

Report to the Legal Services Corporation

I. Introduction

The National Immigrant Women’s Advocacy Project conducted a national survey and produced this report to better understand how and to what extent the expansions of access to assistance from Legal Services Corporation (“LSC”) funded programs that became law in the Violence Against Women Act of 2006 are being implemented by LSC funded programs across the country. Following the passage of the Violence Against Women Act of 2006 LSC issued Program Letter 06-2 that was distributed to all LSC Program Directors.. Program Letter 06-2

This recommendation is supported by NIWAP's national training and technical assistance experience, findings from a national survey regarding access to representation from LSC funded programs conducted in November of 2012 (results reported below), and the legislative history of the Violence Against Women Act of 2006's Legal Services amendments.

restrictions to access to services for all immigrant victims of domestic violence, sexual assault, human trafficking and other U-visa crimes.¹² Since January 2006, LSC funded programs have been allowed to use any source of funding, including LSC funding, to provide legal assistance to immigrant victims.¹³ Under the law, victims are able to receive services related to the abuse, meaning “legal assistance directly related to the prevention of, or obtaining of relief from, the battery or cruelty described [...]” This definition includes representation in family, public benefits, immigration, housing and any other matters related to the abuse that are offered to other clients of the LSC agency. Although a policy memo informing programs about the change in the law was written and distributed by LSC President Helaine M. Barnett in February 2006¹⁴, there continue to be LSC funded programs that are not accepting cases brought by immigrant victims. Some of these programs turn away victims based on immigration status, while others turn away domestic violence victims if the victim is not married to the abuser. This contradicted the practice that was called for in LSC President Helaine M. Barnett’s Program Letter 06-2, which stated “[t]he VAWA 2006 Amendments became effective upon enactment, thus, LSC grantees may provide services beginning January 5, 2006 to previously ineligible applicants for services notwithstanding LSC’s alien eligibility regulations at 45 CFR Part 1626.”¹⁵ The current regulation in place does not reflect the language of the VAWA 2006 Amendments, nor does it reflect the change in practices outlined in the LSC’s Program Letter 06-2. As a result, immigrant victims have either been turned away from legal services that they have a legal right to access or

¹² Violence Against Women Act, Pub. L. 103-322 (2006).

¹³ See Barnett Memorandum, *supra* note 1, at 2.

¹⁴ See generally Barnett Memorandum, *supra* note 1.

¹⁵ *Id.* at 1.

The services available to this expanded class of immigrant victims must fall under the “related legal assistance,” which is defined in the statute as “legal assistance directly related to the prevention of, or obtaining relief from the cruelty, sexual assault or trafficking, or the crimes listed in’ section 101(a)(15)(U) of the INA.”¹⁸ The LSC noted that its interpretation of “related legal assistance” was that “grantees may provide legal assistance to help the affected alien or child to escape from the domestic violence, sexual assault, trafficking, or covered criminal activity, to ameliorate their effects or to protect against future domestic violence, sexual assault, trafficking, or criminal activity.”¹⁹

The current LSC regulations reflect the limited scope of services that was available under

x 15.3% - Midwest region (North Dakota, Iowa, Kansas, Minnesota, Missouri, and

Our questions focused on the victims these programs served during an almost four year period starting in January 2009 and ending in November 2012. Of the 192 participants, 46.1% of the organizations responding to the survey had worked with over 50 immigrant victims during the aforementioned timespan. Another 18% had worked with between 21-49 victims and the remaining 35.9% had worked with fewer than 20 immigrant victims during this time frame. These 192 agencies reported that they collectively had over 18,000 immigrant crime victim clients who were living 125% of the poverty level for their family size.

