

**House Staff Briefing in recognition of  
Domestic Violence Awareness Month  
“How Immigration Reform Can Affect Immigrant Survivors of Violence”  
Tuesday, November 19<sup>th</sup>, 9:00-10:30AM  
Rayburn House Office Building, Room B-354**

***Comments of Lisa Koop, Associate Director of Legal Services  
National Immigrant Justice Center  
[lkoop@heartlandalliance.org](mailto:lkoop@heartlandalliance.org)  
312-446-5365***

My name is Lisa Koop and I’m an attorney at the National Immigrant Justice Center (NIJC). I work in Chicago and in northern Indiana on cases involving immigrant survivors of domestic violence. Our current immigration laws contain several important protections for immigrant women, men and children who experience domestic violence, sexual assault, and other forms of gender violence. These laws are critical because immigrant victims are particularly vulnerable. Their abusers tell them if they protest the abuse, they will be jailed and deported. They are told by their abusers that no one will believe them because they are undocumented and that they have no custodial rights to their children because they lack immigration status. To ensure maximum protection for victims of violence, our existing laws should be augmented and improved so that victims who currently fall through gaps in the law are not compelled to remain in abusive situations because they fear contact with police, deportation and separation from their children.

Among existing forms of protection is relief under the Violence Against Women Act, or VAWA. VAWA allows abused immigrants to self-petition for immigration status instead of relying on an abusive spouse to file a family petition. This relief is available for victims *legally married* to an abuser who is a

United States citizen or Lawful Permanent Resident. For example, I represented a woman from Uganda in 2011 who married a United States citizen whom she met in rural Illinois. He became abusive, refused to file immigration papers for her and threatened to have her deported. He attempted to strangle her and sexually abused their child as well as his daughter from a previous relationship. When my client found work outside the home, her abuser called her employer and told them my client was HIV positive in the hopes of getting her fired. My client was able to receive VAWA protection. She divorced her abuser, put herself through nursing school and now cares for her son, who is autistic, as well as the other U.S. citizen children of her abuser. As noted by the immigration judge who presided over this case, my client is precisely the type of person the VAWA laws were created to protect.

But VAWA relief is not available where the abuser does not have immigration status or where there is no legal marriage. It is not uncommon for us to encounter women who have been referred to us by domestic violence shelters because they are undocumented and have experienced horrific abuse but who can't receive VAWA protection because they were never married to their abusers or, if they were, their abusers did not have permanent immigration status.

An alternative to VAWA for some immigrant victims of domestic violence is a form of protection called the U-visa

The U visa was created by Congress in 2000 to encourage victims of crime to collaborate with law enforcement. It was intended to strengthen law enforcement relationships with immigrant communities and to ensure that perpetrators are not provided a shield from arrest or prosecution because victims are afraid to come forward.

Victims of certain crimes, including domestic violence, may receive a temporary visa if a law enforcement agency certifies they are useful in the investigation or prosecution of the crime *and* if they meet the other stringent U visa requirements, such as establishing they have experienced substantial harm as a result of the crime.

This protection fails, however, when victims fear contact with police and do not report the crimes committed against them; or when they *do* cooperate with police and prosecutors who nonetheless refuse to sign certifications. NIJC, for example, has offices in northern Indiana where a county prosecutor has declined to sign U visa certifications for victims of crime in even the most egregious of cases involving rape and severe physical abuse, like in the case of our client who was injured when her abuser shoved her down a flight of stairs. The prosecutor told us he has concerns about signing U visa certifications for people who have been involved in criminal incidents as *victims* and his deputy reported that they don't sign certifications because U visas "promote victimhood" among victims of crime.

Another client of mine was sexually and physically abused for years by her partner in Dallas, Texas. The abuser is connected to a Mexican drug cartel and beat her so ferociously that she was hospitalized on multiple occasions. Despite her willingness to work with law enforcement, they refused to sign her certification, thus preventing her from pursuing a U visa.

Moreover, U visas are capped at 10,000 per fiscal year. For this fiscal year, USCIS has already issued more than 4200 visas, which means the cap will likely be reached very early this year and many applicants will not be able to receive approvals until after October 2014 at the earliest. The number of visas available does not match the prevalence of crimes against immigrants, who are particularly vulnerable by virtue of their undocumented status.

While VAWA and U visas are probably the most common immigration protections sought by domestic violence survivors, there are a few other immigration remedies for victims of gender-violence and abuse.

