

CLINIC TOOLKIT:

Advocacy for Immigrant Survivors of Domestic Violence

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Purpose

Domestic violence (DV) affects 10 million adults annually in the United States in both immigrant and non-immigrant communities. DV is defined as “a pattern of behavior in any relationship that is used to gain or maintain power and control.”¹ DV involves exerting power and control over someone, whether it be physical, emotional, economic, stalking and harassment, or sexual.² Survivors of DV are often isolated, intimidated, threatened, and manipulated. Immigrants face additional challenges, such as social isolation, a lack of knowledge of U.S. laws, lack of language access, threats of losing custody of one’s children, being afraid that their partner will withdraw or never file an immigrant petition, and a fear of deportation.

Immigrant survivors may not be eligible for certain safety nets that society provides for others, such as the Supplemental Nutrition Assistance Program (SNAP), affordable housing, programs assisting in job training, access to affordable health care, and much more. It is incredibly challenging for anyone who is a DV survivor to navigate the physical, mental, economic, and sexual impacts of DV.³ For immigrants, especially those without documentation, it can be particularly daunting to access support systems given the additional barriers or heightened risks that exist.

The federal government provides immigration relief under certain circumstances to help immigrant survivors of DV. Survivors may be eligible for immigration relief through one of the following options:

- Asylum, for those fleeing from DV in their home country;

- U Nonimmigrant Status, for victims of certain qualifying crimes that occur in the U.S. and where the victim was, is being, or is likely to be helpful in the investigation and/or prosecution of said crime;
- T Nonimmigrant Status, for victims of human trafficking – whether labor and/or sex trafficking;
- Relief under the Violence Against Women Act (VAWA), for victims of domestic violence who are married to or are a parent of or a child of a lawful permanent resident or U.S. citizen; or
- Special Immigrant Juvenile (SIJ) Classification, for children who show in state court that they cannot be reunified with one or both parents because of abuse, abandonment, or neglect.

Several states and localities provide immigrant survivors with resources that give them access to basic needs, legal and social protections, and other measures that protect and empower survivors.

The reality is that not everyone who is a survivor of DV will be eligible for relief. Those who are, often do not know about the relief, cannot afford an attorney or representative to help them apply, and, if they have recently left their abuser, will likely not have stable housing, work, and childcare. A holistic approach where immigrant survivors are receiving legal and social services from federal, state, and local levels is necessary to ensure survivors do not continue to suffer at the margins.

This toolkit provides guidance on different types of advocacy efforts that can help immigrant survivors at both the state and local as well as the federal level.

1 United Nations, *What Is Domestic Abuse?*, <https://www.un.org/en/coronavirus/what-is-domestic-abuse> (last visited Oct. 23, 2023).

2 The Center for Family Justice, *What Is Domestic Violence?*, <https://centerforfamilyjustice.org/faq/domestic-violence/>.

3 In this toolkit we use the term “survivor” for empowerment as well as clarity and consistency. We also want to acknowledge that “victim” is often the technical, legal term used when discussing certain immigration relief as well as navigating criminal justice systems.

Maria's Story:

An Immigrant Survivor of Domestic Violence

***Trigger Warning: Domestic Violence**

"If you cry and call the police, they will deport you."

Maria, a young Mexican woman, was shocked to hear these words from her husband, Daniel. Newly married and with a newborn baby, they were having yet another fight about Daniel's increasingly controlling and abusive behavior.

Maria had entered the United States on a visitor's visa to stay in the Washington, D.C., area for the summer. Through some mutual friends she had met Daniel, a U.S. citizen. After a few months of dating, Maria learned she was pregnant.

"He seemed so wonderful at first. He even flew down to Mexico with me to meet my family and to propose. He made me feel happy and safe," Maria recalls.

Maria and Daniel got married and she moved in with him. A few months later, during an argument over a small matter of disagreement, Daniel exploded, shouting and pinning her to the floor. Maria was terrified. She was only a few months away from giving birth.

"The strange behavior came out of nowhere," Maria says. "At first it was mostly verbal abuse, and I tried to ignore it. But then it became impossible to ignore."

After their son was born, Maria suffered deeply from postpartum depression. Daniel's controlling and aggressive behavior got worse. He would read

her private text messages, and he would limit her use of their car. He would leave for days and then return. He told her that if she sought help for herself or for the baby, she might get deported, or the authorities might take the baby.

Maria was not undocumented, but as a noncitizen, she was worried about being separated from her child. She did not want to raise her child alone in a new country, so she tried to maintain the marriage.

"For a long time, I didn't even realize that it was abuse, especially because it was mostly verbal," Maria said. "It took a long time for me to realize this wasn't normal. I clung to the hope that it was going to get better."

"It took a long time for me to realize this wasn't normal. I clung to the hope that it was going to get better."

One day, after a big fight, she broke down and called a domestic violence hotline. After pouring out her story on the hotline, she was urged to call for help the next time it occurred.

Next time, after another frightening physical outburst from Daniel, Maria gathered her courage and dialed the police. To her relief, Daniel was given a restraining order and forced to leave. The police



gave Maria the contact info for the Sheriff's office and told her to call for further help.

Alone in their apartment with the baby, Maria felt overwhelmed with the emotional trauma she had faced and the burden of starting a new life as a single parent. As the process of ending her marriage began, the Sheriff's office connected her with a social worker. She was directed to court-ordered therapy and was provided other resources through Catholic Charities.

"Therapy was so helpful," said Maria. "I began to realize how much I was suffering from what I had experienced. I heard from other women who had experienced the same thing and knew that I was not alone, and that healing was possible."

When Maria was facing eviction after Daniel withdrew all support, she miraculously found a kind family who took her in. Through their assistance, she was able to get on her feet financially.

Through Catholic Charities she was connected with pro bono legal help. Elnora Bassey, a policy attorney at CLINIC, took on Maria's case.

With Elnora's assistance and guidance, Maria applied for protection from removal under the Violence Against Women Act (VAWA). Given that Maria had been in a legitimate relationship with a

U.S. citizen, she was eligible to self-petition under VAWA and concurrently file an application to adjust her status to a permanent resident. Using the documentation of their relationship and marriage, Elnora was able to demonstrate through both Maria's testimony and supporting evidence that Maria and Daniel's relationship had been legitimate and that she hadn't known about Daniel's abusive behavior prior to entering the United States.

"God was looking out for me throughout that horrible time," Maria says of the experience.

After a lengthy process—almost four years—Maria finally received her green card in October 2022. "This card will allow me many more opportunities, so that I can support my son," she said. "For the first time in six years, I can go home for the holidays to visit. My son is four years old and has never met most of his family members in Mexico before."

For Elnora, hearing this has made the long process worth it. "This is an example of how VAWA can work for noncitizens, regardless of gender, who came to this country and were survivors of abuse. They should know that help is there if they need it. They do not need to be afraid of asking for help if they are facing abuse."

Overview of Domestic Violence and Its Impact on Immigrant Survivors

When DV comes to mind, one often envisions physical abuse within an intimate relationship, but DV can materialize in many forms and does not solely have to include a physical component or involve intimate partner violence, also known as IPV. Domestic violence is an umbrella term that includes IPV, which is defined as using coercive and abusive behavior to maintain control over one's partner, and family violence.⁴ The Power and Control Wheel, in Figure 1 below, offers a helpful framework to identify behaviors often attributed to domestic abuse and further accentuates the degree to which power and control influences domestic violence. As shown and further expounded upon in the figure below, abusive behavior includes using coercion and threats; intimidation; emotional abuse; isolation; minimizing, denying, and blaming; using children; using male privilege; and economic abuse.⁵ It is also crucial to understand that these behaviors are not mutually exclusive and can occur simultaneously.⁶

These behaviors are not random; they are systematic.⁷ Abusers specifically display these

behaviors to exert control over survivors. Of course, not all these behaviors encompass the entire scope of what DV entails, but they do serve as a useful visual in comprehending the various aspects of life that domestic violence impacts. Survivors of domestic violence tend to have a difficult time verbalizing the various control tactics that their abuser used, since abusers also tend to gaslight survivors about their experiences.⁸ Therefore, visuals, like the Power and Control Wheel, are also useful when it comes to validating and verbalizing a survivor's experiences which, in turn, can be utilized to identify abusers so that survivors can seek help before violence escalates even further. Understanding the complexities and interconnectedness of behaviors displayed by abusers also explains why it is oftentimes difficult for survivors of domestic violence to leave abusive relationships. Domestic violence is multifaceted and requires further support mechanisms to best assist survivors.

⁴ NYC Mayor's Office to End Domestic and Gender-Based Violence, Introduction to Domestic Violence & GBV, <https://www1.nyc.gov/site/ocdv/services/introduction-to-domestic-violence-and-gender-based-violence.page> (last visited Oct. 23, 2023).