To understand the types of crime victimization suffered by immigrant crime victims that programs participating in the survey were reporting, the survey asked for the number of victims

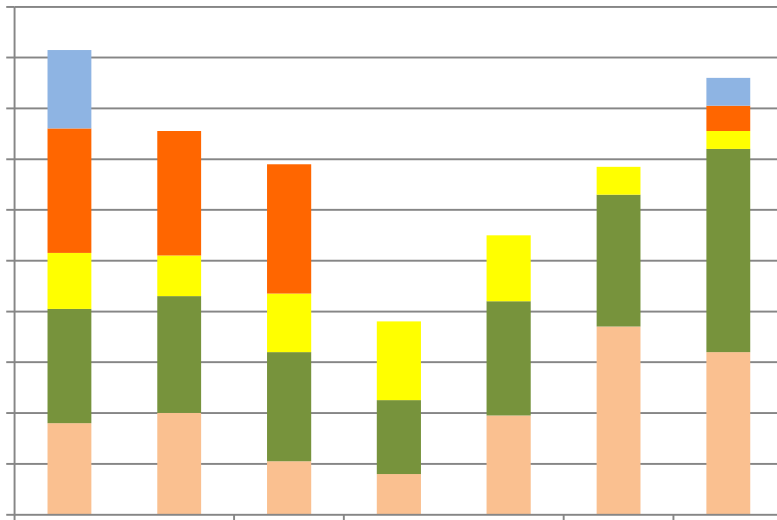
Survey participants were asked to report on the proportion of their immigrant victim clients over the past four years that needed help with family law issues including protection orders, custody and economic relief. The responses were as follows:

- x 63.4% - Responded that half or more than half of the immigrant victims they had served needed, received, or had been granted Emergency Protection Orders.
- x 65.7% - Responded that half or more than half of the immigrant victims they had served needed, received, or had been granted a Protection Order.
- x 56.47% -

This research found that 13.8% of programs participating in this survey stated that that all of their immigrant victim clients during the 4 year time period allotted needed help obtaining or had obtained a Temporary Protection Order. 11.1% of advocates stated that all of their immigrant victims needed or had received help in obtaining Emergency Protection Orders.

With regard to immigrant client's needs for public benefits, this research found that immigrant clients programs worked with needed help to obtain or had obtained public benefits assistance over the past four years. This included help accessing Housing, Cash Assistance, Health Care, Food, Child Care, Educational Grants and/or Loans, or SSI . The proportion of programs reporting that half or more than half of their immigrant clients reported needing assistance accessing public benefits for themselves or for their children were:

x Housing	55.7%
x Cash Assistance	53.3%
x Health Care	65.2%
x Nutrition Assistance	75.3%
x Child Care	53.6%
x	



With regard to immigration related legal assistance, the survey asked programs a series of questions regarding the types of immigration related issues programs immigrant victim clients needed assistance with between January 2009 through November 2012. Programs reported that half or more than half of their immigrant clients and/or their client’s children needed assistance accessing immigration relief under the following programs:

- x VAWA self-petitions 46.1%
- x U visas 55.5%
- x T visas or continued presence 8.9%
- x VAWA cancellation/suspension 12.0%

American University,

In the next section of the survey we explored the extent to which LSC funded programs in the responding organizations state took cases of immigrant crime victims. Programs responded as follows:

- | | |
|--|-------|
| x LSC programs accept cases of immigrant crime victims | 53.3% |
| x Do not accept cases of immigrant crimes victims | 20.6% |
| x Not sure if the LSC program accepts cases of immigrant victims | 26.1% |

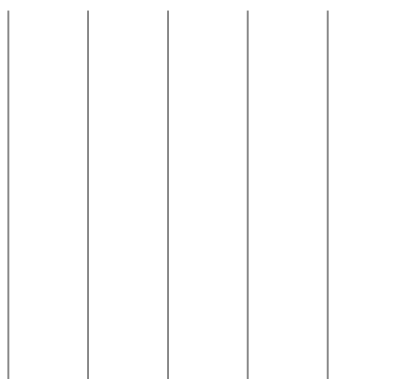
These findings confirm that there are a significant number of programs turning away immigrant crime victims that qualify for representation as immigrant crime victims. These responses also raise concern about the extent to which LSC programs that may be accepting cases of immigrant crime victims are communicating with the victim advocacy organizations in their community about the availability of legal assistance provided by LSC funded programs for immigrant survivors. To address this issue LSC might consider including in the regulation or issuing guidance to ensure that programs do outreach to advertise the legal services they provide to victim services programs working with immigrant victims of domestic violence, sexual assault, and human trafficking. We also strongly recommend that LSC programs be required to include domestic violence programs, rape crisis centers and programs offering services to victims of sexual assault and human trafficking on the list of organizations with which the LSC program routinely consults to determine legal services needs (y)20(p)--4(-2(a)4(n/i)-(o))TJ 0.002 Tc -0.002 T inc ro putre anon orhe excrconstpro (y)20(p)--4(nd pr)4(m)-2(s)-1(f)3(o)-c 0 Tw 4.n0(L)21(S)- (y)4.16 -2.3 be

