

THIS WEB CONFERENCE WILL BEGIN SOON

NIWAP

CALCASA
CALIFORNIA COALITION
AGAINST SEXUAL ASSAULT

Legal Protections & Help for Immigrant Survivors of Sexual Assault

THE CENTRAL ROLE OF ADVOCATES AND ATTORNEYS

Tuesday, June 23
10 am-12pm PST

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This web conference is supported by funding awarded by Victims of Crime Act Victim Assistance Formula Grant Program and Services*Training*Officers*Prosecutors (STOP) Violence Against Women Formula Grant Program funds (TE19-22-1578) through the California Governor's Office of Emergency Services (Cal OES). The opinions, findings, and conclusions in this publication are those of the author and not necessarily those of Cal OES. Cal OES reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use these materials and to authorize others to do so.

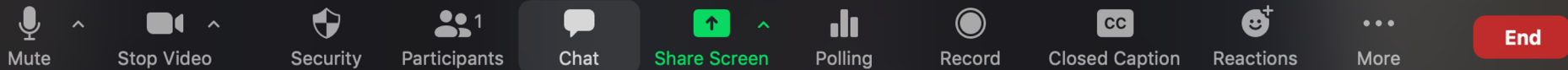
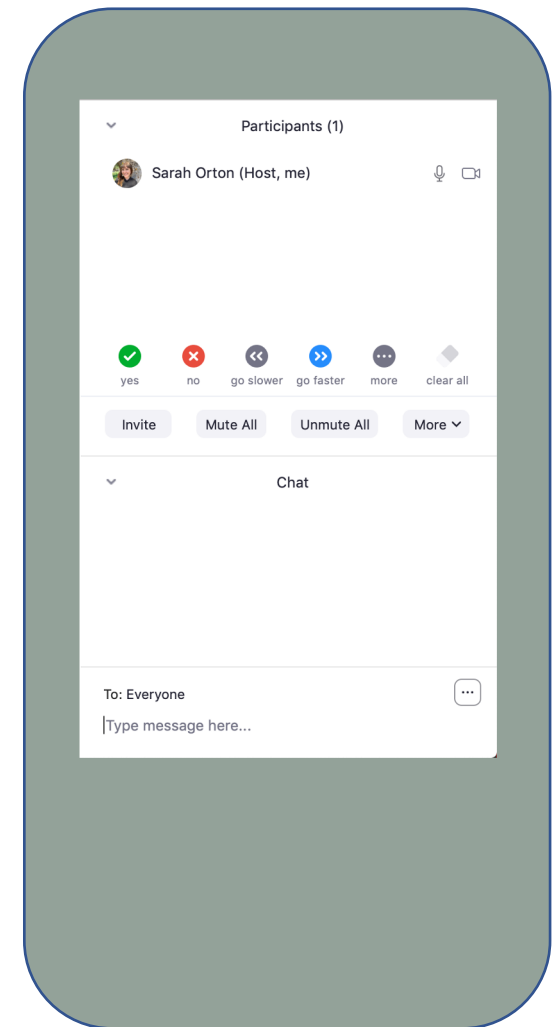
Upcoming Web Conferences

June 25: Implementing Victim Services in Immigration Detention Facilities

June 30: Dating Apps and Abuse

HOW TO USE ZOOM

- ▶ Text chat
- ▶ PowerPoint Slides
- ▶ Polling Questions
- ▶ Phone
- ▶ Closed Captioning
- ▶ Web Conference Guidelines (hand raising)



MEET THE CALCASA TEAM



Meghna Bhat

Project Coordinator
she/her/hers



Shelby Phillips

Program Assistant
she/her/hers

Legal Protections and Help for Immigrant Survivors of Sexual Assault : The Central Role of Advocates and Attorneys

June 23, 2020

10:00 to 11:30am

Web Conference

MEET OUR PRESENTERS



Claudia Sibaja
Project Manager
California Coalition
Against Sexual Assault
(CALCASA)



Rocio Molina
Deputy Director
National Immigrant
Women's Advocacy Project,
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Sandy Monroy
Project Manager
California Coalition
Against Sexual Assault
(CALCASA)