⁵ Domestic Abuse Intervention Programs (DAIP), *Wheel Information Center*, <https://www.theduluthmodel.org/wheels/> (last visited Oct. 23, 2023).

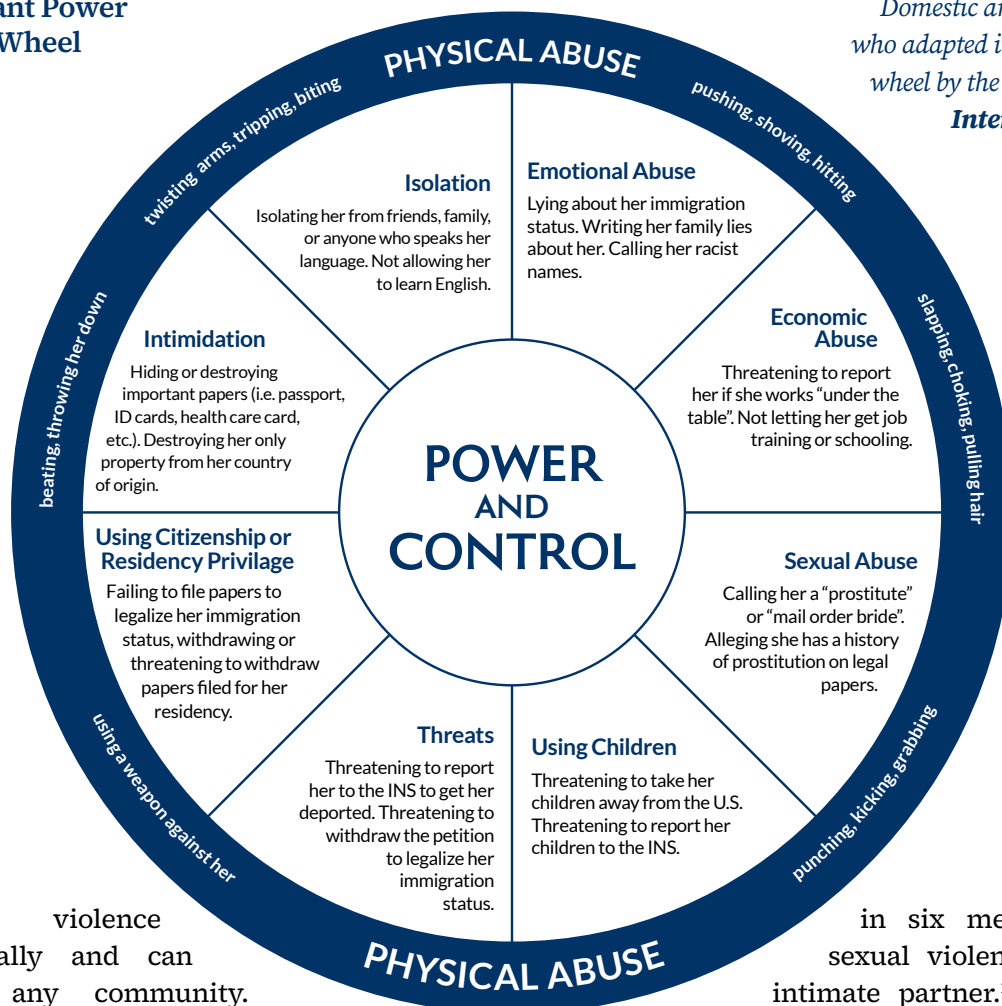
⁶ Rockland Community College, *Understanding the Power and Control Perspective Wheel*, <https://sunyrockland.edu/about/dei/domestic-violence/understanding-the-power-and-control-perspective-wheel/> (last visited Oct. 23, 2023).

⁷ *Id.*

⁸ National Domestic Violence Hotline, *What is Gaslighting?*, <https://www.thehotline.org/resources/what-is-gaslighting/> (last visited Oct. 23, 2023).

Figure 1:
The Immigrant Power
and Control Wheel

From the National Center on
Domestic and Sexual Violence
who adapted it from the original
wheel by the **Domestic Abuse
Intervention Project**



Domestic violence occurs globally and can appear in any community.

However, there are certain factors that make an individual particularly susceptible to experiencing domestic violence, such as a person's gender. Domestic violence tends to impact women more than men, with 85 percent of domestic violence survivors being women.⁹ That being said, we also know that male survivors grossly underreport the violence they experience.¹⁰ The Centers for Disease Control and Prevention (CDC) report that one in four women, compared to one in seven men, experience physical violence by their intimate partner; and, one in three women, compared to one

in six men, experience sexual violence from their intimate partner.¹¹ The rate of

domestic violence among women is double the rate among men, demonstrating that women are more vulnerable to experiencing domestic violence than men. The World Health Organization (WHO) found that a risk factor for intimate partner and sexual violence was "community norms that privilege or ascribe higher status to men and lower status to women."¹² These beliefs perpetuate a societal hierarchy that promotes male dominance and the passivity of women, further subjecting women to violence, both in familial and intimate partner relationships.

⁹ DoSomething.org, *11 Facts About Domestic and Dating Violence*, <https://www.dosomething.org/us/facts/11-facts-about-domestic-and-dating-violence#fn2> (last visited Oct. 23, 2023).

¹⁰ Psychology Today, *Why Men Who Are Domestic Violence Victims Don't Report*, July 26, 2020, <https://www.psychologytoday.com/us/blog/why-bad-looks-good/202007/why-men-who-are-domestic-violence-victims-dont-report>.

¹¹ Martin R. Huecker, Kevin C. King, Gary A. Jordan, William Smock, National Library of Medicine, *Domestic Violence*, April 9, 2023, <https://www.ncbi.nlm.nih.gov/books/NBK499891/>.

¹² World Health Organization, *Violence Against Women*, March 9, 2021, <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>.

The Impacts of Immigration Status on Domestic Violence

Immigrants, especially those without lawful status, are an extremely vulnerable population prone to exploitation in relationships involving domestic violence. A poll from 2017 found that “organizations working with domestic violence survivors reported almost 80 percent of immigrant victims were scared to report their abuse to the police.”¹³ Often suffering in silence, immigrant survivors of domestic violence frequently feel they have no way to report their abuser or leave their abusive situation. Abusers tend to silence their victim by threatening to report them to Immigration and Customs Enforcement (ICE) if they lack permanent status. Abusers will also threaten to stop a pending immigration process or may use filing an immigration application as a “reward” if the person does not report the abuse. It is their method of maintaining power and control in the relationship, making immigrant survivors feel as if they have no legal recourse. It is crucial to create conditions so that immigrant survivors of domestic violence can feel comfortable reaching out for support.

In 2019, a coalition of national organizations comprised of the Asian-Pacific Institute on Gender Based Violence, ASISTA, Case de Esperanza, National Alliance to End Sexual Violence, National Domestic Violence Hotline, National Network to End Domestic Violence, and Tahirih Justice Center gathered feedback from nearly six hundred advocates and attorneys who work with survivors. The coalition gathered

information on the challenges immigrant survivors face: “Advocates report that survivors have an increased fear of deportation, retaliation by their abusers, and separation from their children.”¹⁴ In addition, their support networks are often limited to family members. They are often isolated. Deportation threats are not just levied by abusive partners, but also by local law enforcement officials collaborating informally or through formal cooperation agreements with federal immigration authorities.

“Advocates report that survivors have an increased fear of deportation, retaliation by their abusers, and separation from their children.”

Immigrant survivors face many challenges such as language and cultural barriers that limit understanding of rights and access to services.¹⁵ Policies where local law enforcement become involved in federal immigration enforcement also pose additional challenges to immigrant survivors coming forward and reporting crimes.¹⁶

The National Network to End Domestic Violence (NNEDV) discusses what happens when immigrant survivors or witnesses distrust the criminal justice system: “This empowers abusers and perpetrators, contravenes existing protections afforded by law, undermines access to justice through the police and courts, creates extreme fear for immigrant families and communities, and undermines public safety.”¹⁷

13 Claudia Boyd-Barrett, California Health Report, *Facing Anti-Immigrant Rhetoric and ICE Raids, Fewer Undocumented Victims Willing to Report Domestic Violence*, Feb. 21, 2019, <https://www.calhealthreport.org/2019/02/21/facing-anti-immigrant-rhetoric-and-ice-raids-fewer-undocumented-victims-willing-to-report-domestic-violence/>.

14 Tahirih Justice Center, *Immigrant Survivors Fear Reporting Violence*, May 2019 Findings, <https://www.tahirih.org/wp-content/uploads/2019/06/2019-Advocate-Survey-Final.pdf>.