still acceptable. The blue bars, on the other hand, indicate the types of cases acceptable under the new law. “None” means no restrictions imposed in cases of immigrant crime victims and the LSC funded programs accepts cases of immigrant crime victims consistent with VAWA 2006.

As the graph shows, three of the top five results were the types of cases accepted under the old rule, while five of the bottom six results are acceptable under VAWA 2006 and the Trafficking Victims Protection Act.

Finally to better understand how the LSC funded programs that were the subject of this

reflects that LSC organizations have significant family law expertise that could meet the needs of immigrant crime victims.



Over 60% of immigrant crime victims need assistance with obtaining nutritional assistance (SNAP/Food Stamps) and health care and over 50% need legal assistance to help them obtain housing, cash assistance and child care. Access to public benefits for immigrant crime survivors is closely tied to a victims immigration relief options.²¹ The LSC funded programs reported on in the survey have significant public benefits expertise that would be very helpful to immigrant crime victims.

²¹ See, Jordan Tacher and Leslye E. Orloff, Trafficking Victim Benefits Eligibility Process, April 13, 2013 available at <http://niwaplibrary.wcl.american.edu/public-benefits/memos-and-tools-for-advocates/Trafficking-Victims-Benefits-Eligibility-Process.pdf/view> ; Jordan Tacher and Leslye Orloff, U visa Victim Benefits Eligibility Process, April 17, 2013 available at <http://niwaplibrary.wcl.american.edu/public-benefits/memos-and-tools-for-advocates/U-Visa-Victim-Benefits-Eligibility-Process.pdf/view> ; Jordan Tacher and Leslye E. Orloff, VAWA Self-Petitioner Benefits Eligibility Process, April 17, 2013 available at <http://niwaplibrary.wcl.american.edu/public-benefits/memos-and-tools-for-advocates/VAWA-Benefits-Eligibility-Process.pdf/view>

community consultation process.²² Additionally, the LSC should publish the inter-lineated VAWA statute improve program's understanding of the current statute, its requirements and its legislative history. A draft of the interlineated statute is included in this report as Appendix A. .

A. Recommendation: Intake Procedures Should Focus on Victimization and Not Immigration Status

Currently, LSC regulation requires service providers to verify the immigration status of the immigrant victim that is seeking assistance.²³ The regulation also includes a list of documents that are acceptable to verify immigration status and ranges from a Memorandum of Creation of Record of Lawful Permanent Residence with an approval stamp (I-551 or I-151 or I-191), a passport bearing immigrant visa or stamp that indicates admission for lawful permanent

The revised regulation should include language that shifts the focus of intake procedures to first focus on determining whether the applicant for legal services is a crime victim. In order to be effective and efficient, service providers should have a screening process that verifies victimization, i.e., battery and extreme cruelty, sexual assault, human trafficking or other criminal activities listed in the U visa. This intake process should adopt the “any credible evidence standard” that is used by DHS, DOJ and HHS in cases of immigrant crime victims protected by VAWA and the Trafficking Victims Protection Act.²⁵ LSC programs should avoid requiring particular documents to prove abuse and for applicants who prove abuse or crime victimization the program should not require collection or review of the victim’s immigration documentation, if any.

