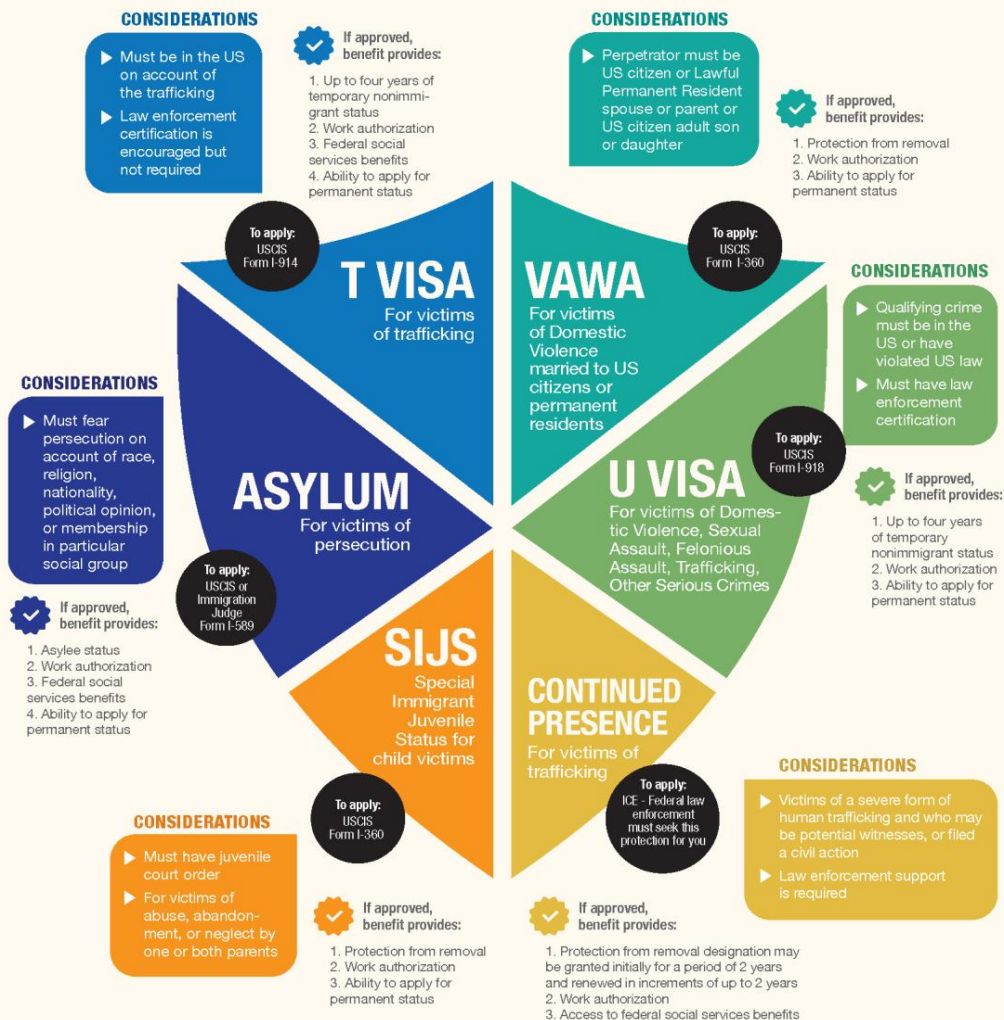


Immigration Options and Trauma Informed Approach to Helping Immigrant Victims of Sexual Assault

October 23, 2018

PROTECTIONS FOR IMMIGRANT VICTIMS



DHS.GOV/BLUE-CAMPAIGN

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

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

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

Part 3. Criminal Acts

If you need extra space to complete this section, use the space provided in **Part 7. Additional Information**.

1. The petitioner is a victim of criminal activity involving a violation of one of the following Federal, state, or local criminal offenses (or any similar activity). (Select **all applicable** boxes)

- | | |
|---|---|
| <input type="checkbox"/> Abduction | <input type="checkbox"/> Manslaughter |
| <input type="checkbox"/> Abusive Sexual Contact | <input type="checkbox"/> Murder |
| <input type="checkbox"/> Attempt to Commit Any of the Named Crimes | <input type="checkbox"/> Obstruction of Justice |
| <input type="checkbox"/> Being Held Hostage | <input type="checkbox"/> Peonage |
| <input type="checkbox"/> Blackmail | <input type="checkbox"/> Perjury |
| <input type="checkbox"/> Conspiracy to Commit Any of the Named Crimes | <input type="checkbox"/> Prostitution |
| <input type="checkbox"/> Domestic Violence | <input type="checkbox"/> Rape |
| <input type="checkbox"/> Extortion | <input type="checkbox"/> Sexual Assault |
| <input type="checkbox"/> False Imprisonment | <input type="checkbox"/> Sexual Exploitation |
| <input type="checkbox"/> Felonious Assault | <input type="checkbox"/> Slave Trade |
| <input type="checkbox"/> Female Genital Mutilation | <input type="checkbox"/> Solicitation to Commit Any of the Named Crimes |
| <input type="checkbox"/> Fraud in Foreign Labor Contracting | <input type="checkbox"/> Stalking |
| <input type="checkbox"/> Incest | <input type="checkbox"/> Torture |
| <input type="checkbox"/> Involuntary Servitude | <input type="checkbox"/> Trafficking |
| <input type="checkbox"/> Kidnapping | <input type="checkbox"/> Unlawful Criminal Restraint |
| | <input type="checkbox"/> Witness Tampering |

Certify all that you can detect from the evidence presented or in court records

No criminal case filing required

Not limited to by the criminal charges if any filed

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.S. 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