15 *Id.*

16 *Id.*

17 National Network to End Domestic Violence (NNEDV), *Immigration Policy*, <https://nnedv.org/content/immigration-policy/> (last visited Oct. 23, 2023).



The COVID-19 Pandemic's Negative Impact on Immigrant Survivors

Dubbed the “shadow pandemic,” per the United Nations, domestic violence was reported to have increased during the COVID-19 pandemic.¹⁸ The COVID-19 pandemic unveiled and exacerbated many issues, including rates of domestic violence. Due to quarantining, immigrant survivors were, and are, staying at home more often with their abuser. Places of refuge, such as work, a friend’s house, domestic violence shelters or some other emergency housing, became less available during the beginning of the pandemic amidst so much uncertainty. Additionally,

unemployment at the height of the pandemic caused stressors at home, thereby increasing domestic violence.

COVID-19 lockdowns led to increased violence since survivors were exposed more often to abusive partners and also found that their access to services was greatly limited.¹⁹ There was an increase in reports of violence against women and girls across the world.²⁰

¹⁸ United Nations Women, *Measuring the Shadow Pandemic: Violence Against Women During COVID-19*, Nov. 24, 2021, <https://data.unwomen.org/publications/vaw-rga>.

¹⁹ World Health Organization, *Violence Against Women*, March 9, 2021, <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>.

²⁰ United Nations Women, *Facts and Figures: Ending Violence Against Women*, <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures> (last visited Oct. 23, 2023).

Advocacy at the State and Local Level

Overview

Helping immigrant survivors of domestic violence is critical at the state and local level, as nearby resources and assistance offered are their direct lines of service. Community members are the first line of education on these issues. They can raise concerns about issues that are directly impacting them. Organizations that serve survivors will also provide good anecdotal information as well as expertise and ideas on how local agency policies, state bills, and other local government entities can improve.

Here are some general tips to keep in mind when doing this advocacy work:

1. Ensure policies and services that impact survivors are easily accessible and in multiple languages.
2. State and local agencies should have pro-immigrant messaging on their webpage, in their offices, etc. to assure survivors that they are safe, their information is safe, and that law enforcement is not present (or if it is, provide the reason for the presence).
3. All work with survivors should be trauma-informed.²¹
4. Cultural competency and humility should be prioritized to ensure greater access.
5. Make videos in addition to text resources, as not everyone can read. Have captions on the video for those with limited hearing.
6. Have regular communication with local organizations that serve immigrant survivors.
7. Do not dismiss a survivor because of how they react or tell their story. Every person has a different level of resilience, will process grief and trauma differently, and will have different cultural and societal expectations put upon them that shape their outward reaction.
8. Have regular training for agencies on cultural competence, cultural humility, and taking on trauma-informed and survivor-centered approaches to policy-making and agency action.
9. Do not penalize immigrant survivors for issues arising from the abuse.

²¹ “Trauma-informed care is a strengths based framework that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both providers and survivors, and that creates opportunities for survivors to rebuild a sense of control and empowerment.” Trauma Informed Oregon, *What is Trauma Informed Care?*, <https://traumainformedoregon.org/wp-content/uploads/2016/01/What-is-Trauma-Informed-Care.pdf> (last visited Oct. 23, 2023).

Advocacy at the State and Local Level

Policies For Immigrant Survivors

Access to Resources

Language Access

Issue: Agencies that survivors come into regular contact with may suffer from certain language access issues, such as not providing interpretation, having unreliable or untrained interpretation, not providing the full array of language access needed, or not providing the same access to services that English speakers are provided.²² “Language access is an access to justice issue. It can also mean the difference between life and death in certain situations, including for survivors of abuse,” said Chi-Ser Tran, Staff Attorney for the Language Access Project and SSI Unit at Community Legal Services in Philadelphia, Pennsylvania.²³ Because of this, it is imperative that agencies provide comprehensive language access.

Advocacy Effort(s): All agencies must provide language access. Survivors need to be able to communicate with:

- Police to report crimes;
- Court employees, survivor support specialists, and state prosecutors to file charges, obtain a protective order, and/or provide testimony;
- Schools to inform administrators and teachers of any safety concerns about the abusers;
- Domestic violence shelters, food pantries, other social services to inform them of basic needs and any cultural or religious differences those needs may entail;
- Therapists to be able to get the mental health care they need; and
- Hospitals, clinics, and other facilities that provide healthcare so that survivors are treated effectively for whatever ails them.

Unemployment Access/Cash Assistance

Issue: According to Domestic Violence Prevention, Inc., between 94-99 percent of domestic violence survivors have also experienced economic abuse.²⁴ Between 21-60 percent of survivors of domestic violence lose their jobs for reasons stemming from that abuse. This is challenging for any survivor. For immigrants without work permits, it becomes even more difficult as they cannot collect or receive unemployment benefits. Their added economic dependence on their abuser makes it difficult for them to leave as they cannot just move away. Even when survivors escape their abusers, they often fear moving to a new area since finding a new job means having to find somewhere that will hire them without a work permit. There is no safety net for these survivors.

Example Resources

Language Access:

- [VAW.net](https://www.vawnet.org/)
- [Philadelphia's Language Access](https://www.phila.gov/2022-10-21-language-access-for-survivors-of-abuse-in-philadelphia/)
- [Wisconsin Language Accessibility](https://www.wisconsin.gov/2022-10-21-language-access-for-survivors-of-abuse-in-philadelphia/)

Unemployment/Cash Assistance:

- The Century Foundation, Sep. 7, 2022: [Providing Unemployment Insurance to Immigrants and Other Excluded Workers: A State Roadmap for Inclusive Benefits](https://www.centuryfoundation.org/2022/09/07/providing-unemployment-insurance-to-immigrants-and-other-excluded-workers-a-state-roadmap-for-inclusive-benefits/)
- [Chicago Launch of Cash Assistance Program for Gender-Based Violence Survivors](https://www.chicago.gov/2022-10-21-chicago-launch-of-cash-assistance-program-for-gender-based-violence-survivors/)
- California SB 227 from 2023-2024 would establish an Excluded Workers Program.

Advocacy Effort(s): Cities, counties, and municipalities can all create cash assistance programs for survivors.

²² Asian Pacific Institute on Gender-Based Violence, *Survivors with Limited English Proficiency: Barriers to Access*, May 2019, <https://s3.amazonaws.com/gbv-wp-uploads/wp-content/uploads/2019/05/31191034/LEP-survivors-accessibility-9-2016-formatted-20191.pdf>.

²³ Sarah Peterson, City of Philadelphia, *Language Access for Survivors of Abuse in Philadelphia*, Oct. 21, 2022, <https://www.phila.gov/2022-10-21-language-access-for-survivors-of-abuse-in-philadelphia/>.

²⁴ Domestic Violence Prevention, Inc., *How Does Domestic Violence and Sexual Abuse Impact You the Employer*, <https://www.dvptxk.org/domestic-violence-workforce-impact/#:~:text=According%20to%20Legal%20Momentum%2C%20an,full%2Dtime%20jobs%20each%20year> (last visited Oct. 23, 2023).



Homelessness & Housing Insecurity

Issue: When survivors leave their abusers, they often find themselves in need of access to housing. Many find themselves facing homelessness. Issues that previously arose as part of the abuse such as keeping the survivor isolated and without financial means can exacerbate these issues. Survivors can also be kept from school, work, families, friends, and support networks in general by their abusers.²⁵

Because of this, the National Network to End Domestic Violence emphasizes that “policy makers must work to ensure that safe, affordable housing is available to survivors and must reduce the barriers survivors face in securing and maintaining housing.”²⁶ Currently, there is a large housing shortage that leaves survivors without a safe location to escape from their abuser.²⁷ It is important to note that undocumented immigrants are not eligible for Section 8 and federal housing programs.²⁸ That

means that it is that much more challenging to find affordable housing.

Advocacy Effort(s): Serious investment by local and state governments in short-term as well as longer-term housing is required for survivors.

Example Resources

- [Latino Policy Forum Securing Housing for Immigrant Families](#)
- [Mid-Shore Council on Family Violence Housing and Housing Supports](#)
- [APIGBV How Do Recent HUD Proposed Rules About Verification of Immigration Status Impact Survivors of Domestic Violence & Sexual Assault?](#)

Healthcare

Issue: The Center for Migration Studies of New York (CMS) estimates that there are approximately 10.35 million undocumented immigrants and 8.1 million lawful permanent residents (LPRs) living in the United States.²⁹ Data collected by CMS also show

²⁵ Institute for Children, *Poverty & Homelessness, The Intimate Relationship Between Domestic Violence and Homelessness*, Oct. 27, 2018, <https://www.thehotline.org/resources/undocumented-and-experiencing-intimate-partner-violence-what-are-my-rights-when-reaching-out-for-support/#:~:text=Additionally%2C%20it%27s%20important%20to%20know,from%20law%20enforcement%2C%20and%20Crime>.