Learning Objectives

- Understand dynamics and barriers immigrant survivors encounter
- Be familiar with the full range of protections immigrant survivors of sexual assault and domestic violence are legally eligible to access
- Know how to assist immigrant and refugee survivors accessing housing, public benefits, legal service and justice system help in a trauma informed manner

Audience Poll

The poll question will
appear on your zoom
window

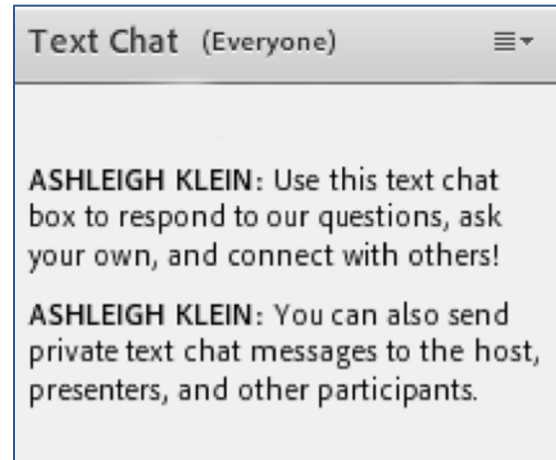
**Let's see who is on the
web conference with us?**

Demographics

TEXT CHAT QUESTION:

What countries are
you seeing
immigrant survivors
coming from?

Use the Text Chat feature
to answer the question.



California Demographics (2018)*

- Total foreign born population – **10,625,980**
- 26.9% of the state's population are foreign born
 - 52.5% naturalized citizens
 - 24.8% lawful permanent residents
 - 47.5% temporary residents and undocumented (noncitizens)
- 19.9% rise in immigrant population from 2000 to 2018
- 47.1% of children in the state under age 18 have 1 or more immigrant parents
 - 42.8% of children with immigrant parents in the state are U.S. natives.

https://www.dhs.gov/sites/default/files/publications/lpr_population_estimates_january_2015.pdf

* (Accessed June 2020)

California – Countries/Regions of Origin (2018)*

- **Latin America – 49.9%**

- ☐ El Salvador (4.3%)
- ☐ Mexico (38.1%)
- ☐ Jamaica (0.1%)
- ☐ Other Central America (4.2%)
- ☐ South America (2.6%)

- **Africa – 1.9%**

- ☐ Western Africa (0.5%)
- ☐ Eastern Africa (0.6%)
- ☐ Middle and Southern Africa (0.2%)

- **Asia – 39.7%**

- ☐ India (5.0%)
- ☐ China (9.2%)
- ☐ Philippines (8.0%)
- ☐ Korea (2.9%)
- ☐ Vietnam (4.8%)

- **Europe – 6.4%**

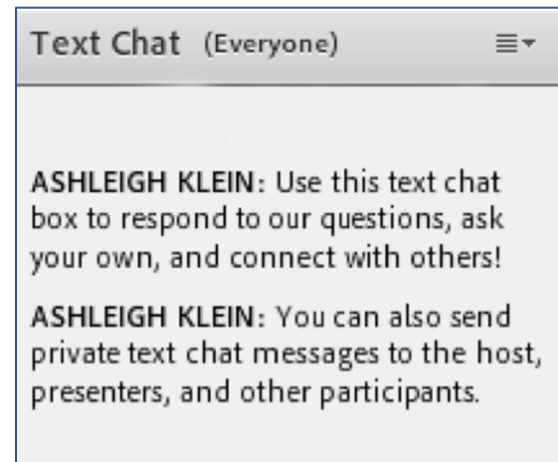
- ☐ United Kingdom (1.2%)
- ☐ Russia (0.6%)
- ☐ Germany (0.7%)

* Source: <https://www.migrationpolicy.org/data/state-profiles/state/demographics/CA#top> (Accessed June 2020)

TEXT CHAT QUESTION:

Other than English,
what languages are
survivors you
encounter speaking?

Use the Text Chat feature
to answer the question.



