

Ad-Hoc Congressional Hearing: Emerging Issues in Ending Violence Against Immigrant Women

February 10, 2011 – Washington DC

Moderated by: Honorary Chair, Congressman Raúl Grijalva

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(Full Testimony: Abbreviated Version Will Be Presented Orally at Hearing)

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Introduction

Mr. Honorary Chairman, Members of Congress, Congressional staff and allied organizations, I appreciate the opportunity to come here today to testify. I am speaking on behalf of both Legal Momentum and the National Network to End Violence Against Immigrant Women. Legal Momentum has worked for 40 years to enhance legal options for women and girls and is the first national women's organization to focus a significant portion of its work on immigrant women and immigrant victims of violence against women.

The National Network to End Violence Against Immigrant Women ("The Network") is a coalition of domestic-violence survivors, immigrant women, advocates, activists, lawyers, educators and other professionals working together to end domestic abuse of immigrant women.

The Network was founded in 1992. It is co-chaired by the Family Violence Prevention Fund, the Legal Momentum Immigrant Women's Project, and the ASISTA Immigration Assistance Project. Together, these organizations use their special expertise to provide technical assistance, training, and advocacy to their communities. The Network significantly contributed to the passage of the 1994 VAWA and has since continued to enhance the legal remedies available to immigrant survivors. Through a collaborative approach, the Network has made great progress in assuring that non-citizen victims of domestic violence, sexual assault, and trafficking are able to flee abuse, survive domestic violence crimes, and receive assistance.

The National Network and Legal Momentum have been working to forge law reforms that benefit immigrant victims of domestic violence, sexual assault and human trafficking for more than twenty years. Together we led successful legislative campaigns supported by violence against women's, immigrant's rights and faith based organizations to secure passage of a number of pieces of legislation designed to offer help and protection to immigrant victims of violence against women and to strengthen the ability of the justice system to hold perpetrators of crimes against immigrant women accountable for their crimes. The most notable of these pieces of legislation include the Violence Against Women Act¹ and the Trafficking Victim's Protection Act.² Involvement of grassroots organizations working on the ground in communities across the country has been crucial to the successful passage of this legislation.

We welcome the opportunity that this hearing provides to involve greater numbers of immigrant women and advocates for immigrant women in communities across the country as we lead the effort once again to ensure that the Violence Against Women Act of 2011 will fully help non-citizen victims of violence against women. Those of you attending this hearing today who wish to lend the power of your grassroots support and immigrant women's stories toward the effort to reauthorize VAWA 2011, we encourage you to sign up for our advocacy list serve which will keep you and your grassroots allies informed about progress on VAWA 2011 and the specific type of help needed at any particular point in time.

Over the past eight years the Department of Homeland Security has dramatically increased immigration enforcement against immigrants residing unlawfully in the United States.³ Although the focus of DHS enforcement actions, beginning in 2009, have shifted somewhat away from worksite raids to focus more on detention and removal of immigrants who "commit crimes" current DHS enforcement policies and programs continue to pose grave harm for immigrant victims of violence against women. Each of the following three programs or reforms contributes significantly to the danger increase enforcement imposes for immigrant victims:

¹ Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355 (1994)(VAWA 1994).

² In addition VAWA 1994 and Victims of Trafficking and Violence Protection Act of 2000, P.L. No. 106-386 (2000) (TVPA 2000) Congress also enacted protections for immigrant women in the Immigration Act of 1990 § 701, Pub. Law No. 101-649, 104 Stat. 6478 (1990) (battered spouse waiver); Illegal Immigration Reform and Immigrant Responsibility Act of 1996 Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 (1996) (Benefits for VAWA self-petitioners and VAWA Confidentiality); Legal Services Corporation Appropriations Act of 1997, Pub. L. No. 104-208 § 504 (a)(11), 110 Stat. 3009 (1997) (legal services representation for immigrant victims of spouse abuse); Trafficking Victims Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003); Trafficking Victims Reauthorization Act of 2005, Pub. L. 109-164, §§ 101, 201, 119 Stat. 3558, 3560, 3567 (2005); and William Wilberforce Trafficking Victims Protection Act, Pub. L. 110-457 (2008) (expanding immigration relief, services and benefits for trafficking victims).