²⁶ National Network to End Domestic Violence, *Domestic Violence, Housing, and Homelessness*, https://nnedv.org/wp-content/uploads/2019/07/Library_TH_2018_DV_Housing_Homelessness.pdf (last visited Oct. 23, 2023).

²⁷ Institute for Children, *Poverty & Homelessness, The Intimate Relationship Between Domestic Violence and Homelessness*, Oct. 27, 2018, <https://www.thehotline.org/resources/undocumented-and-experiencing-intimate-partner-violence-what-are-my-rights-when-reaching-out-for-support/#:~:text=Additionally%2C%20it%27s%20important%20to%20know,from%20law%20enforcement%2C%20and%20Crime>.

²⁸ Latino Policy Forum, *Securing Housing for Immigrant Families*, https://www.latinopolicyforum.org/publications/fact-sheets/document/Forum_Housing-PublicCharge-2.pdf (last visited Oct. 23, 2023).

²⁹ Center for Migration Studies, *What You Should Know About the US Undocumented and Eligible-to-Naturalize Populations*, August 4, 2021, <https://cmsny.org/undocumented-eligible-to-naturalize-population-democratizing-data-release-080421/>.

Advocacy at the State and Local Level

that approximately 50 percent of undocumented immigrants did not have health insurance compared to 17 percent of LPRs. This statistic points to a health coverage disparity that exists among immigration statuses in the United States. Some immigrants are excluded from the benefits offered under Medicaid, a federal and state program that provides health coverage to “eligible low-income adults, children, pregnant women, elderly adults and people with disabilities.”³⁰

Under federal requirements, for an individual to qualify for Medicaid, they must either be a citizen or “qualified immigrant.”³¹ This includes lawful permanent residents, refugees, asylees, and other humanitarian immigrants, such as those deemed to have “urgent humanitarian or significant public benefit reasons” to be in the United States and “[merit] a favorable exercise of discretion.”³² If an individual does not fall under the umbrella of these categories, such as an undocumented immigrant, they would only be able to qualify for emergency Medicaid, which only offers restricted emergency medical services to noncitizens.

Undocumented immigrants are also ineligible to enroll in Medicare, the Children’s Health Insurance Program (CHIP), or coverage offered in the Affordable Care Act’s Health Insurance Marketplace.³³ Furthermore, undocumented immigrants have limited access, if any, to health coverage options.

Undocumented immigrants specifically face many challenges and barriers within the U.S. health care system. For example, since many undocumented people do not have health coverage, they often delay medical care or go without it.³⁴ Therefore, they often only seek medical assistance when their

health has deteriorated to the point where they are seeking emergency care, which could have easily been prevented if they had routine visits and health insurance. These emergency visits often result in higher medical cost for the individual than if they had seen a doctor earlier.

Many survivors are already afraid to seek medical assistance for the abuse they suffer.

There are many additional barriers to accessing health care services, including a general lack of trust in public agencies and language barriers in explaining resources and benefits available to immigrant communities. For example, even if an immigrant’s U.S. citizen child qualifies for medical assistance, their fear of detection from encounters with public agencies may prevent them from reaching out and seeking assistance. This accentuates the need to ensure language access, education and collaboration with local communities take place.

Health care costs will also play a big role in encouraging survivors to seek the help they need.

While there are limited options currently at the federal level, states and localities can meet this need in a variety of ways.

Example Resources

- [CLINIC testimony in support of the Maryland Access to Care Act in 2023](#)
- [National Immigration Law Center on Health Care Issues](#)
- [Resource by The Kaiser Family Foundation \(KFF\) on State-Funded Health Coverage for Immigrants as of July 2023](#)
- [How immigrants can obtain health coverage](#)

³⁰ Medicaid, <https://www.medicaid.gov/medicaid/index.html> (last visited Oct. 23, 2023).

³¹ Medicaid and CHIP Payment and Access Commission, Non-citizens, <https://www.macpac.gov/subtopic/noncitizens/> (last visited Oct. 23, 2023).

³² U.S. Citizenship and Immigration Services, *Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States*, https://www.uscis.gov/humanitarian/humanitarian_parole (last visited Oct. 23, 2023).

³³ Samantha Artiga and Maria Diaz, KFF, *Health Coverage and Care of Undocumented Immigrants*, July 15, 2019, <https://www.kff.org/racial-equity-and-health-policy/issue-brief/health-coverage-and-care-of-undocumented-immigrants/>.

³⁴ KFF, *Health Care Use and Chronic Conditions Among Childless Adult Medicaid Enrollees in Arizona*, May 2012, <https://www.kff.org/racial-equity-and-health-policy/issue-brief/health-coverage-and-care-of-undocumented-immigrants/>; <https://undocumented.thehastingscenter.org/issuebrief/health-care-use/>.



Advocacy Effort(s): Community advocates can raise the need for healthcare to local legislators. They can encourage expanding eligibility for Medicaid to undocumented pregnant people and children and others based on certain ages, opening up the state ACA exchange by requesting a federal waiver, and asking the state to create their own program to provide healthcare

Job Training and Education

Issue: While domestic violence impacts individuals from all socioeconomic statuses, it has a particularly difficult effect on low-income immigrants. These survivors are unfamiliar with many of U.S. laws and customs, and they may have been kept away from working to ensure they never had financial independence.

Example Resources

- [Her Justice Immigrant Survivor Employment Access Project](#)
- [Center for Family Justice Receives ESL Grant for Domestic Violence Survivors](#)

Advocacy Effort(s): It is important to speak to local and state politicians about promoting employment opportunities for immigrant survivors.

Workforce development programs should partner with educational institutions, immigration legal service providers, and survivor services to provide well-rounded support and empowerment tools for survivors. Many immigrants will need training, education, and English language classes.

Interactions With Local Law Enforcement

One of the most important parts of serving survivors is centered around interactions with local law enforcement. If immigrant communities do not feel they can trust local law enforcement, they will not report crime.

287(g) and Detainer Requests – Minimize These Interactions

Issue: When local law enforcement agencies have agreements with immigration enforcement agencies, such as 287(g), or easily honor detainer requests without a signed warrant from a judge, immigrants begin to equate local police and sheriffs with immigration enforcement. The Center for American Progress noted the “pernicious effects that 287(g) programs can have on communities, as local residents lose trust in the very law enforcement agencies that are responsible for maintaining public safety.”³⁵

35 The Center for American Progress, *287(g) Agreements Harm Individuals, Families, and Communities, but They Aren’t Always Permanent*, April 4, 2018, <https://www.americanprogress.org/article/287g-agreements-harm-individuals-families-communities-arent-always-permanent/>.

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287(g) also puts immigrant survivors at risk as it deputizes local law enforcement agents to engage in immigration enforcement in their jails. Unfortunately, many abusers will take advantage of the survivor's lack of knowledge of U.S. laws. Many immigrant survivors do not speak English, and if the abuser does, they have the upper hand and can frame the narrative however they wish. This is how many survivors end up being arrested, especially if they defended themselves and left any marks on their abuser. The abuser will claim the survivor was the assailant and land the survivor in jail. Once there, 287(g) activates and law enforcement learns that the survivor has no lawful immigration status. This will land them in immigration court or, in some cases, prompt them to be summarily deported.

Advocacy Effort(s): Community members can do outreach and education with local law enforcement to discourage them from entering into 287(g) and other agreements with immigration enforcement that make it easier to put immigrants into the deportation pipeline without due process. If any issues such as racial profiling or pretextual stops occur, it is important to inform others of these issues. When directly impacted individuals share the real impact and fear created by this collaboration, change can occur. Domestic violence survivors can end up in detention, removal proceedings, and with a criminal record that could preclude other relief in the future. ICE can still carry out enforcement measures without any 287(g) agreements in place by seeking a signed judicial warrant that establishes probable cause.³⁶

There is always the possibility of raising issues to the federal level but education that is widespread among communities happens at the state and local level.

U Visa Certifications – Have an Easy, Accessible Process for Survivors

Issue: Congress created the U nonimmigrant visa for survivors of certain qualifying crimes to encourage trust between immigrants and law enforcement.³⁷ In order for a U visa application to be submitted, it needs to be accompanied by a signed certification known as Form I-918, Supplement B, U Nonimmigrant Status Certification. The certification is to show that the immigrant has been, is being, or is likely to be helpful to a certifying official in the investigation or prosecution of the crime. If local law enforcement agencies are known to be willing and in the practice of signing U visa certifications when someone is a survivor of DV or other crimes, this promotes trust, and immigrant survivors are much more likely to report crimes to law enforcement when certifications have occurred.