California – Language Spoken at Home

- ☐ Spanish (10,736,486)
- ☐ Chinese (1,270,116)
- ☐ Yoruba, Twi, Igbo, or Other Languages of Western Africa (37,275)
- ☐ Korean (368,448)
- ☐ Tagalog (810,455)
- ☐ Amharic, Somali, or Other Afro-Asiatic Languages (63,151)
- ☐ Urdu (56,391)
- ☐ Russian (157,936)

* Source: <https://www.migrationpolicy.org/data/state-profiles/state/language/CA> (Accessed June 2020)

Language Access in Cases Involving Limited English Proficient Survivors

- Required of law enforcement, courts, benefits agencies, victim and legal services, health care
- All programs receiving federal assistance
- Securing language access part of case planning
- World language identification card

Title VI of the Civil Rights Act 1964

Meaning:

- If an organization receives any federal funds
- All aspects of the organization must take reasonable steps to provide meaningful access to programs, benefits, and services offered by the organization to persons who are limited English proficient (LEP)

Who's covered?

1. Federally conducted programs
2. State/local government grantees
3. Non-governmental organization grantees



2020 Census Language Support in 59 Non-English Languages

In this presentation, 2020 Census staff will provide an overview and demonstration of non-English instruments, questionnaires, and materials, and discuss the processes, technology, and tools used. Thursday, June 18, 2020 1:30 PM – 2:30 PM ET.

Register Here



Quick Links

[I Speak Cards](#)

[Data and Language Maps](#)

[Foreign Language Services Ordering Guide](#)

[State Courts](#)

[Language Access Planning](#)

[Commonly Asked Questions](#)



Recent News

[NCSC: Tiny Chat 10: Mailbag: Language Access](#) | [Companion Document](#) - June 11, 2020

[ABA: Language Justice During COVID-19 - Article](#) | [Webinar](#) - June 2020

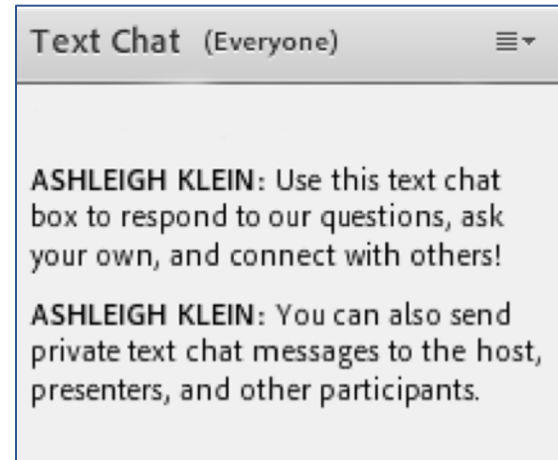
[DOJ: Statement by Assistant Attorney General for Civil Rights Eric S. Dreiband: Protecting](#)

DYNAMICS OF DOMESTIC AND SEXUAL VIOLENCE EXPERIENCED BY IMMIGRANT SURVIVORS

TEXT CHAT QUESTION:

What barriers and fears prevent immigrant survivors from seeking help?

Use the Text Chat feature to answer the question.



Major Challenges in working with Immigrant Survivors of Crime

- Fear of deportation
- Language access
- Retaliation from abuser
- Fear of losing their children
- Lack of knowledge of legal rights
- Ability to leave work to access courts or services
- Do not trust that advocates, attorneys, police, prosecutors, judges will help them
- Service providers and professionals do not know what immigrant survivors qualify to receive

Connection Between Abuse and Control Over Immigration Status

- Abuse rates among immigrant women
 - Lifetime as high as 49.8%
 - Those married to citizens and lawful permanent residents – 50.8%
 - U.S. citizen spouse/former spouse abuse rate rises to 59.5%
- Almost three times the national average

Hass, G. A., Ammar, N., Orloff, L. (2006). Battered Immigrants and U.S. Citizen Spouses

Sexual Assault Rates Among Immigrant Women

- **High school aged immigrant girls**
 - Twice as likely to have suffered sexual assault as their non-immigrant peers, including recurring sexual assault
- Research has found **the Latina college students experience the highest incidence of attempted rape** as compared to White, African American and Asian women college students.
 - Decker, M., Raj, A. and Silverman, J., Sexual Violence Against Adolescent Girls: Influences of Immigration and Acculturation, 13 Violence Against Women 498, 503 (2007).

