources

- PowerPoint presentations and materials for this webinar at www.niwap.org/go/vawaconfidentiality
- **NIWAP Technical Assistance:**
 - Call (202) 274-4457
 - E-mail niwap@wcl.american.edu
- Web Library:
 - <http://niwaplibrary.wcl.american.edu/>

Additional Resources

Immi (online resource developed by IAN and Probono Net):	https://www.immi.org
Collected Resources on Executive Orders:	http://bit.ly/ResourcesOnEOs
Informed Immigrant:	https://www.informedimmigrant.com
We Belong Together & Immigration Advocates Network:	www.womenstepforward.org
Immigrant Legal Resource Center:	www.ilrc.org
Immigrant Defense Project:	www.immdefense.org
VAWnet (NRCDV):	
	http://vawnet.org/sc/immigrant-women-and-domestic-violence
	http://vawnet.org/sc/immigrant-women-and-sexual-violence