Advocacy Effort(s): State legislatures can pass laws that are trauma-informed and give immigrant survivors of crime quick access to U visa certifications. CLINIC has a resource that goes over best practices in these laws. Even if the state does not pass a law, the various law enforcement agencies can have their own policies and protocols in place that seek to assist survivors rather than place impediments in their path.

Example Resources

Unemployment/Cash Assistance 287(g) and Detainer Requests:

- [The Immigrant Learning Center Resource on Police Trust and Domestic Violence: Evidence from Immigration Policies](#)
- [Immigration Impact Resource, Cities with 'Sanctuary' Policies Save Lives from Domestic Violence](#)
- [ACLU Research Report, License to Abuse: How ICE's 287\(g\) Program Empowers Racist Sheriffs and Civil Rights Violations](#)

U Visa Certifications:

- CLINIC's [U Visa Certification Advocacy Toolkit](#)

³⁶ National Immigrant Justice Center, Policy Brief Disentangling Local Law Enforcement from Federal Immigration Enforcement, Jan. 13, 2021, <https://immigrantjustice.org/research-items/policy-brief-disentangling-local-law-enforcement-federal-immigration-enforcement>.

³⁷ U.S. Citizenship and Immigration Services, Victims of Criminal Activity: U Nonimmigrant Status, <https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status> (last visited Oct. 23, 2023).

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Civilian Accountability Boards

Issue: When it comes to domestic violence, it is crucial that there be independent bodies that can investigate the crimes that are committed. If there is not a place for survivors to report abuse, many survivors will continue to suffer at the margins of society.

Survivors need to be able to report the following:

- When a police officer is the abuser;
- When a police agency is protecting the officer;
- If an officer has not investigated;
- If an officer did not arrest the perpetrator;
- If an officer arrested the survivor when it was clear they were the survivor; and/or
- If an officer reports that a survivor refused to cooperate in the investigation without providing the survivor access to a language the survivor understands and speaks.

Advocacy Effort(s): Civilian Accountability Boards need to exist, and they need to have independent powers to investigate to ensure true accountability. Through legislation, like the law Maryland passed in 2021,³⁸ established by City Ordinance, as it was in Atlanta,³⁹ or updated by a vote from the City Council in Charlotte, North Carolina.⁴⁰ The Civilian Accountability Boards provide civilian oversight around police misconduct. It allows for a body that is comprised of community members able to provide independent review.

Victim Compensation Funds

Issue: Survivors of violent crimes, including undocumented immigrants, may be able to qualify for the Crime Victims Fund, or the Fund, established

by the Victims of Crime Act (VOCA).⁴¹ While the Fund is a federal program, states administer it and control disbursement of funds to survivors of violent crimes for financial assistance related to medical expenses, lost wages, counseling, and/or funeral or burial costs. Each state sets its own eligibility requirements. Citizenship is not a requirement except in Alabama.⁴² The majority of states will also reimburse survivors for funds they already spent. Unfortunately, many of the funds do not provide sufficient amounts to holistically cover all a survivor's needs. If low-income survivors need to pay for things like housing, health care treatment, and therapy, these funds will only cover the bare minimum.

Example Resources

Civilian Accountability Boards

- Women's Justice Center's resource on [Making Civilian Oversight of Police Work for Victims of Violence Against Women and Children](#).

Victim Compensation Funds

- [National Domestic Violence Hotline, Undocumented and Experiencing Abuse: What Are My Rights?](#)
- Maryland [VOCA-Funded Victim Assistance Program](#) & [Criminal Injuries Compensation Board](#)

Advocacy Effort(s): Advocates can reach out to the agencies administering these funds. The department in charge can vary from state-to-state. For instance, the Department of Public Safety administers the fund in Missouri,⁴³ the Department of Health and Human Services oversees Nevada's program,⁴⁴ and the Office of the Maine Attorney General is in charge of their

³⁸ Maryland General Assembly, *Maryland Police Accountability Act of 2021- Police Discipline and Law Enforcement Programs and Procedures*, 2021 Regular Session, <https://mgaleg.maryland.gov/mgaweb/legislation/details/hb0670/?ys=2021rs>.

³⁹ Atlanta Citizen Review Board, <https://acrbgov.org/about-us/> (last visited Oct. 23, 2023).

⁴⁰ WBTV3, *Charlotte City Council Votes to Overhaul Citizens Review Board*, Nov. 25, 2013, <https://www.wbtv.com/story/24059928/charlotte-city-council-could-approve-changes-to-citizens-review-board/>.

⁴¹ Office for Victims of Crime, *Crime Victims Fund*, <https://ovc.ojp.gov/about/crime-victims-fund> (last visited Dec. 5, 2023).

⁴² Alabama Crime Victims Compensation Commission, *Application Form*, July 2023, <https://acvcc.alabama.gov/downloads/application.pdf>.

⁴³ Missouri Department of Public Safety, *Application for Crime Victims' Compensation*, https://dps.mo.gov/dir/programs/cvc/documents/CVC_App_Instructions.pdf (last visited Oct. 18, 2023).

⁴⁴ Nevada Department of Health and Human Services Victims of Crime, <https://voc.nv.gov/VOC/Eligibility/> (last visited Oct. 18, 2023).

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program.⁴⁵ Ensure that any survivor compensation programs are robust, open to all regardless of immigration status, and can provide at least some initial funding up front to ensure that survivors are not facing homelessness if they choose to leave their abusers.

Measures to Inform Immigrants of Immigration Consequences of Criminal Charges

Issue: When police are called to the scene of a domestic violence incident, many different outcomes can ensue. Often the abuser will give a very different account of the actual events, particularly when the abuser can speak English and the survivor cannot. This could result in a survivor being the one facing criminal charges. This is especially likely to happen if the abuser has taken care (as many do) to hide the proof of their abuse. Meanwhile, the survivor may leave evidence of their self-defense in the form of a scratch, a bite, etc. If the survivor is facing criminal charges, they might accept a plea deal that will keep them out of jail, not knowing that by pleading guilty to a crime, they may trigger deportability, inadmissibility, or both.

Advocacy Effort(s): States can pass laws to ensure specific policies on how defense counsel needs to advise immigrant clients of immigration consequences in criminal matters. Judges, police, states' attorneys, district attorneys' public defenders, and court employees working with survivors of crime can have policies with more stringent requirements in providing advice. Since *Pallida v. Kentucky*, 599 U.S. 356 (2010), criminal defense attorneys are required to advise noncitizen defendants about the immigration consequences of a guilty plea. If they are not properly advised, this could result in a finding of ineffective assistance of counsel. Despite the Supreme Court's ruling, some states have watered down this holding by allowing generalized and unclear advice from criminal defense attorneys to be deemed effective assistance of counsel. It is important that not only defense

attorneys, but also judges and arresting officers, provide clear information to defendants. It is not sufficient for an immigrant to be told there is a "risk" of deportation when it is practically guaranteed in particular circumstances. It is important to adopt good policies such as those delineated by the American Bar Association (ABA):

- "(a) Defense counsel should determine a client's citizenship and immigration status, assuring the client that such information is important for effective legal representation and that it should be protected by the attorney-client privilege. Counsel should avoid any actions that might alert the government to information that could adversely affect the client.
- "(b) If defense counsel determines that a client may not be a United States citizen, counsel should investigate and identify immigration consequences that might follow possible criminal dispositions. Consultation or association with an immigration law expert or knowledgeable advocate is advisable in these circumstances. Public and appointed defenders should develop, or seek funding for, such immigration expertise within their offices.
- "(c) After determining the client's immigration status and potential adverse consequences from the criminal proceedings, including removal, exclusion, bars to relief from removal, immigration detention, denial of citizenship, and adverse consequences to the client's immediate family, counsel should advise the client of all such potential consequences and determine with the client the best course of action for the client's interests and how to pursue it.
- "(d) If a client is convicted of a removable offense, defense counsel should advise the client of the serious consequences if the client illegally returns to the United States."⁴⁶

⁴⁵ Office of the Maine Attorney General, *Maine Crime Victims' Compensation Program*, https://www.maine.gov/ag/crime/victims_compensation/ (last visited Oct. 23, 2023).

⁴⁶ Criminal Justice Standards Defense Function, American Bar Association (2017), https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition/.

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Many laws that protect and concern survivors of domestic violence, including sexual assault, originate at the state level. Domestic crimes committed in the individual states are governed by the local laws and most protections afforded to survivors (restraining orders, divorce, custody via court proceedings) are available at the state level as well. However, there are also laws at the federal level that can provide and supersede state law protections. These laws also include protections for nonimmigrants and immigrants and are available regardless of gender.