It is also important for programs to be able to identify the kinds of documentation that immigrant crime victims will most likely have if they have begun the process of applying for immigration relief. This will assist programs in identifying and providing legal services to immigrant crime victims who may have begun their immigration case pro se or with the assistance of pro bono for the victim’s immigration case. A crime victim who has already begun the process of applying for immigration benefits is also eligible for legal representation by an LSC funded program in related matters can include family law and public benefits representation. Another reason it is important for LSC funded programs to be able to identify the types of immigration documentation an immigrant survivor may include helping immigrant survivors who:

²⁵²⁵ For a complete legislative history of the VAWA any credible evidence standards see, Leslye E. Orloff, Kathryn Isom and Edmundo Saballos, *Mandatory U Visa Certification Unnecessarily Undermines The Purpose Of The Violence Against Women Act Immigration Protections And Its “Any Credible Evidence” Rules A Call For Consistency*, Georgetown Journal of Gender and the Law, Vol. XI 619 (2010).

- x May have filed an immigration case with the assistance of an unqualified immigration lawyer without expertise on immigrant crime victims legal rights
- x Who received “immigration assistance” from a Notario;
- x Who can no longer sustain the costs of a private immigration attorney
- x I victim whose perpetrator is a spouse, child or parent or another family member who has filed an immigration case on the victim’s behalf that is pending or approved by DHS; or
- x Is a qualified immigrant eligible to receive public benefits.

Attachment D provides a chart tracking the various immigration and benefits statuses a crime victim may have annotated to identify the types of DHS documents victims who have begun the immigration and benefits process may be able to submit. It is important to note that several of the listed statuses include points in time after filing of an immigration cases in which an immigrant would not be eligible for LSC funded legal assistance unless the applicant for legal assistance is an immigrant crime victim.

Identifying Battery or Extreme Cruelty. The federal definition of a victim of family violence is “battered or subject to extreme cruelty.”²⁶ Battery or extreme cruelty should be defined by

²⁶ 8 C.F.R. § 204.2(c)(1)(vi)

For the purpose of this chapter, the phrase “was battered by or was the subject of

LSC consistently with the manner in which this term has been defined by other federal agencies interpreting the Violence Against Women Act (e.g. DHS, HHS, Social Security Administration).

An individual has been subjected to “battery” or “extreme cruelty” if they are a victim of:

- x physical acts that resulted in, or threatened to result in, physical injury to the individual²⁷;
- x sexual abuse;²⁸
- x sexual activity involving a dependent child,
- x being forced as the caretaker relative or a dependent child to engage in nonconsensual sexual acts or activities;
- x threats of, or attempts at, physical or sexual abuse;
- x mental abuse²⁹; or
- x neglect or deprivation of medical care.³⁰

See also Family Violence Option, State by State Summary, by Legal Momentum to see which states have adopted the Federal definition of extreme cruelty.

²⁷ See VAWA self-petitioning regulations 8 CFR 204.2 (c)(2)(vi); 8 CFR 216.5 (e) (3) (i). See also U visa regulations 72 Fed. Reg. No. 179, 53014, 53016, 53017, 53018 (September 17, 2007). 22 CFR 41.12. Under U visa regulations DHS in evaluating battering or extreme cruelty considers both the harm to the victim and the abuse inflicted by the perpetrator. DHS also takes into consideration pre-existing physical injuries or conditions that may have been aggravated by the abuse. Under both the U visa and the self-petitioning regulations DHS considers a series of abusive acts taken together may constitute substantial physical or mental abuse although none of the acts alone would rise to that level.

²⁸ See 8 CFR 204.2 (c)(1)(vi). The qualifying abuse must rise to the level of "battery or extreme cruelty." The statutory definition of these terms includes sexual abuse, sexual exploitation, rape, molestation, forced prostitution, and incest (if the victim is a minor).

²⁹ Extreme cruelty includes “being the victim of any act or a threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation incest (if the victim is a minor) or forced prostitution shall be considered acts of violence. See VAWA self-petitioning regulations: 8 CFR 204.2 (c)(2)(vi); 8 CFR 216.5 (e) (3) (i). See also U visa regulations 72 Fed. Reg. No. 179, 53014, 53015, 53016, 53018 (September 17, 2007). 22 CFR 214.14(a)(8) and (b)(1). (Under the U-visa regulations, DHS defines “mental abuse” as “injury or harm to or impairment of the emotional or psychological soundness of the victim.” This encompasses a wide range of mental harm. USCIS considers both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator in its evaluation. Extreme cruelty can include the following conduct; intimidation and degradation, economic and employment-related abuse, social Isolation, sexual abuse, immigration-related abuse; possessiveness and harassment.