³ Rita Espinoza and the Detention Watch Network, *Tracking ICE's Enforcement Agenda*. April 18, 2007 available at: http://detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/04-18-07%20DWN%20Enforcement%20Working%20Document--final_0.doc

- The increased number of DHS officials involved in enforcement activities;
- The expansion of the 287(g) program; and
- The implementation of the Secure Communities Program.

This testimony will first describe each of these immigration enforcement strategies and will provide a description of the manner in which each program harms immigrant victims. The second section then provides an overview of the dynamics of domestic violence, sexual assault and human trafficking experienced by immigrant victims and highlights how domestic violence and sexual assault perpetrators at home, at school and in the workplace use immigration related abuse to silence victims and ensure that their crimes will not be prosecuted. The third section discusses the courage immigrant victims must muster to pick up the telephone and call police for help and provides illustrative examples of the problems victims encounter when they call for help, including language accessibility and law enforcement officials who lack knowledge about immigrant victims' legal rights including U-visa certification. The fourth section recounts the steps Congress has taken to date to help immigrant victims and to encourage prosecution of their abusers. The testimony concludes with an outline of law reforms needed to more effectively offer meaningful protection from detention and deportation for immigrant victims and to enhance prosecution of those who commit crimes against immigrants.

THE EFFECT OF INCREASED IMMIGRATION ENFORCEMENT INCLUDING THE 287(g) AND SECURE COMMUNITIES PROGRAMS ON IMMIGRANT VICTIMS⁴

Increased immigration enforcement harms immigrant women's ability to flee ongoing and escalating family and workplace violence. Immigrant women stay longer in abusive situations, suffering increasing physical, sexual, and emotional violence, including injuries,⁵ some of which can lead to death, while perpetrators go unpunished. These practices deter and significantly delay crime reporting by immigrant women and children, effectively cutting them off from all crime victim assistance and undermining prosecutions in federal and state criminal cases across the country.

Immigrant women are afraid to come forward to report crimes and abuse and as a result they live in danger and fear, and perpetrators in communities across the country evade punishment. Current immigration enforcement practices discourage immigrant women from taking advantage of rights and benefits Congress made available to ensure victim protection and to enhance states' ability to prosecute criminals.

Effects of Greater Funding and Staffing of DHS Enforcement Personnel: DHS devotes great numbers of Immigration and Customs Enforcement and Customs and Border Patrol staff to immigration enforcement. There are more enforcement officers available to take calls from, and respond to, "tips" regarding where immigration enforcement officials can encounter

⁴ A significant portion of the following testimony was adapted from Legal Momentum's amicus brief authored by MANATT, PHELPS & PHILLIPS, LLP, JOANNA S. MCCALLUM, GREGORY N. PIMSTONE, RONALD G. BLUM, LYDIA MENDOZA, SIRENA CASTILLO, filed in *U.S. v. State of Arizona*, U.S. Court of Appeals for the 9th Circuit, September 30, 2010 available at: <http://www.ca9.uscourts.gov/datastore/general/2010/10/25/amicus.brief19.pdf>

⁵ Giselle Aguilar Hass, Nawal Ammar, and Leslye Orloff, *Battered Immigrants and U.S. Citizen Spouses* (April 24, 2006) available at: http://iwp.legalmomentum.org/reference/additional-materials/research-reports-and-data/research-violence-against-immigrant-women-in-the-u.s/BB_RSRCH_ImmVictims_Battered_Imm.pdf/view?searchterm=ammar

undocumented immigrants. This fact has led to more immigrant victims of domestic violence and workplace violence being picked up by DHS enforcement officials, who received calls from abusers telling DHS where and when their undocumented immigrant victims can be found. Prior to 2003, although abusers of immigrant victims would threaten to turn their victims in to immigration enforcement authorities and actually made calls to report victims, DHS enforcement priorities resulted in few immigrant victims becoming subject of enforcement actions based on “tips” from their abusers. Times have changed. Today, perpetrators of crimes against immigrant victims are much more successful in having their victims arrested by DHS or local law enforcement officials.