Immigration Related Abuse

- 10 times higher in relationships with physical/sexual abuse as opposed to psychological abuse*
- May predict abuse escalation
- Corroborates existence of physical and sexual abuse

*Mary Ann Dutton, Leslye Orloff, and Giselle Hass, Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications (Summer 2000)

When Survivors are Subject to Immigration Enforcement the Cause is... (2013 and 2017)

- Perpetrators actively reporting for removal of survivor with pending immigration cases
- Perpetrators got the survivor arrested for domestic violence
- Traffic stops

Krisztina E. Szabo, David Stauffer, Benish Anver, *Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014) and Rodrigues et al. *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey* (May 3, 2018)

RAISE YOUR HAND



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Raise your hand if you have worked on a family violence case involving an immigrant victim whose perpetrator was a ---

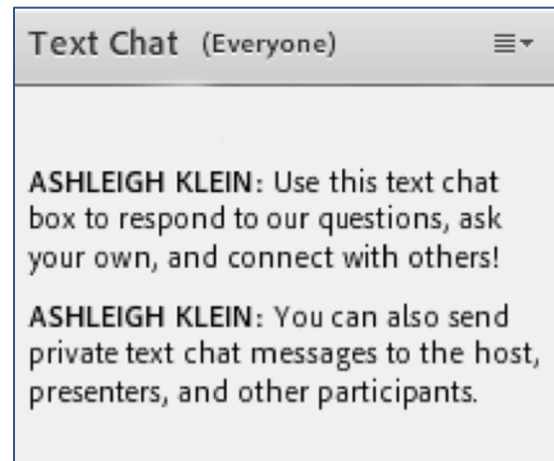
- Citizen or lawful permanent resident spouse;
- Citizen or lawful permanent resident parent; or
- Over 21-year-old citizen child

Immigration Options for Immigrant Survivors: Screening

TEXT CHAT QUESTION:

How does filing for
immigration relief
help immigrant
domestic and sexual
abuse survivors?

Use the Text Chat feature
to answer the question.



Benefits for Survivors

- Protection from deportation
- Access to legal immigration status
- Financial independence from perpetrator
 - Legal work authorization (3-48 months from filing)
 - Issuance of a federally recognized ID
 - Increased access to government funded benefits and services
- VAWA Confidentiality protections

Purpose of Immigrant Survivor Protections

Congress enacted VAWA self-petitioning (1994), the U and T visas (2000) & Special Immigrant Juvenile Status (SIJS) (1990, 2008) to:

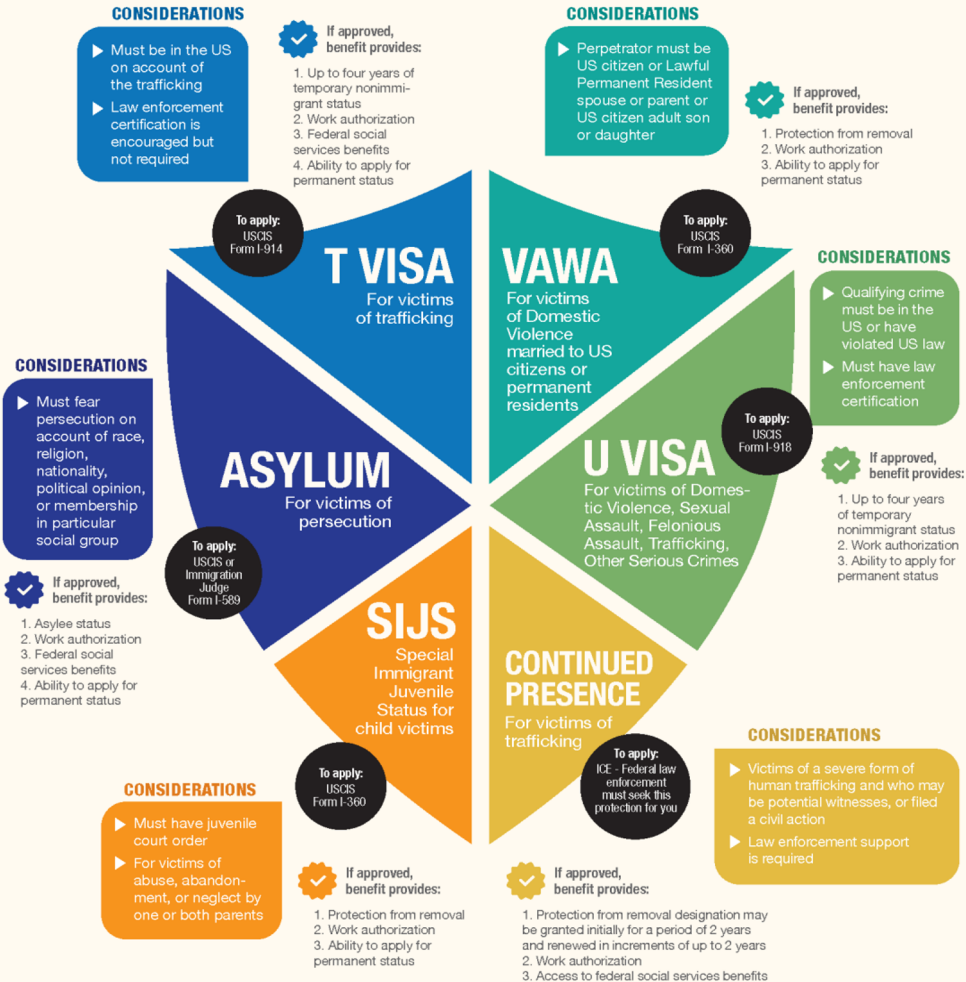
- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Allow survivors to report crimes and seek help from police, prosecutors, and courts without fear of deportation
- Improve access to justice in family/criminal/civil courts for immigrant survivors of
 - Domestic & sexual abuse, stalking, human trafficking, and child/elder abuse
- Enhance safety
- Keep communities safe

Immigration Relief Available for Immigrant Survivors of —

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

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

PROTECTIONS FOR IMMIGRANT VICTIMS



DHS.GOV/BLUE-CAMPAIGN

For victim support call 1-888-373-7888 or text INFO or HELP to BeFree (233733)

DHS Immigration Options for Victims of Crime Brochure

- Languages Offered
 - Spanish
 - Mandarin
 - English
 - Korean
 - Russian



犯罪受害者的移民選擇

執法單位、醫療單位和其他各方
須知

「防止婦女受暴法案」
(Violence Against Women Act)

U 類非移民身份

T 類非移民身份

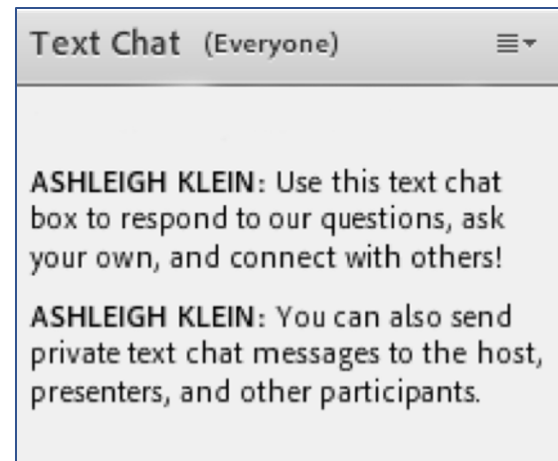
VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
 - Spouse;
 - Parent; or
 - Citizen adult son/daughter (over 21)
- With Whom Self-Petitioner Resided
 - No time period required
- Good Moral Character
- Good Faith Marriage
- VAWA cancellation of removal has similar eligibility requirements
- Battered Spouse Waiver if perpetrator files
- **Timeline to formal protection = 4–18 months (2019)**

TEXT CHAT QUESTION:

What could
constitute
"extreme cruelty"?

Use the Text Chat feature
to answer the question.