Brief History of the Violence Against Women Act (VAWA) and Its Benefits

In the early 1990s, it became increasingly apparent that local and state governments were not offering enough protection for immigrant survivors of domestic violence. The demand for federal action

grew across the United States and women's groups began to champion for Congress to get involved. In 1994, the original Violence Against Women Act (VAWA) was authored by then-Senator Joseph R. Biden.⁴⁷ That same year, Congress passed VAWA legislation as part of the Violent Crime Control and Law Enforcement Act.⁴⁸ VAWA has since played a crucial role in offering greater protection to survivors of domestic violence.

Since the inception of VAWA, there have been several amendments to revamp protections for survivors. VAWA is subject to congressional reauthorization.⁴⁹ Over the years, the reauthorizations have included new provisions for immigrant survivors of abuse, sexual assault survivors, and survivors of dating violence. Specifically, VAWA of 1994 addressed immigration-related issues that abused nonimmigrants faced and included three provisions: “self-petitioning by abused foreign national spouses and their children, required evidence for demonstrating abuse and suspension of deportation and cancellation of

47 *Violence Against Women Act*, National Network to End Domestic Violence, <https://nnedv.org/content/violence-against-women-act/> (last visited Nov. 29, 2023).

48 *History of VAWA*, Legal Momentum, <https://www.legalmomentum.org/history-vaaw> (last visited Nov. 29, 2023).

49 *Violence Against Women Act*, National Network to End Domestic Violence, <https://nnedv.org/content/violence-against-women-act/> (last visited Nov. 29, 2023).

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removal.”⁵⁰ Survivors who may have been battered in one state can now be offered protection in another state without fear of having to return to the jurisdiction where the harm occurred. VAWA requires individuals, organizations, medical care professionals, social workers, law enforcement, and others to band together to protect people from any further harm.

VAWA is not just a law that offers survivors protection from domestic abuse. One of the greatest benefits of VAWA is that it creates a pathway to lawful immigration status for survivors who generally would have to rely on their abusive partner to file for lawful status on their behalf. It permits survivors of abuse suffered at the hands of a U.S. citizen (USC) or LPR relative to submit a petition to U.S. Citizenship and Immigration Services (USCIS) for immigrant classification. If a VAWA self-petitioner receives an approval, immigration status is not automatically conferred but gives the applicant a special classification so that they may be eligible to obtain lawful permanent resident status or receive deferred action. Deferred action is an act of prosecutorial discretion used to determine whether to remove an individual without status from the United States. While deferred action does not grant lawful immigration status to the individual, it does permit them to remain in the United States and not accrue unlawful status.

Some additional benefits of having an approved VAWA petition may include receiving public benefits through the state and the approval to work once given an employment authorization document. More information can be found on the USCIS website.⁵¹

Who Can Apply for VAWA?

- Non-U.S. citizens who have suffered abuse at the hands of a U.S. citizen or LPR can apply for VAWA. “Spouses and children of U.S. citizens and lawful permanent residents, and parents of U.S. citizens who are 21 years of age or older, may file a self-petition for immigrant classification with USCIS. A noncitizen filing the self-petition is generally known as a VAWA self-petitioner. If USCIS approves the self-petition, VAWA self-petitioners may seek legal permanent residence and obtain a green card. This can be done either by consular processing if the approved self-petitioner is outside the United States or by applying for adjustment of status if the approved self-petitioner is in the United States.”⁵² Survivors can also include their children in the petition, as the child is considered a derivative beneficiary. USCIS provides a further breakdown of eligibility requirements on its website for survivors and their family members.
- Conditional permanent residents who obtain status through marriage and file Form I-751, Petition to Remove Conditions on Residence, may also qualify for VAWA protections as battered spouses.⁵³ Generally, the permanent resident receives a two-year conditional green card and must file Form I-751 jointly to remove the conditions. Instead, the survivor can file Form I-751 as a battered spouse (and/or child) and submit a waiver of the joint filing requirement without having to wait two years. A battered spouse (and/or child) is someone who was subjected to physical abuse or extreme cruelty.⁵⁴ The applicant must fall under one of three categories:

50 Lisa N. Sacco, *The Violence Against Women Act (VAWA): Historical Overview Funding, and Reauthorization* (2019), <https://sgp.fas.org/crs/misc/R45410.pdf>

51 U.S. Citizenship and Immigration Services, Abused Spouses, Children and Parents, <https://www.uscis.gov/humanitarian/abused-spouses-children-and-parents> (last visited Nov. 29, 2023).

52 *Id.*

53 INA § 216 (c)(4)(c), 8 C.F.R. § 216.5 (e)(3) (2023).

54 8 CFR § 216.5 (e)(3)(i) (2023).

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- “The removal of the conditional resident from the U.S. would result in extreme hardship;
- “The good faith marriage was legally terminated, other than by death, and the applicant was not at fault for failing to file a timely application; OR
- “During the course of the good faith marriage, the conditional resident was *subjected to battering or extreme cruelty* by the U.S. citizen spouse and the conditional resident was not at fault for the failure to timely file remove the condition. In the case of a child applicant, the battering or extreme cruelty occurred at the hands of her U.S. citizen or lawful permanent resident parent.”⁵⁵

Battered victims who are in removal proceedings may also qualify for protections under VAWA cancellation of removal.⁵⁶ See CLINIC’s resource on [BIA guidance](#) for more information.

How to Apply

Survivors who want to apply for a green card under VAWA must do so by first filling out Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, along with any supporting evidence they may have.⁵⁷ VAWA self-petitioners do not have to pay a filing fee, which is a great advantage for survivors who may not have the financial resources to go through the immigration process. Survivors can also file Form I-485 at the same time they file Form I-360 to request a green card to become a permanent resident. A link to the [petition](#) can be found on the USCIS website. For additional information on policy updates to the VAWA petition, see CLINIC’s resource titled [VAWA Self-Petition Policy Updates](#).

Challenges that Survivors of Violence and Advocates Face Provide More Funding for Legal Providers

Funding sources for VAWA protections are an essential part of keeping the program running and functional. The federal government appropriates a significant amount of money to help fund VAWA programs all over the United States. More specifically, the Department of Justice’s Office on Violence Against Women (OVW) administers funding to communities throughout the United States. September 2024 marked the 30th anniversary of the original authorization of VAWA⁵⁸. On that occasion, over \$690 million in grants were dedicated to help support communities that implement policies to help survivors of violence. Although a significant amount of federal funding was given in previous years, that funding is threatened by the funding cuts under the Trump administration. As a result of the lack of funding, survivors may not have anywhere to go or have very limited options in their local communities for legal representation. For instance, for two consecutive years, a legal services provider in North Carolina has faced drastic funding cuts for its Domestic Violence Prevention Program.⁵⁹ With several million dollars cut from their program, the provider could not adequately aid their local residents and thousands of potential clients were turned away. Several attorneys, advocates, and legal assistants would also be cut from the program.

The need for continuous funding for VAWA, the Family Violence Prevention and Services Act (FVPSA), and the Victims of Crime Act (VOCA) programs is critical. Without it, local programs lose staff and resources to help provide adequate

⁵⁵ Cecilia Olavarria and Moira Fisher Preda, NIWAP. *Additional Remedies Under VAWA: Battered Spouse Waiver*. <https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/IMM-Man-Ch3.5-BatteredSpouseWaiver-07.10.13.pdf>

⁵⁶ INA § 240A(b)(2).

⁵⁷ U.S. Citizenship and Immigration Services, Abused Spouses, Children and Parents, <https://www.uscis.gov/humanitarian/abused-spouses-children-and-parents> (last visited Nov. 29, 2023).

⁵⁸ Justice Department Commemorates 30th Anniversary of the Violence Against Women Act, Office of Public Affairs, U.S. Department of Justice (last visited May 16, 2025).

⁵⁹ *More than 1.2 Million Lost in VOCA*, Pishah Legal Services, <https://www.pishahlegal.org/more-than-1-2-million-lost-in-voca-grants> (last visited Aug. 2022).

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assistance. Additional information on funding for each of these programs can be found [here](#).

Advocate for More Funding

Federal funding for domestic violence programs begins at the Congressional level. Without the help from advocates and survivors, receiving funding for these programs is challenging. Although Congress funds the VAWA, VOCA, and FVPSA programs, additional advocacy is needed to ensure that these programs and others can continue to support survivors and their families. Advocates, including organizations and individuals can make the push for more appropriations, especially for the FVPSA, which provides emergency shelters, counseling, crisis lines and other services.⁶⁰ VAWA requires a significant portion of federal funding to cover the myriad of programs offered to survivors. Advocacy groups and others who support these programs should continue to seek those funds from Congress while also finding ways to do the same at the local level.