To address this problem in 2005 Congress enhanced VAWA confidentiality protections to prohibit DHS enforcement officials from conducting enforcement activities at courthouses, domestic violence programs, rape crisis centers, and community based organizations where victims go to seek help.

DHS has also very recently taken much needed steps to curb the extent to which DHS enforcement officials respond to “tips” from crime perpetrators in violation of VAWA confidentiality. We commend DHS for issuing policy guidance in August of 2010 designed to prevent the detention, removal, or initiation of an enforcement action against a person who has filed a valid case for immigration benefits. These policies speed up adjudications of benefits in cases where victims are detained or when the victim has a case pending before an immigration judge. On December 1, 2010, DHS implemented a new system in which cases of immigrant victims covered by VAWA confidentiality (e.g., VAWA, T and U visa cases) are flagged as hands off for enforcement and 18,000 cases have been uploaded into that system.

However, training for all DHS enforcement personnel is needed to ensure that enforcement officials search for red flags before initiating enforcement actions against individuals, obey VAWA confidentiality rules and screen immigrants who become enforcement targets for crime victimization and humanitarian release eligibility. Ongoing annual mandatory training on VAWA confidentiality and immigration options for immigrant victims is needed for these new procedures to be effective in preventing crime perpetrators from using immigration officials to target immigrant crime victims for enforcement and removal from the United States.

The 287(g) Program⁶

The 287(g) program, first implemented in 2002, provides state and local law enforcement agencies with immigration enforcement authority through Memorandums of Agreement with the Department of Homeland Security.⁷ Women’s organizations, immigrant community groups and Congressional representatives have expressed concern that the 287(g) program undermines community safety, deters immigrant crime victims from seeking law enforcement protections, and damages years of work fostering community policing relationships in immigrant communities.⁸ Rather than pausing expansion and reviewing critiques of the 287(g) program,

⁶ See, Immigrant Women Program, Legal Momentum, *The 287(g) Program: Harming Immigrant Women*, March 10, 2010 <http://www.legalmomentum.org/our-work/gender-equity-and-gender-bias/reports-and-resources/the-287g-program-harming-immigrant-women.pdf>

⁷ Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L 104-208 (1996) *codified in* Immigration and Nationality Act §287(g); 8 U.S.C. §1357(g).

⁸ See, Letter from National Violence Against Women’s Organizations to President Barack Obama, discussing the impact of 287(g) on immigrant victims. November 10, 2009 (Break the Cycle, Casa de Esperanza, Family Violence Prevention Fund, Legal Momentum, National Alliance to End Sexual Violence, National Center for Victims of Crime, National Coalition Against Domestic Violence, and The National Organization of Sisters of Color Ending Sexual Assault)

DHS on October 16, 2009 entered into new agreements with fifty-five new law enforcement agencies in communities across the country.

By providing local law enforcement with authority to enforce immigration laws the 287(g) program shifts the mission of local policing away from community safety toward immigration enforcement. The federal support for 287(g) programs encourages law enforcement agents to prioritize immigration status over crime prevention and crime fighting. Undocumented immigrant victims are reticent to call the police because they have a justifiable fear that their lack of immigration status will trump the criminal justice protections afforded crime victims under the law. As long as local law enforcement agencies are seen as a threat, as opposed to a safe haven, immigrant victims of domestic violence, sexual assault, human trafficking and other violent crime will continue to be harmed with no where to turn for help.

The isolation imposed on victims by crime perpetrators is amplified when immigrant victims cannot safely report crimes to law enforcement officials who prioritize immigration enforcement. In effect, immigration enforcement practices that encourage untrained state, local and federal authorities to prioritize immigration enforcement over crime fighting force immigrant victims to choose between detention when attempting to access the laws enacted to protect them and staying silent and enduring more abuse. Today, in 287(g) jurisdictions across the United States, immigrants subjected to family violence, exploited by their employers and victimized by strangers live in shadows fearful that any call to the police for help will lead to the victim's deportation.