Forms of Extreme Cruelty

- Emotional Abuse
- Economic Abuse
- Sexual Abuse
- Coercion
- Deportation threats
- Immigration related abuse
- Intimidation
- Social Isolation
- Degradation
- Possessiveness
- Harming pets

U Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful in
 - Detection, investigation, prosecution, conviction or sentencing
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law
- **Timeline to formal protection = 4-6 years (2019)**

Qualifying Criminal Activity

Abduction	Hostage	Sexual Assault
Abusive Sexual Contact	Incest	Sexual Exploitation
Blackmail	Involuntary Servitude	Slave Trade
Domestic Violence	Kidnapping	Stalking
Extortion	Manslaughter	Torture
False Imprisonment	Murder	Trafficking
Felonious Assault	Obstruction of Justice	Witness Tampering
Female Genital Mutilation	Peonage	Unlawful Criminal Restraint
Fraud in Foreign Labor Contracting	Perjury	Prostitution
Rape	Attempt, conspiracy or solicitation to commit crime or similar activity	

Special Immigrant Juvenile Status (SIJS)

- Immigration relief for unmarried children
- Under the age of majority under state law
- Survivor of abuse, abandonment, or neglect
 - By at least **one parent**
- To apply must submit required findings from a state court with jurisdiction over
 - the care, custody, or dependency of the child
- **Findings**
 - Not in child's best interests to return to home country
 - Reunification with abusive parent not viable
- **Timeline to formal protection = 6 – 36 months (2019)**

T Visa for Trafficking Victims

- A victim of a severe form of trafficking in persons
 - Sex or labor trafficking involving victim under 18 or and adult subject to force, fraud or coercion
- Victim is physically present in the U.D. on account of trafficking
- Victim must comply with reasonable requests for helpfulness in investigating or prosecuting trafficking.

Exceptions

- Under age 18
- Physical or psychological trauma impede helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
- Timeline to formal protection = 3-12 months (2019)

Protections for Children and Family Members

- VAWA self petitioner = Abused Child, Parent of abused child, Abused parent
 - Family included: applicants' children and an under 21 year old child can include their parent
- **U and T visa applicant** = Child victim or their parent
 - Family included:
 - Under 21: spouse, children, parents, unmarried siblings under 18
 - Over 21: spouse and children
- Special Immigrant Juvenile Status = child victim
 - Family included: None

VAWA CONFIDENTIALITY, SURVIVOR SAFETY, AND CASE STRATEGY IN CASES OF IMMIGRANT SURVIVORS

Improving Immigrant Survivor Safety Through Early Screening

- Know forms of immigration relief immigrant survivors qualify for
- Document history of abuse
- Know differences between immigration options
- Incorporate into safety planning
 - How victim can safely carry DHS document copies

Value of Filing Early

- File survivor's immigration case ASAP
 - DHS VAWA confidentiality computer system
 - Ensure survivor is eligible to avoid risk
- Benefits for survivors of early filing
 - Protection from deportation
 - Safer for victim to cooperate in criminal case
 - Earlier access to work authorization
 - State benefits in some states or speeds access
 - Better position in family law case

Advocacy and Best Practices

- Give survivors a letter stating that they are in the process of filing a VAWA, T or U visa immigration case
- In some cases file immigration case before
 - Protection order, divorce, or custody case
 - Victim travels to a new location
- Particularly when the survivor is receiving immigration related threats

VAWA Confidentiality Prongs Chart

Non- Disclosure

Protects victims **who have filed** a protected case with DHS

*VAWA self-petitions

*Battered spouse waiver

*VAWA
Cancellation/Suspension

*U and T Visas

*Abused Spouses of work
visa holders work
authorization applications

Abuser-Provided Information Prohibition

Includes family
members of abusers,
crime perpetrators
and their agents

Protects:

***All victims abused by
spouse or parent**

*All victims in the
process of applying
for U or T visas

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

VAWA Confidentiality Protections

- **Abuser-Provided Information:** DHS, DOJ and the State Department are barred from taking action against a victim based *solely* upon information provided by abusers and crime perpetrators (their family members or associates)
- **Location Prohibitions** to enforcement unless DHS complies with specific statutory and policy safeguards – includes no courthouse immigration enforcement against immigrant crime victims
- **Non-Disclosure:** DHS, DOJ and the State Department cannot disclose VAWA confidentiality protected information to anyone including through civil, family and criminal court discovery of information about or contained in the file of any protected case:
 - VAWA self-petitioners, VAWA cancellation/suspension, T visa, U visa, Battered Spouse Waiver, Abused Visa Holder Spouses