The T-visa may be available to immigrant victims of human trafficking; which can include forced domestic work - which often involves forms of sexual abuse - and forced prostitution.

Special Immigrant Juvenile Status is available to some children in the United States who have been abandoned, abused, or neglected by their caregivers, such as a young client of ours whose father murdered his mother after abusing her for years. The boy, who was 13 when we began working with him, was placed in the

custody of an aunt and granted special immigrant juvenile status which allowed him to stay in the United State with his two younger U.S. citizen sisters.

And finally, asylum protection is sometimes available to people who have experienced domestic violence or other gender-based harm abroad, like our Congolese client who was abducted as a teenager and forced into sexual slavery for three months by militia fighters. Asylum availability is severely limited, however, by the fact that applicants must lodge an asylum petition within a year of arriving in the United States and also because the law has been slow to recognize gender as a protected characteristic.

The laws we have on the books are truly life-saving for the people they protect. But there are gaps in protection – if you aren't married to your abuser, if you live in a region where law enforcement refuses to sign U certifications, if you fail to figure out how to navigate the complex immigration system immediately upon fleeing to the United States, you miss out on protection despite presenting a case no less compelling and no less worthy than the cases of those who qualify for existing protections. For this reason, we've identified a few critical areas where Congress can – and should – act to protect victims.

An earned pathway to legal status would provide protection for survivors of domestic violence and sexual assault even if it weren't specifically created as a domestic violence protection. It is critical to ensure that under any new program, derivative beneficiaries have the option of self-petitioning if they are victims of abuse by the principal applicant. Such a scheme would mean victims of abuse would not be compelled to remain with abusers because leaving would cause them to forfeit their status.

We also need our laws to support self-sufficiency. Financial dependence on an abuser is a key reason immigrant victims remain with their abusers or return after breaking free. When women have legal authorization to work, they can sustain themselves and their children and meaningfully move towards autonomy. At present, employment authorization is not available or is extremely difficult to obtain while many immigrant petitions for protection from domestic violence are pending. Allowing for temporary employment authorization while these applications are pending would have a profound impact of women contemplating escape from violent situations.

We also need to bolster community support by unbundling local policing from federal immigration enforcement. When women think their calls for help will be answered by officers who have a mandate to initiate deportation proceedings against them, they will not call. In that way, HR 2278 – or the SAFE Act – makes victims of domestic violence less safe. I had a client several years ago who called my unattended office phone repeatedly late at night when her abuser located her in her South Bend, Indiana home and was at her door. She should have called 911, but she was afraid of law enforcement and did not believe she could access police protection.

It is also important to ensure that current safe havens for victims fleeing domestic violence – such as churches and shelters for women – are not liable for harboring aliens. The SAFE act casts too broad a net in that regard and risks chilling both the reporting of crimes by victims and offers of assistance by good people who want to help victims.

Congress must also use caution in expanding immigration consequences for domestic-violence related criminal convictions. My colleagues on this panel can attest to the fact that abusers often seek to manipulate the criminal justice system against their victims and it is not uncommon for victims to be convicted of domestic violence-related crimes because their abusers falsely accuse them of violence and they do not speak English or are afraid of disclosing what really happened.

Finally, in addition to the points I've raised above, we encourage Congress to consider improving protections for victims of domestic violence by:

- Increasing the number of U visas available each fiscal year.
- Including child and elder abuse as qualifying crimes for which victims can receive U visas.
- And doing away with the arbitrary requirement that asylum seekers file asylum applications within one year of arrival in the U.S. Many bona fide refugees, and particularly victims of gender-based violence suffer from severe physical and psychological

trauma, live in isolation from networks of support, experience deep shame that prevents them from sharing their stories, and are simply unable to access legal services within a year of arriving in the United States. Removing the one year bar would have a powerful impact on the availability of protection for women in dire need of protection in the United States.

Immigrant survivors of domestic violence are among the most resilient and inspirational clients I have the privilege of serving. When they have access to protection, access employment authorization, and access to immigration status, they improve their lives, the lives of their children and the lives of members of their communities. Though passing immigration reform of any kind is fraught with difficulties, we must press on. Stagnation on these issues means many victims of domestic violence who fall through gaps of our current laws will remain in abusive relationships because they do not have a better option. We know how the law must change. We hope you and your colleagues are able to move forward towards better protections for survivors of domestic violence. Thank you.