Increase the Number of U and T Visas Granted Per Year

What is the U Visa?

The nonimmigrant visa commonly known as the “U visa” stands for U nonimmigrant status. Congress created U visas through the Victims of Trafficking and Violence Prevention Act of 2000.⁶¹ In creating the U visa, Congress explicitly stated, “The purpose of this section is to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens....”⁶² The U visa covers a wide range of crimes including domestic violence, sexual assault, stalking, sexual exploitation, involuntary

servitude, false imprisonment, kidnapping and so much more.

An individual may be eligible for a U nonimmigrant visa if:

- They are the victim of qualifying criminal activity.
- They have suffered substantial physical or mental abuse as a result of having been a victim of criminal activity.
- They have information about the criminal activity. If they are under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may possess the information about the crime on their behalf.
- They were helpful, are helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the crime. If they are under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may assist law enforcement on their behalf.
- The crime occurred in the United States or violated U.S. laws.
- They are admissible to the United States. If they are not admissible, they may apply for a waiver on a [Form I-192, Application for Advance Permission to Enter as a Nonimmigrant](#).⁶³

Overall, the U visa provides a form of relief for survivors of a serious and qualifying crime. The survivor must have suffered substantial harm, either physical or mental. If the survivor reports the crime and cooperates with the investigation or prosecution of the suspects(s), along with meeting all other criteria, the survivor may be granted a U visa. If granted, the visa can provide temporary lawful status, employment authorization, and

⁶⁰ *Funding & Appropriations*, National Network to End Domestic Violence, <https://nnedv.org/content/violence-against-women-act/> (last visited Nov. 29, 2023).

⁶¹ *Victim of Trafficking and Violence Prevention Act of 2000*, Pub. L. No. 106-386 (Oct. 28, 2000), <https://www.govinfo.gov/content/pkg/PLAW-106publ386/pdf/PLAW-106publ386.pdf>.

⁶² *Id.*

⁶³ *U.S. Citizenship and Immigration Services*, Victims of Criminal Activity: U Nonimmigrant Status, <https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status> (last visited Nov. 29, 2023).

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prevent the noncitizen from facing deportation⁶⁴. Similar to VAWA, it also can provide a pathway to lawful permanent resident status. While the U visa is a great option for survivors of crime who seek relief, obtaining U nonimmigrant status comes with its own set of challenges.

Availability of U Visas

Although U visas are a form of relief for crime survivors who may not have any other immigration remedy, the number of available U visas is drastically low compared to the number of applications received each year. For years, U visas have been capped by Congress at 10,000 visas per year⁶⁵. Like many other visa programs, USCIS is responsible for managing the U visa program. Thousands of applicants are submitted for an opportunity to receive a visa. There are significantly more applicants than available visas. In FY2023, there were over 300,000 applications pending⁶⁶.

There are so many contributing causes towards the U visa backlogs. For example, the congressional cap has contributed to significant backlogs with USCIS. Petitioners whose applications are not approved prior to the cap are placed on a waitlist. The USCIS data shows that the number of pending petitions will increase to well over 315,000⁶⁷. With a congressional cap of 10,000, it will be very difficult for USCIS to balance the backlog with the lengthy list of petitioners awaiting their decision. With the cap in place, USCIS's ability and options to reduce this potentially decades-long backlog are limited." While the visa cap is not placed on derivative petitions, 10,000 visas is not nearly enough to help balance out the backlog and the long list of survivors waiting to receive their visa.

Although advocates and law makers are making efforts to raise the visa cap, applicants are left with no other option but to wait years for a decision to be made on their case. If an applicant does not receive a bona fide determination (which can take up to a few years), which would allow them to receive work authorization, they are left waiting without a way to support themselves for what could be several years. There is no question that the 10,000-visa cap needs to be increased. Without an increase occurring anytime soon, applicants are left in limbo and are susceptible to the ever-changing enforcement priorities during the current administration and with future administrations to come.

What Can You Do to Advocate?

- Use litigation when possible. Although the U visa cap is regulated by statute and would require Congressional action to change the cap or remove the cap completely (a common ask among advocates), there are other ways in which advocates are raising their concerns on the U visa availability issue and the backlogs at USCIS. For example, in 2023, a local advocacy group in Charlotte, North Carolina, worked with other organizations and filed a lawsuit against USCIS on behalf of U visa applicants who have been waiting for years to have their application adjudicated.⁶⁸ While litigation is not an option available to all, practitioners and organizations that have the resources to fight the legal battles may continue to do so.
- Improve incentives for victims/survivors to come forward. In addition to the Congressional actions needed, advocates also would like to

⁶⁴ Veronica Garcia and Ariel Brown, ILRC. *Pros and Cons of Applying for a U Visa*. https://www.ilrc.org/sites/default/files/resources/june_2022_u_visa_pros_and_cons_of_applying_final22.pdf

⁶⁵ INA § 214, 8 USC § 1184.

⁶⁶ *Number of Form I-918, Petition for U Nonimmigrant Status By Fiscal Year, Quarter, and Case Status Fiscal Years 2009-2023*, https://www.uscis.gov/sites/default/files/document/data/I918u_visastatistics_fy2023_qtr2.pdf.

⁶⁷ U.S. Citizenship and Immigration Services, *Victims of Criminal Activity: U Nonimmigrant Status*, <https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status> (last visited Nov. 29, 2023).

⁶⁸ *Id.*

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see more incentives for survivors who are encouraged to come forward in assisting with a criminal case. Right now, it is taking years for a U visa applicant to receive a bona fide determination. The bona fide determination process allows the adjudicator to do an initial review on the case to decide whether to give the applicant employment authorization and deferred status, while their petition undergoes a final adjudication. Advocates can encourage USCIS to increase their capacity to review cases. Additional adjudicators mean more cases can be processed and fewer people having to wait for an extended period of time.

What is the T Visa?

The nonimmigrant visa known as the T visa was created in October 2000. Congress passed an act called the Trafficking Victims Protection Act (TVPA), which was part of a larger act known as the Victims of Trafficking and Violence Protection Act of 2000 (TVPRA)⁶⁹. The need for this form of immigration relief arose to encourage survivors to help law enforcement agencies strengthen their ability to investigate or prosecute human trafficking crimes. For T visa purposes, trafficking occurs when the trafficker uses force, fraud, or coercion to compel forced labor or a commercial sex act, or when a victim induced to perform commercial sex is under age 18.⁷⁰

The T visa is a nonimmigrant benefit for qualified survivors of human trafficking. Some of the benefits received include work authorization, access to cash assistance and food stamps. Like the U visa, T visa applicants are eligible to apply for permanent residence. Applicants qualify if they have been lawfully admitted in T nonimmigrant status and continuously physically present in the United States

for 3 years. The applicant can also qualify if they have been continuously physically present in the United States during the investigation or prosecution of the trafficking and the investigation or prosecution is complete (whichever occurs earlier). The applicant must also meet any other eligibility requirements.⁷¹ Survivors who are under the age of 18 at the time of one of the human trafficking acts or unable to comply with law enforcement due to trauma may still qualify for the T visa status without assisting law enforcement.

The applicant must demonstrate the following requirements for T visa:

- Are or have been a victim of a severe form of trafficking in persons;
- Be physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry, on account of trafficking;
- Have complied with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking or qualify for an exemption or exception; and
- Would suffer extreme hardship involving unusual and severe harm if removed from the United States⁷².

The T visa is a difficult visa to obtain and the processing delays for applicants make it even more difficult to navigate. T status applicants are ineligible for work authorization until their application for T status is approved, unless they have some alternate basis for work authorization separate from the T visa process. Processing times can take well over a year.⁷³ The application process itself may require large amounts of evidence including detailed accounts

⁶⁹ *Advocacy Center Files Lawsuit to Fight U Visa Backlog*, Charlotte Center for Legal Advocacy, <https://charlottelegaladvocacy.org/advocacy-center-files-lawsuit-to-fight-u-visa-backlog/> (last visited Nov. 29, 2023).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ U.S. Citizenship and Immigration Services, Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year, <https://egov.uscis.gov/processing-times/historic-pt> (last visited Dec. 4, 2023).

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of what happened to the survivor, police reports, affidavits, and most importantly, a certification by a law enforcement officer demonstrating that the survivor cooperated with the criminal investigation.

Availability of T Visas Versus U Visa Issuance

Similar to the U visa, the T visa also has a congressional cap on the number of visas that can be issued each year. Drastically lower than the U visa, the T visa is capped at 5,000 visas per fiscal year. The cap does not include qualifying family members. Unlike the U visa, which reaches its annual visa limit each year, the T visa is a much harder visa to receive, so much so that the T visa has never reached its 5,000 limit.⁷⁴ Based on data from USCIS, between the fiscal years 2008-2022, the average number of T visa applications granted are approximately six hundred a year.⁷⁵ This raises the question, why are T visas not issued more?