DHS Cannot ---

- Contact an abuser
- Seek information from an abuser
- Call an abuser as a witness
- Use information obtained solely from an abuser against the victim in the victim's immigration case

DHS VAWA Confidentiality Computer System

- Directs to check for “384” computer system flag that identifies victims who have already filed for or have been granted victim-based immigration relief
- Reminds immigration officers that the immigrant is a victim
- Sanctions \$5,000 fine and/or disciplinary action

VAWA Sensitive Location Prohibitions

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



Sensitive Locations

- Enforcement actions by ICE and CBP are not to occur or be focused at sensitive locations:
 - Schools
 - Medical treatment and health care facilities
 - Places of worship
 - Religious or civil ceremonies, e.g. weddings, funerals
 - During a public demonstration, e.g., march, rally, parade
- Very limited exceptions:
 - Exigent circumstances
 - Prior approval by a designated supervisor
 - Other law enforcement action led ICE/CBP there

What to Take to Court When Accompanying an Immigrant DV/SA Survivor

- A# or letter from advocate/attorney stating that the survivor is in the process of filing a
 - VAWA, T or U visa case
- Police reports
- Copy of the U/T certification
- VAWA confidentiality policies
 - ICE, DHS
- Evidence of abuse include copies of protection orders, photos, documentation of the perpetrator's criminal case

When Violations Happen

- Work it up the chain to a supervisor
- File a formal complaint-
 - Penalties of up to \$5000 per incident against the violating officer individually
 - Also disciplinary actions
- Advocate to mitigate harm for victim
- Call NIWAP for technical assistance



KEYS TO SUCCESS: ACCESS TO BENEFITS AND SERVICES GROWS AS SURVIVORS PURSUE IMMIGRATION RELIEF



Access for All

Both documented and undocumented immigrant survivors can access:

Legal services
Family court (Divorce)
Language access
Police assistance
Protection orders
Child custody & support
Have their abusers
criminally prosecuted
Public benefits for their
children

Assistance for crime victims
Shelter
Transitional housing
WIC/school lunch & breakfast
Primary/Secondary education
Immunizations
Emergency medical care
Care from community &
migrant health clinics
VOCA funds

In-Kind Services Necessary to Protect Life and Safety Open to All Immigrants

Child and adult protection services
Crisis counseling and intervention
Violence and abuse prevention
Victim assistance
Treatment of mental illness or substance abuse
Help during adverse weather conditions
Soup kitchens
Community food banks
Shelter & transitional housing assistance
Nutrition programs for those requiring special assistance



Health Care Open to All Immigrants

- Community and migrant health clinics
 - www.nachc.com
 - www.hrsa.gov
 - Enter zip code
- State funded programs
- Post-assault health care paid by VOCA
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid



NIWAP's New COVID-19 Tool

- Immigrant Crime Victim Access to Relief During the COVID-19 Crisis Under the CARES and FFCRA Acts (May 20, 2020)

<http://niwaplibrary.wcl.american.edu/pubs/cares-act-unemployment-imm-victims-5-27-2020>

NIWAP's New COVID-19 Tool

- Healthcare Available to Immigrant Crime Victims During the COVID-19 Pandemic:

<http://niwaplibrary.wcl.american.edu/healthcare-available-to-immigrant-crime-victims-during-the-covid-19-pandemic>

- COVID-19 Resources for Immigrant Survivors, Advocates, Attorneys, and Courts:

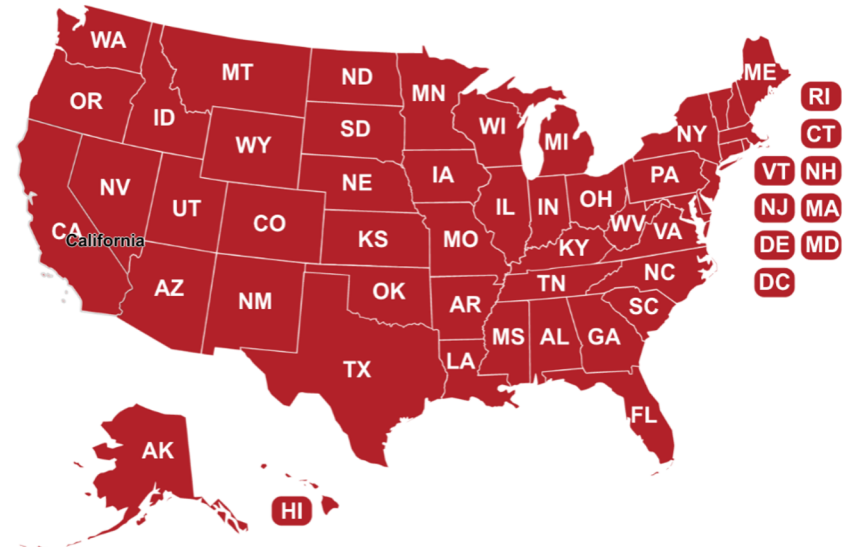
<http://niwaplibrary.wcl.american.edu/other-resources-covid-19>

Interactive Public Benefits Map

These maps break down available public benefits based on immigrant's state and immigration status.

We are still working on this site, so if you cannot click on your state, check back soon for completed maps.

- Cash Assistance (TANF)**
Temporary Assistance for Needy Families (TANF) provides cash assistance to low income families with children.
[Go to Map](#)
- Child Care**
Child Care services may be provided through public benefits.
[Go to Map](#)
- Children's Health Insurance Program**
Medical assistance is available to children through the Children's Health Insurance Program (CHIP).
[Go to Map](#)
- Driver's License**
State-specific requirements to be issued a driver's license.
[Go to Map](#)
- Earned Income Tax Credit**
- Emergency Housing & Safety Programs**



California Legal Services

VAWA Self-Petitioner: Eligible with conditions

Refugee: Eligible

Asylee: Eligible

T Visa Holder: Eligible

T Visa Bona Fide: Eligible with conditions

Continued Presence: Eligible with conditions

Deferred Action for Childhood Arrivals (DACA): Eligible with conditions if they have suffered victimization

Special Immigrant Juvenile Status (SIJS): Eligible with conditions if they have suffered victimization

U Visa (Upon wait list approval): Eligible with conditions

U Visa Applicants: Eligible with conditions

Undocumented: Eligible with conditions if they have suffered victimization

For more information, see [California Public Benefits Chart](#)

Other benefits searchable on the map include:

- Child Care
- Children's Health Insurance Program
- Emergency Housing & Safety Programs
- Post-Assault Healthcare
- Public & Assisted Housing
- Medicaid
- Federal Education Benefits
- Prenatal Care
- Food Stamps
- & more

Importance of Accompanying Immigrants in Applying for Public Benefits

- Help educate state benefits workers
- Accompanying immigrant applicants helps
 - Children and survivor get what they are legally entitled to access
 - Helps undocumented parents file for benefits for their citizen or LPR children
 - State welfare worker reporting requirements

When children qualify and their parents do not:

- If a child qualifies for benefits as a citizen or qualified immigrant the benefits granting agency may only ask questions about the child's eligibility
- No questions may be asked about the immigration status of the child's parent if the parent is not applying for additional benefits for themselves

RESOURCES

NIWAP Web library

niwaplibrary.wcl.american.edu



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Community of Practice Advocate Outreach

Opportunity for Victim Advocates/Victim Witness Staff

- One-hour interactive convenings where advocates will learn best practices from colleagues and other subject matter experts
- Access to a password-protected website with additional materials only for COP members
- Register here:
<https://www.surveymonkey.com/r/BBHR3X3>

Technical Assistance and Materials

- NIWAP Technical Assistance:
 - Call (202) 274-4457
 - E-mail info@niwap.org
- Web Library:
www.niwaplibrary.wcl.american.edu

CALCASA TA

- CALCASA Technical Assistance:
 - Call (916) 446-2520
 - E-mail info@CALCASA.org



QUESTIONS

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