- x Harassment³¹
- x Damage to property³²
- x Stalking³³

In addition to federal agency interpretation, there are examples of other forms of conduct by an abuser that family law courts have found amount to or contribute to findings of extreme cruelty:

- x Adultery with a minor³⁴
- x Neglecting spouse's need for medical attention³⁵
- x Spouse's attempted rape of babysitter and publicity stemming from the resulting trial.³⁶
- x Accusations of adultery³⁷
- x Objections to procurement of proper medical treatment³⁸
- x Indifference towards spouse³⁹

- x Using children as a tool toward other parent⁴⁰
- x Unreasonably critical of spouse's child or children⁴¹
- x Being penurious within the marriage and family but a lavish spender outside the marriage and family.⁴²
- x Telling others about accusations/ accusing others of partner's infidelity⁴³
- x Notifying the media accusing spouse of adultery⁴⁴

Proving Battery or Extreme Cruelty or Crime Victimization – Any Credible Evidence

Standard. Verifying battery or extreme cruelty or crime victimization should be conducted using the “any credible evidence”⁴⁵ standard prescribed by Congress to all VAWA adjudicators. Using this standard will promote consistent adjudications with the manner in which DHS adjudicates matters.⁴⁶ This standard requires a legal services provider to accept any evidence provided, including affidavits from the applicant⁴⁷ or others to demonstrate battery or extreme

³⁹ *Ormachea v. Ormachea*, 67 Nev. 273 (1950); *Keenan v. Keenan* 361 Mich. 123 (1960); *Robertson v. Robertson*, 73 Okla. 299 (1918).

⁴⁰ *Waldbaum v. Waldbaum*, 171 Neb. 625 (1961), *Ma ru EMC BT /P <</MCID 34 >>BD3(W)-2(a)4(1)7(dba)4(um3(W)-20*

evidence. The LSC funded program will have the discretion under this any credible evidence standard to assign more or less weight to individual pieces of evidence.⁵¹ This approach allows victims to safely meet each proof requirement in their application allowing them to use evidence safely accessible to them. Some victims may have police reports or medical records while others may be so isolated that the only evidence they have access to is their own affidavit and perhaps affidavits of others who may have seen their injuries or witnessed extreme cruelty, or crime victimization⁵²

A legal services provider should not require police reports or orders of protection to verify the existence of battery or extreme cruelty, but can accept such evidence if submitted by the victim.⁵³ Written verification or documentation of the abuse from third parties, such as domestic violence advocates or social service agencies eyewitnesses may also serve evidence of battery or extreme cruelty.

The following is a non-exclusive list of ways an applicant could establish battery or extreme cruelty. Note that the list is for illustrative purposes only given that a broad range of evidence can serve as proof of battery or extreme cruelty. An applicant is not required to use any

⁵¹ See INA 204 (a) (1) (J).

⁵² INA Section 204(a)(1)(J) the VAWA credible evidence standard was created as part of VAWA 1994 to assure that immigrant victims of domestic violence to allow battered alien who files an application for relief under VAWA or the battered spouse waiver protections to “support that application with any credible evidence.” See Report 103-395 Judiciary Committee House of Representatives 103d Congress 1st Session November 20, 1993 page 38. As a result DHS in examining evidence in VAWA and U visa cases permits due consideration to be given to the difficulties some victims experience in acquiring documentation, particularly documentation that cannot be obtained without the abuser’s knowledge or consent.

of the examples below, so that an alternative form of evidence is acceptable as long as it demonstrates battery or extreme cruelty.⁵⁴ We recommend that applicant cite and document all applicable factors in their applications, since the presence or absence of any one factor is not determinative. Adjudicators should weigh all relevant factors presented and consider the in light of the totality of the circumstances.⁵⁵ The evidence must be evaluated on a case-by-case basis, taking into account the particular facts and circumstances of each case.⁵⁶ Evidence of battery or extreme cruelty may include, but is not limited to:⁵⁷