In 287(g) communities across the country immigrant crime victims will have no incentive to, and in fact will be afraid to, reach out to law enforcement or federally guaranteed crime victim social services, for fear of detention, separation from her children, and removal. 287(g) agreements and Secure Communities programs eliminate any reasonable possibility that a T or U Visa-eligible victim could access law enforcement for the purposes of cooperating in investigating or prosecuting crimes committed against them. When crime victims and witnesses cannot safely come forward to report crimes and assist police and prosecutors investigating and prosecuting criminals, victims are condemned to a life of terror and community safety is undermined as rapists, child abuse and sexual assault perpetrators, batterers and other violent criminals go free and are emboldened to continue perpetrating crimes.

The local attention on 287(g) programs leads some law enforcement agents to prioritize immigration status over the investigation of crimes and protections to crime victims. Word spreads quickly in immigrant communities and immigrants fear that reporting a crime to the police will lead to the victim's deportation. This undermines years of successful community policing efforts aimed at building relationships with immigrant communities so that law enforcement agencies can more effectively fight crime. The 287(g) program has the real life effect of creating a two-tier society in which immigrant victims have less access to police protection than other community members. As immigrant victims are deterred from reporting crimes, perpetrators are not held accountable for their crimes. A perpetrator who victimizes an undocumented immigrant is just as capable of committing the same crime against a U.S. Citizen. For the many crimes that are serial in nature, failure to investigate crimes increases the number of community members at risk of crime victimization. Immigrant women, who experience domestic violence and sexual assault at alarming rates and are increasingly vulnerable to exploitative employers, learn through 287(g) programs that they can no longer seek help from

and participate in the criminal justice system. Programs undermining the public safety mission of local law enforcement jeopardize not only the safety of immigrants but as a consequence, the safety of all women and community members.

Local Law Enforcement Do Not Have the Knowledge and Training Needed⁹

Congress created immigration enforcement laws and also created and gave equal effect to the laws that provide immigration benefits to immigrant victims of domestic violence, sexual assault and other U-visa covered crimes. Both of these series of laws are to have equal effect and DHS is not authorized to follow one part of the law (e.g. enforcement) and ignore other parts of federal immigration laws (e.g. immigration benefits, including those provided to immigrant victims). While federal law and guidelines are clear that not every immigrant who may be undocumented should be subject to immigration enforcement, 287(g) and secure communities programs undermine immigrant crime victim access to these programs. Federal immigration officials are precluded from relying upon “reports” or information provided by abusers, crime perpetrators, or traffickers to pursue enforcement actions against undocumented immigrant crime victims.¹⁰

Federal immigration officials are strongly cautioned against arresting immigrants at “sensitive locations,” such as rape crisis centers, domestic abuse shelters, or courts where domestic violence and sexual assault proceedings take place, because immigrants at these locations are likely to ultimately qualify for victim-based immigration benefits.¹¹ DHS Guidance provides that nursing mothers and others with health conditions should not be held in detention.¹² DOJ has issued a list of factors that it and DHS use in exercising prosecutorial discretion not to initiate immigration enforcement actions. These factors include humanitarian concerns, criminal and immigration history, length of time in the United States, eligibility for immigration relief, likelihood of ultimate removal from the United States, and cooperation with law enforcement.¹³

Another consequence of 287(g) agreements is that immigrant crime victims who are lawfully present because they have filed VAWA, T or U visa cases that DHS’ Citizen and Immigration Services has determined are valid are being subject to detention because local law enforcement officials are unfamiliar with a given immigration status or its documentation. The complexities of federal immigration law, the multiple types of legal immigration status, and the wide range of federally acceptable evidence documenting status will make it virtually impossible for local law enforcement authorities to enforce immigration laws under 287(g) agreements in a

⁹ Adopted from Legal Momentum’s amicus brief authored by MANATT, PHELPS & PHILLIPS, LLP, JOANNA S. MCCALLUM, GREGORY N. PIMSTONE, RONALD G. BLUM, LYDIA MENDOZA, SIRENA CASTILLO, filed in U.S. v. State of Arizona, U.S. Court of Appeals for the 9th Circuit, September 30, 2010 available at:

<http://www.ca9.uscourts.gov/datastore/general/2010/10/25/amicus.brief19.pdf>

¹⁰ 8 U.S.C. § 1367(a), (b); *see also* “Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009: Report of the Committee on the Judiciary, House of Representatives, to accompany H.R. 3402,” H.R. Rep. No. 109-233, at 122 (2005); 151 Cong. Rec. E2606-07 (2005) (statement of Rep. Conyers).