Requests for T visas are denied for various reasons. However, there are times where an application is unjustly denied. For example, there are instances where T visa applicants are denied for performing “unlawful acts traffickers compelled victims to commit.”⁷⁶ In other cases, survivors who were able to escape their traffickers were denied because they did not file their application shortly after their escape. The idea that survivors must file for protection so quickly after being traumatized or risk being denied for a T-visa works against its intended purpose.

What Can You Do to Advocate?

- Increase awareness about the T visa program. One way for advocates to help survivors who may qualify for the T visa is to bring awareness in their local networks that the T visa program exists and is an option for survivors who may qualify. Many survivors do not know that the T visa is an available benefit. In addition, survivors of forced labor are often overlooked, leaving their abusers to go free. More awareness

is needed around forced labor being a qualifying factor to ensure that abusers are held accountable and do not escape punishment.

- Ensure potential applicants are aware of eligibility requirements. Advocates should also know that survivors don't have to be physically harmed or receive a physical threat of harm to qualify.
- Create processes that avoid re-traumatization. Advocates are also concerned that T visa applicants are being re-traumatized and would like to see a process where survivors are not being retraumatized at every stage of the process. USCIS adjudicators and those involved at each stage of the process need more training around survivor trauma.
- Improve processing times. Lastly, processing times need improvement. The processing times with USCIS are very lengthy. Case processing times need to be cut short and can be done if USCIS receives the proper funding and additional staff to adjudicate cases.

Make Sure Automatic EAD Extensions Apply to All Survivor-Based Applications

What is an EAD and why is it so important?

EAD stands for employment authorization document. It is used to prove that a noncitizen is authorized to work in the United States for a specified period. The document is issued by USCIS and is offered to a wide range of foreign nationals who have or seek to have lawful immigration status in the United States, including those who are waiting to adjust status, asylum seekers, VAWA applicants, and others. Without an EAD, survivor-based categories do not have permission to work. For some, working without authorization may bring immigration consequences.

⁷⁴ 65 U.S. Citizenship and Immigration Services, Questions and Answers: Victims of Human Trafficking, T Nonimmigrant Status (last visited Aug. 21, 2023).

⁷⁵ Number of Form I-914, Application for T Nonimmigrant Status By Fiscal Year, Quarter, and Case Status Fiscal Years 2008-2022, https://www.uscis.gov/sites/default/files/document/data/I914t_visastatistics_fy2022_qtr3.pdf.

⁷⁶ Sarah Betancourt and Jenifer B. McKim, *For labor trafficked immigrants, T-visas are a life-saving but flawed relief*, GBH, August 7, 2023, <https://www.wgbh.org/news/local/2022-10-24/for-labor-trafficked-immigrants-t-visas-are-a-life-saving-but-flawed-relief>

Advocacy at the Federal Level

For some categories of applicants, employment authorization is granted with the underlying immigration benefit, but when the employment authorization document is set to expire, those same applicants may or may not be eligible for an automatic extension. For example, if the applicant is a VAWA self-petitioner, an initial petition for VAWA also includes a request for an EAD. The applicant is not required to submit a separate application for work authorization. However, when that same applicant's card is set to expire in about six months or less, they are then required to submit a new application to renew their EAD. According to USCIS policy, while the renewal application is pending, the applicant will receive an automatic 180-day extension of employment authorization if the renewal application is timely filed prior to the current card's expiration.⁷⁷ This automatic extension ensures that the applicant can continue working without being at risk of working without authorization and violating their status.

Unfortunately, the automatic extension of the EAD does not apply to all survivor-based categories. USCIS has made available automatic extension eligibility for asylees and those who have pending asylum applications as well as VAWA applicants. U and T visa applicants are not among those who are eligible for an automatic extension. Advocacy is needed to ensure that automatic extensions of EADs apply to applicants who are survivors of DV.

Ensure Calls or Reporting From Abusers and Resulting Immigration Enforcement Do Not Adversely Impact Survivors

In many abusive relationships, the abuser will use the survivor's lack of immigration status against them. The abuser will threaten to call immigration enforcement should the survivor ever report the abuse. Too often, abusers follow through with their threats and survivors end up in removal proceedings.

On Aug.10, 2021, ICE issued [Directive 11005.3](#) Using a Victim-Centered Approach with Noncitizen Crime Victims. This directive stated, "A victim-centered approach encourages victim cooperation with law enforcement, engenders trust in ICE agents and officers, and bolsters faith in the entire criminal justice and civil immigration systems." Unfortunately, in 2025, this directive was replaced by ICE Directive 11005.4, which states that ICE officers and agents are "not required to affirmatively seek to identify indicia or evidence suggesting an alien is a victim of a crime or consider such evidence as a positive discretionary factor" when deciding whether to take an enforcement action. Reinstating the Victim-Centered Approach directive would be a start to improving conditions for survivors, more needs to be done to protect them. First, this policy needs to be made permanent, so that it is more difficult to change from administration to administration.

The Department of Homeland Security is the one that holds the ability to make changes. Both DHS in the immigration courts along with USCIS can have policies that provide trainings and screening for survivors. ICE and CBP should flag survivors and work with USCIS and Executive Office for Immigration Review (EOIR) to ensure that survivors are protected from any retaliatory measures taken by abusers. The Victim-Centered Approach Directive can be made permanent by Congress and should also be expanded. Even if Congress does not intervene, the Victim-Centered Approach Directive can be reinstated and even expanded.

Include Courthouses Within the Protected Areas Policy

In January 2025, the Trump administration rescinded previous ICE guidance regarding immigration enforcement in "Protected Areas" as well as guidance about enforcement in or around courthouses. Under the Biden administration in

⁷⁷ ICE Directive 11005.3: *Using a Victim-Centered Approach with Noncitizen Crime Victims*, Aug. 10, 2021, <https://www.ice.gov/doclib/news/releases/2021/11005.3.pdf>.



2021, DHS issued a Protected Areas memorandum that expanded the areas to be protected.

This expansion included domestic violence shelters. Courthouses, which were given a separate memo in April 2021, were not included in this expansion. Under the Biden administration courthouse memo, immigration enforcement actions could still occur within courthouses when they involve a national security threat, there is imminent risk of death, violence, or physical harm to any person, there is hot pursuit of an individual posing a threat to public safety, or if there is an imminent risk of destruction of evidence material to a criminal case. Courthouses, as places where survivors go to seek assistance, should be safe places for them. Because of this, the expanded Protected Areas policy should be reinstated, and courthouses should be included in the Protected Areas Guidelines.

DHS is the agency that can make this change. Advocacy efforts include outreach to ICE and CBP. Advocacy efforts should always focus on the reasons why this change is currently

needed. Agencies will not be moved by outdated examples. They need to see when and where survivors have been negatively impacted by allowing certain immigration enforcement actions in courthouses.

Conclusion

Immigrant survivors of domestic violence face many barriers to being able to live safely and free from deportation, threats from abusers, and in a stable situation where housing, food, and employment are all available. This toolkit is a start to getting federal, state, and local advocates, government agencies, and others interested in thinking about the various needs that exist for DV survivors and how to start advocacy efforts. These needs do not exist in a silo. Rather, they are impacted and/or exacerbated by efforts at every level in society. In order to be able to provide the most comprehensive, impactful, and empowering changes for survivors, advocates need to impact every level of government. Education will be crucial in these efforts. We hope this toolkit helps you on your journey.

Resources

- Know the Laws – By State <https://www.womenslaw.org/laws/general?reset-state=1>
- “Undocumented and Experiencing Abuse: What Are My Rights?” <https://www.thehotline.org/resources/undocumented-and-experiencing-intimate-partner-violence-what-are-my-rights-when-reaching-out-for-support/#:~:text=Additionally%2C%20it%27s%20important%20to%20know,from%20law%20enforcement%2C%20and%20Crime>
- “Survivors with Limited English Proficiency: Barriers to Access,” <https://s3.amazonaws.com/gbv-wp-uploads/wp-content/uploads/2019/05/31191034/LEP-survivors-accessibility-9-2016-formatted-20191.pdf>
- “Domestic Violence Fact Sheet: Access to HHS-Funded Services for Immigrant Survivors of Domestic Violence,” <https://www.hhs.gov/civil-rights/for-individuals/special-topics/national-origin/domestic-violence/index.html>
- “Questions and Answers: Victims of Human Trafficking, T Nonimmigrant Status,” <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes/victims-of-human-trafficking-t-nonimmigrant-status/questions-and-answers-victims-of-human-trafficking-t-nonimmigrant-status>