- x A victim’s statement, testimony, or affidavit outlining the facts of the violence or cruelty in each incident. The statement may include dates when each incident occurred (it does not need to include specific dates), discussion of the applicant’s fears and injuries, and/or the effect that each abusive incident has had on the applicant and her/his family and children;⁵⁸

⁵⁴ The definition of “battery and extreme cruelty” includes: being the victim of any act of a threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation incest (if the victim is a minor) or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under this rule. Acts or threatened acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence. 8 C.F.R. § 204.2(c)(1)(vi) (2004).

⁵⁵ DHS and DOJ’s Executive Office of Immigration Review (EOIR) both use this standard in cases of battered immigrants. See 64 FR 27856 (5/21/99) [adding §1240.58] EOIR regulations use this standard for measuring “extreme hardship.” See also the DHS U-visa regulations 8 CFR 214.14 (b)(1) require that decisions are made as “case-by-case determinations.” The U-visa rule sets out a number of factors that DHS will use to consider deciding whether physical or mental abuse occurred. Factors considered in U-visa cases include: the nature of the injury inflicted or suffered; the severity of the perpetrator’s conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim. DHS makes it clear that “[n]o single factor is a prerequisite...” and “a series of abusive acts taken together may constitute ... physical or mental abuse although none of the acts alone would rise to that level.” See U visa regulations 72 Fed. Reg. No. 179, 53014, 53018 (September 17, 2007). 22 CFR 214.14 (b)(1).

⁵⁶ Id.

⁵⁷

- x Reports, statements, or affidavits from: police; judges; other court officials; medical personnel; school officials; psychologists and psychiatrists; clergy; social workers; any witness; or other social service agency personnel;⁵⁹
- x Documentation establishing a pattern of abuse and violence.⁶⁰
- x Statements of workers from a domestic violence shelter or other domestic violence programs attesting to the time the victim spent in the shelter or participating in the domestic violence program that they believe the applicant is a victim and facts they know of regarding the victim's case;⁶¹
- x Medical records;
- x Photographs of the visibly injured self-petitioner supported by affidavits;⁶²
- x Temporary or Permanent restraining or civil protection orders;⁶³
- x Other legal document showing legal steps taken to end the abuse.⁶⁴
- x Evidence that the victim sought safe haven in a battered women's shelter or

⁵⁹ <http://www.ssa.gov/pubs/10093.html>. When applying for a new social security number, one needs to submit, 1) a statement explaining why you need a new number, and 2) evidence documenting harassment or abuse. Evidence from third parties such as police, medical facilities or doctors, and describes the nature and extent of harassment, abuse or life endangerment is helpful. Other evidence may include court restraining orders and letters from shelters, family members, friends, counselors or others who have knowledge of the domestic violence or abuse.

⁶⁰ 8 C.F.R. § 204.2(e)(2)(iv).

⁶¹ Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 63 Fed. Reg. 61344, 61369-70 (November 17, 1997). ("Evidence of battery or extreme cruelty (and in the case of a petition on behalf of a child,

similar refuge;⁶⁵

- x Police reports or records of telephone calls or visits to the victim's address. This

B. The Amended Regulation Should Reflect the VAWA 2006 Amendments and LSC's Program Letter 06-2

The LSC should amend its current regulation to reflect the mandate of the VAWA 2006 Amendments and its own Program Letter 06-2, which expanded the class of immigrant victims that were eligible to receive legal assistance. The amended regulation is necessary because there is no consistency in the application of the VAWA 2006 Amendments, which is now the law that governs access to legal services to immigrant victims. Currently, there is confusion in the field regarding eligibility and the only way to alleviate this problem and ensure that the law is correctly applied is to amend the LSC regulation to reflect the current state of the law.