¹¹ Immigration and Nationality Act § 239(e); 8 U.S.C. 1229(e); DHS, Memorandum re “Interim Guidance Relating to Officer Procedure Following Enactment of VAWA 2005” at 5 (Jan. 22, 2007).

¹² U.S. Department of Homeland Security, Memorandum re “Prosecutorial and Custody Discretion” (Nov. 7, 2007)

¹³ *See* U.S. Department of Justice, Memorandum re “Exercising Prosecutorial Discretion” (Nov. 17, 2000) at 7-8. DHS also exercises prosecutorial discretion to stay removal of crime victims with pending U Visa applications. Immigration and Nationality Act § 239(e); 8 U.S.C. 1229(e); U.S.

Department of Homeland Security, Memorandum re “Interim Guidance Relating to Officer Procedure Following Enactment of VAWA 2005” (Jan. 22, 2007).

fair, informed manner consistent with federal immigration law. For example, for the subset of legal immigrants eligible for public benefits, the Attorney General has issued guidance that contains nine pages, in small font, of the various types of documentation acceptable to establish citizenship, lawful permanent residency, and other qualified immigrant status.¹⁴

The Secure Communities Program and Immigrant Victims¹⁵

Secure Communities is a Department of Homeland Security program that seeks to identify and remove “dangerous criminal aliens.”¹⁶ When a local law enforcement official arrests a suspect under the Secure Communities program the local official sends the arrested person’s fingerprints to DHS. Secure Communities runs the fingerprints against DHS databases. If the suspect’s fingerprints are found to be a match, the suspect is held by local agents until further enforcement action can be taken by DHS.

There are a number of circumstances that lead to the arrest of an immigrant crime victim. In domestic violence cases this can occur when police who arrive at the scene of a domestic violence incident are not fully trained on domestic violence protocols and best practices, and rather than determining which party is the predominant aggressor, the police arrest both parties. Since 1994, the Violence Against Women Act has discouraged grantees from making dual arrests. Despite this fact, there continue to be local police who make dual arrests. Once a dual arrest is made, the police will take the fingerprints of both parties and will turn them over to the DHS Secure Communities program. If the victim who called the police for help is undocumented and is arrested in a dual arrest she will be identified through Secure Communities and will be held for DHS. When police do not access qualified language interpreters to communicate with parties at a domestic violence scene, the police may rely on persons who speak English at the scene (often the abuser or his family members) to “translate” for the non-English speaking victim. This failure to provide language access for police interviews at the crime scene often leads to the arrest of the victim, rather than the perpetrator, or to a dual arrest of the victim and the perpetrator. When police fail to provide language access on a crime scene and they act on incorrect information to arrest an immigrant victim, because of the Secure Communities program, the victim is not only wrongly arrested, but her fingerprints are turned over to DHS resulting in the initiation of a removal action against her.

As mentioned, often batterers, traffickers, or crime perpetrators report immigrant victims to the police to further victimize them. In some cases employers who subject their immigrant employees to sexual assault or labor exploitation report their victims to cut off their ability to cooperate with law enforcement. Furthermore, perpetrators know that undocumented victims will not call law enforcement for these reasons and undocumented immigrants therefore become larger targets for crimes. It is therefore of utmost importance that immigrant crime victims are screened at the first point of contact with law enforcement, so that the victim can assist in the

¹⁴ 62 Fed. Reg. 61344, 61363-371 (e.g., asylees, refugees, undocumented battered immigrant VAWA self-petitioners, and VAWA Cancellation of Removal applicants).

¹⁵ Portions of this section were taken from: Legal Momentum letter to David Venturella, Executive Director of Secure Communities, Immigration and Customs Enforcement, Department of Homeland Security, July 15, 2009.

