

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

[REDACTED]

Stefanie K. Davis, Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation
From: Leslye E. Orloff and Benish Anver, National Immigrant Women's Advocacy Project (NIWAP), American University, Washington College of Law
Date: December 13, 2013
Re: Supplement to Comments on Proposed Rule Updates to the Legal Service Corporation Regulation on Legal Assistance to Aliens. 45 CFR Part 1626 – 78 Fed.Reg. 51696 (Aug. 21, 2013)

INTRODUCTION

These supplemental comments are in response to a follow up inquiry made by Legal Services Corporation on November 25, 2013. The inquiry was made in response to Comment 6 on page 12 of NIWAP's October 21, 2013 submission regarding NIWAP's suggestion that LSC add assistance with privacy and confidentiality protection as a form of related legal assistance that LSC funding recipients may provide to eligible victims.

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service); and learning about actions the victim is taking to protect herself and free herself from the perpetrator's control (e.g. filing for immigration relief, obtaining emergency shelter,

[REDACTED]

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- o Keeping the following types of information out of a family court case through a protective order and/or Rule 11 or similar state court law to strike

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[REDACTED]

[REDACTED]

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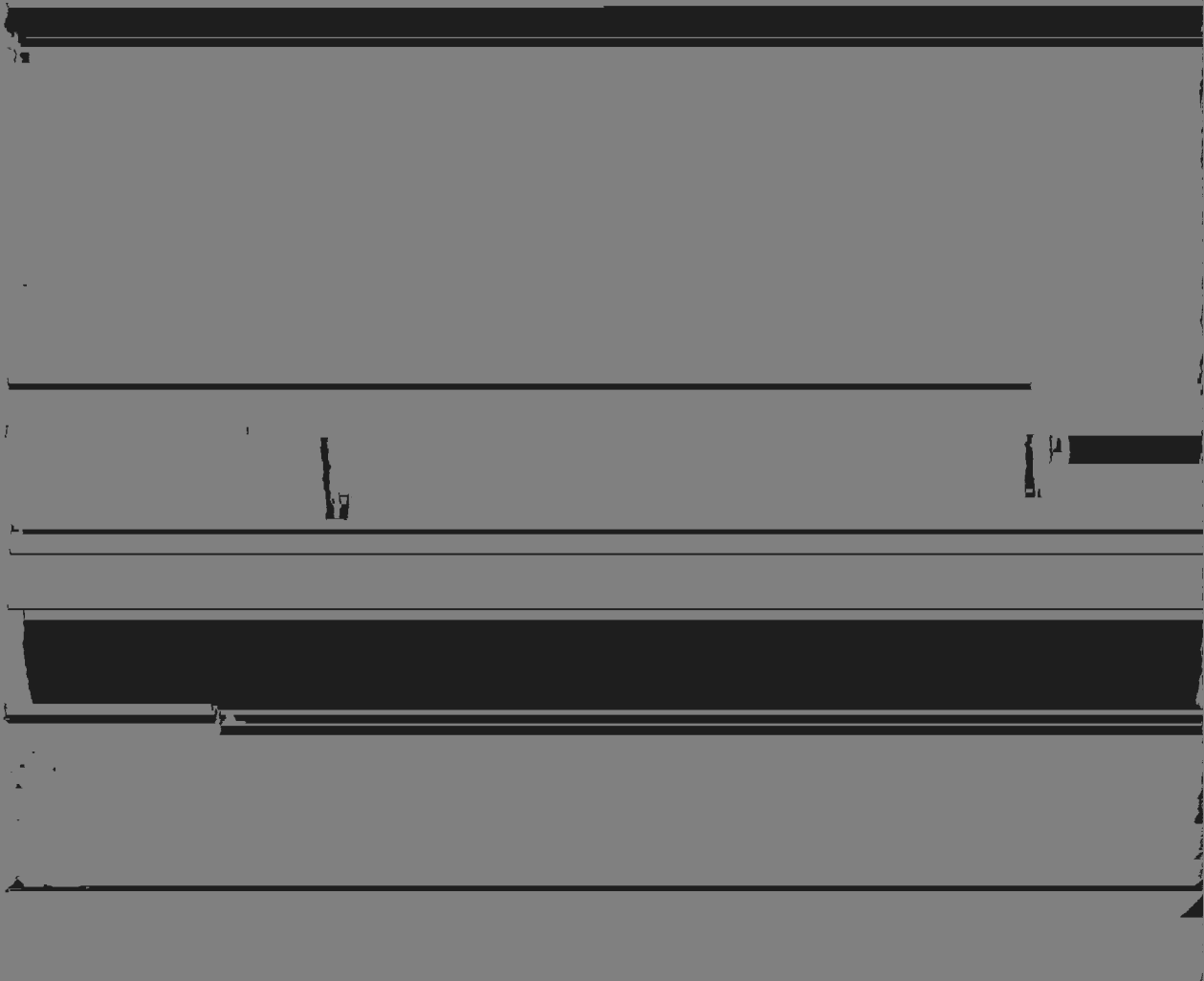
[REDACTED]

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- Sexual Assault, Hurting the Victim, Felonious covered by the U Visa

- A legal services provider should discuss confidentiality and privacy concerns with a victim before disclosure of any information to third parties, such as medical professionals and hospitals, social workers, police departments, school officials, etc. Attorneys need to be aware of mandatory reporting requirements that allied professionals working with an immigrant victim may have.⁶ Similarly, it is important for attorneys to know what confidentiality or privileges may exist under state or



⁶ Attorneys should consult with national or local technical service providers about state laws concerning mandatory reporting. For example, federal law or grant recipient requirements between each professional and the immigrant crime victim.

- If disclosure has already taken place, the legal service provider can contact third parties on behalf of the victim to notify them of the state and federal confidentiality laws that pertain to the victim's case and limit their use or release of information about the victim
- Legal assistance, advise and consultation regarding seeking and receiving services and obtaining help from the justice system in a manner that will be most effective in protecting the safety, privacy and confidentiality of the victim. Including special laws
- Legal assistance in obtaining protections from disclosure for rape victims on campus and in schools and other protections available under state and federal law for victims of sexual assault.
- American University, Washington College of Law confidentiality issues and how they

confidentiality, privileged communications are essential components of providing effective legal

[REDACTED]

The centrality of these issues being part of effective case representation and safety planning was has been documented by National Institutes of Justice (NIJ) funded research on immigrant victim and undocumented immigrant victim knowledge about and willing to seek protection orders. Research has found that 80% of battered immigrants approaching legal

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<http://www.cpedv.org/Links>

services and advocacy programs for help with domestic violence did not know about protection orders when they approach the agency and as the result of safety planning, the confidentiality, and trusting relationship the victim builds with the attorney or advocate 81% of immigrant victims choose to obtain civil protection orders.⁹ The scenarios above illustrate

the full range of privacy and confidentiality issues that arise for crime victims in civil court cases.¹²