C. LSC Should Publish the InterLineated Statute

LSC should also publish the inter-lineated statute to show its progress in expanding the class of immigrant victims that are eligible to receive legal assistance. Part of the confusion about this law exists because there is nowhere to look it up in a codebook. Therefore, we strongly suggest the LSC publish it. If the law is published, people will have an easy way to understand the requirements of the law.

APPENDIX A

BUDGET BILL

Below is the original 1996 Budget Bill with the changes from the 1997 Budget Bill.

1997 changes are **bolded**; with ~~deletions~~.

2006 changes are *italicized* and underlined; with ~~deletions~~.

(11) that provides legal assistance for or on behalf of any alien, unless the alien is present in the United States and is--

55 (A) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(B) an alien who--

(i) is married to a United States citizen or is a parent or an unmarried child under the age of 21 years of such a citizen; and

(ii) has filed an application to adjust the status of the alien to the status of a lawful permanent resident under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), which application has not been rejected;

(C) an alien who[se]—

(i) has been battered or subjected to extreme cruelty ~~or a victim of sexual assault or trafficking~~ in the United States ~~by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; or, or~~ qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)); or

(ii) child, ~~without the active participation of the alien~~ has been battered or subjected to extreme cruelty or a victim of sexual assault or trafficking in the United States ~~by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, or~~ qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)).

APPENDIX B

STORIES OF IMMIGRANT VICTIMS

Below are some stories of immigrant victims who, under the 1996 regulation on LSC immigrant eligibility, do not qualify for legal assistance. The stories have been organized categorically, and demonstrate the many types of situations of abuse that the old regulation does not take into account.

ABUSIVE BOYFRIENDS

a) Chicago, Illinois - After coming to the United States, Sara met and fell in love with her boyfriend Samuel. They were dating for many years, lived together and over the course of the relationship they had three children together. Throughout the relationship, Samuel routinely physically, sexually and psychologically abused Sara. Samuel would often drink heavily and was particularly abusive when intoxicated. Sara called the police for protection on numerous occasions, but had difficulty communicating with them and when the police arrived Samuel was never arrested. Sara did learn about protection orders and eventually obtained a protection order against Samuel. Samuel ignored the protection order and after the protection order was issued, Samuel's abuse of Sara escalated significantly. The abuse became more severe. Samuel beat Sara on numerous occasions, threatening her if she took more steps to stop his abuse. During one of the more severe incidents, Samuel threatened to kill Sara. As part of a subsequent assault, Samuel held a knife to Sara's stomach, dragged her by the hair, and then raped her.

The worst assault by Samuel on Sara left Sara unconscious in their apartment following a severe beating. Samuel knocked out Sara's front teeth, dragged her and beat her repeatedly. Following this incident Samuel fled from the house. When the police arrived they found Sara lying on the floor unconscious. The police arranged to have Sara admitted to the hospital. Sara

Richard. Raul has subjected Ana to horrific physical and emotional abuse throughout their relationship. One of Raul's first beatings was when Ana was pregnant with their daughter, Lisa. Raul punched Ana in the face and kicked her in her back. The beating was so severe that Ana was afraid that she might suffer a miscarriage. On another occasion Raul came home very drunk and severely beat Ana, splitting her lip and leaving her nose black and blue. This was one of the worst beatings. Following this beating, Ana fled the house with the help of a neighbor, taking both children, Lisa and Richard, with her. She went to the police station to file a police report. The police took her to the hospital and took x-rays. The doctor said that Raul had broken her nose. The police said they would look for him to arrest him. Raul went into hiding to evade arrest. Raul was an alcoholic and a drug abuser. He would drink a six-pack of beer everyday and use cocaine.