DHS VAWA Confidentiality Computer System

- Directs use of “red flag” “384” computer system to identify victims who have already filed for or have been granted victim-based immigration relief
- Reminds immigration officers, agents, attorneys about immigration law protections for
 - Victims of domestic violence
 - Crime victims
 - Human trafficking victims

Safety Planning and Action Steps for Immigrant Survivors

- Timing of immigration and family court cases
- File immigration case early
 - File with sufficient documentation of each element for to meet prima facie test
 - As well documented as possible to avoid denial
 - RFE – can provide additional evidence
- Documentation victim can carry with her
 - Letter from advocate/attorney stating that the victim is in the process of filing a VAWA, T or U visa case
 - Evidence that immigration case has been filed – A number
 - Civil protection order
- Intervene early
 - Any criminal case against the victim that is unresolved
 - Any child welfare system case – consular notification

Immigration and Customs Enforcement (ICE) June 2018 NTA Policy

- NTA= Notice to Appear
- When an application for immigration relief is denied on its merits = case referred to ICE for removal – Implemented October 1, 2018
- September 26, 2018
 - Not implemented at this time for humanitarian cases – includes VAWA, T, and U visa cases
- Best practice screen for 10 year cancellation of removal
- File strong well documented cases

Can Victims Be Protected Prior to Filing a VAWA Confidentiality Protected Immigration Case?

- If victim shows evidence that they are in the process of filing a
 - U visa, T visa or VAWA case VAWA confidentiality is triggered and applies
- Evidence might include
 - A letter from an attorney/advocate stating that they are in the process of applying for a VAWA, T or U visa case
 - A copy of a certification
 - A protection order

Victims for Which VAWA Confidentiality Will Offer Less Protection

- Victims with criminal histories
 - Including arrests
- Victims with outstanding deportation orders
- Victims eligible for VAWA, T or U who have not filed their immigration case

Trauma Informed Approach to Story Writing

- **Story Writing Intervention**
 - Process by which advocate/attorney supports and helps survivors write their own story
 - By capturing trauma history through narrative, survivors are helped to heal from trauma
 - What research tells us about importance of writing the trauma narrative

Story Writing Intervention Method

- 1. Invite the survivor to write/tell her story**
 - Support, witness, listen without judgment, allow space
 - Goal: story comes out unedited/uninterrupted
- 2. Follow up with interview**
 - Structured Interview Questionnaire for Immigration (SIQI)
 - Take notes for follow up during story telling interview
- 3. Edit together**
 - Story + structured interview responses into affidavit
- 4. Survivor reads back the final story**

Trauma Informed Legal Advocacy

- Use an approach that helps clients heal
- At the same time strengthens the legal case
- Building a relationship of trust
- Transparency – Explain your role, why you ask certain questions, why you need certain information

Immigration Story Writing Intervention

- **Affidavit = A Survivor's "Story"**
 - **Unique opportunity for trauma informed healing**
 - Most important pieces of evidence submitted
 - DHS hears directly from the survivor, in her voice
 - Less affidavit, than "story" of the survivor's experience
 - Getting the full story for the immigration case can be a traumatic experience for survivors
 - The goal is to develop an approach that:
 - Obtains more complete information
 - Improves outcomes and helps survivors heal

Immigration Story Writing Intervention

Step 1

1. Invite the survivor to write/tell her story

- Develop safety and trust
- Support, Witness, Listen without judgment
- Allow space for silences
- Create space for the victim to tell her story
- Schedule time to listen more than talk
- Goal: story can be shared with another in a nonjudgmental, supportive context

Immigration Story Writing Intervention

Step 2

2. Structured Interview Questionnaire for Immigration (SIQI) with Survivor

- Obtain information about additional incidents, effects of incidents, detail of previously reported incidents in-depth details as needed
- Follow up questions from Step 1: Assume that not all of story will come out in first telling
- SIQI available at:
<http://niwaplibrary.wcl.american.edu/pubs/trauma-informed-siqi/>

Immigration Story Writing Intervention

Step 3

3. Edit to create affidavit

- Integrate open-ended story and
- Structured Interview Questionnaire for Immigration (SIQI)
- Meet with client to clarify timeline, details
- Be ready to address the victims' difficulty with exposure to the story

Immigration Story Writing Intervention

Step 4

4. Survivor reads back affidavit to you

- Coherent narrative
- The whole story
- How it affected the survivor

Types of Cases That Could be Strengthened By This Approach

- Immigration
 - VAWA
 - U Visa
 - SIJS
 - T Visa
- Civil Cases
 - Workplace based sexual assault/harassment
- Family Law
 - Custody
 - Protection Order
 - Divorce
 - Economic Relief

NIWAP Web library

niwaplibrary.wcl.american.

edu



Introduction

Newsletters-FAQs

Trainings

Past Trainings

Manuals

Immigration

Public Benefits & Economic Relief

Family Law

Law Enforcement

Judges

Dynamics, Culture, & Safety

Language Access

Access to Legal Services

VAWA Confidentiality

Criminal Justice

Public Policy

Research

Statutes

Legislative History

Regulations and Policies

Multilingual Materials

NIWAP

National Immigrant Women's Advocacy Project
American University Washington College of Law

Technical Assistance and Materials

- Power Point presentations and materials available on NIWAP's website at <http://niwap.org/go/TimesUpWebinar18>
- **NIWAP Technical Assistance:**
 - Call (202) 274-4457
 - E-mail niwap@wcl.american.edu
- Web Library:
www.niwaplibrary.wcl.american.edu