Raul was very jealous and controlling. He frequently wrongly accused Ana of having relationships with other men. On one occasion, he accused her of sleeping with his brother and hit Ana on her head. Raul also accused her of having an affair with her boss. When Ana denied it, Raul tried to force her to have sex with him. Ana tried numerous times to leave Raul. In order to prevent Ana from leaving, he frequently took her and her children's passports and car. On one of the last occasions of abuse between them, Raul grabbed Ana by her hair and threw her against the trunk of the car. She called the police but he got away before they could get to him. Ana finally gathered the courage to leave Raul. Ana's leaving, however, did not stop Raul's violence towards her. Raul has stalked her, broken into her house and stolen her TV, clothes and some money. Since Ana and Raul were never married, Ana did not qualify to receive help from a legal services funded agency although she needed help in obtaining a restraining order to protect

American University,

to leave the safety of her home alone. The police continue to investigate the incident, but to date they have not been able to locate Carmen's rapist. Carmen continues to cooperate with the police providing information crucial to the rape investigation and apprehension of the rape perpetrator. An LSC funded organization in Virginia could not represent Carmen in her U visa immigration case, because she was a victim of stranger rape and not domestic violence perpetrated by her spouse. Victims like Carmen need to be able to access LSC funded lawyers who can both help her obtain her crime victim visa under VAWA and also support her in the criminal investigation of her rapist.

SEXUAL ASSAULT

a) New York City, New York - Vera is an immigrant from the Philippines. She came to live with her aunt and her aunt's husband, Paolo. Vera feared Paolo. He often made her feel uncomfortable. Sometimes he would make comments about her body and her appearance. One weekend, Vera's aunt left on a business trip, leaving Vera alone with Paolo. Paolo raped and stabbed Vera repeatedly, including stabbing her in the eye. He left her for dead. Despite the odds, Vera survived the attack, and is now blind in one eye. She has mental and physical health care needs as a result of the rape and the physical assault she sustained. Vera is receiving counseling and services from a sexual assault program. Paolo is being prosecuted for his rape and assault of Vera and Vera is willing to cooperate in the prosecution. Vera qualifies for a U visa as a rape victim, but cannot receive assistance from an LSC funded program because the perpetrator of the rape was her aunt's husband not her own husband. The LSC funded program in her commtIDty,

b) Omaha, Nebraska -Grace is an eighteen-year-old young girl who has resided with her father in the United States for three year. She came from Mexico with the hopes of helping her family find a better life. In 2003, she left her mother and siblings in Mexico and went to live with her biological father, Pepe, in Utah. In 2004 her father sexually assaulted Grace and raped her for a period of four months. As a result of the multiple rapes by her father Grace got pregnant and now has given birth to a six-month-old daughter. Grace's father fled to Nebraska with Grace and was ultimately reported to police authorities in Nebraska. Upon learning that the police were looking for him with a warrant for his arrest, Pepe, fled Nebraska and law enforcement authorities in neither Nebraska nor Utah have been able to locate him. The prosecution in the rape case therefore remains open until Pepe can be located and captured. Neither Grace, nor her family, knows anything about Pepe's whereabouts.

Grace faces continued harm due to the rape. Her family in Mexico blames her for Pepe's fate; they have isolated her and cut her off. Pepe's financial support to the family in Mexico has stopped. Her family blames Grace fully for the devastating effects of the rape on her. Her mental health and the trauma she sustained being raped and sexually assaulted by her father over a period of months cause her continuing emotional and physical pain and leave her facing burdens and frustrations of having no safe home to return to in Mexico and struggling with the burdens and frustrations of being a teenage mom trying to survive and support herself and her child in the United States. Grace wants to be able to finish high school and to have an opportunity to remain in the U.S. where she can hopefully cooperate someday in Pepe's prosecution and be protected by the U.S. legal system against his retaliation.

Grace has a number of legal needs. She wants to file for U visa immigration protection as a victim of incest and multiple rapes. She also qualifies to obtain a protection order against Pepe and to obtain a child support order against him. Grace is being helped by advocates at the YWCA in Omaha since May of 2004 and has been assisted with case management, counseling, and referrals to community services. Grace needs to apply for a U-visa but the YWCA cannot handle her legal needs. There are three non-LSC funded programs that could handle her domestic violence and immigration legal matters. Only one of these programs has an experienced immigration attorney. There are a number of private immigration attorneys in Omaha, yet not one client of the YWCA has ever been able to afford their services.

Last year the YWCA provided services and assistance to more than two hundred immigrant women many of whom were victims of violence against women – domestic violence and sexual assault in particular. About 70% of these women would not be eligible nor could they