¹⁶ See, U.S. Immigration and Customs Enforcement, *ICE Secure Communities criminal alien initiative expanded to Sacramento, Solano counties*, January 12, 2010 available at: <http://www.ice.gov/news/releases/1001/100112sacramento.htm>

investigation and prosecution of the crime perpetrator and so victim status can be considered in determining whether or not to detain the victim. If perpetrators know that such screening occurs, they may be deterred from committing crimes against undocumented individuals.

Detention, or any form of incarceration, exacerbates past trauma related to victimization.¹⁷ It is estimated that a high number of detained immigrant women are victims of sexual or gender-based violence.¹⁸ A health services worker at one immigration detention center in the United States has estimated that “almost all women in her care were touched by domestic violence.”¹⁹ For these immigrant victims, immigration detention places their safety at further risk. Current detention standards do not address the needs of victims of sexual assault, who experienced such violence before they were detained.²⁰ In detention, the mental and physical health needs of survivors of violence are often not addressed.²¹

The detention of immigrant domestic violence survivors creates a mechanism for abusers to use the government as a tool in their ongoing abuse and exertion of power and control. In addition to deportation, abusers often threaten or succeed in separating their victims from their children. Detention is a particularly strategic tool of abusers of immigrant victims because the children then remain in the abusers’ care. It is estimated that 73% of children of undocumented immigrants are US citizens.²² Given the high percentage of mixed-status families, undocumented domestic violence victims with US citizen children who are detained and deported endure lifelong separation from their children, just as the abusers had threatened. For these US citizen children, the detention and removal of their parents can result in long-term emotional harm.²³

Often in detention, immigrant crime victims are not able to access legal service providers who can inform them of their eligibility for immigration relief; the length and conditions of detention can force immigrant crime victims to give up on valid claims for immigration relief to avoid prolonged detention and accept deportation.²⁴ This chilling effect is particularly harmful

¹⁷ See Lutheran Immigration and Refugee Services, *Alternatives to Detention in the U.S. Immigration System: Recommendations of reforms necessary to improve U.S. compliance with constitutional and international standards of procedural and substantive due process*, Briefing Materials Submitted to the Inter-American Human Rights Commission, (Jul. 7, 2008) at <http://idc.rfbf.com.au/lirs-briefing-paper-on-alternatives-to-detention>.

¹⁸ See Human Rights Watch, *Detained and Dismissed Women’s Struggles to Obtain Health Care in United States Immigration Detention*, (March 2009) at 57 [hereinafter *Detained and Dismissed*]. See also National Immigrant Justice Center, *The Situation of Immigrant Women Detained in the United States*, in Briefing Materials Submitted to the United Nations Special Rapporteur on the Human Rights of Migrants (Apr. 1, 2007) available at <http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/35.%20Briefing%20Materials%20for%20UN%20Special%20Rapporteur.pdf>, at 99; Nina Rabin, *Unseen Prisoners: A Report on Women in Immigration Detention Facilities in Arizona*, (The University of Arizona, January 2009) at 23.

¹⁹ See *Detained and Dismissed* at 57.

²⁰ See *id.* at 58.

²¹ See *id.* at 60.

²² Jeffrey S. Passel & D’Vera Cohn, *A Portrait of Undocumented Immigrants in the United States* ii (Pew Hispanic Center Apr. 14, 2009), available at <http://pewhispanic.org/files/reports/107.pdf>.

²³ See Dorsey & Whitney, LLP, *SEVERING A LIFELINE: The Neglect of Citizen Children in America’s Immigration Enforcement Policy* (2009) at 71.

²⁴ See Detention and Deportation Working Group, *Mandatory Detention, Prolonged Detention, and Indefinite Detention of Non-citizens in the Custody of the Department of Homeland Security*, in Briefing Materials Submitted to the United Nations Special Rapporteur on the Human Rights of Migrants (Apr. 1, 2007) available at <http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/35.%20Briefing%20Materials%20for%20UN%20Special%20Rapporteur.pdf>, at 14.

for law enforcement agencies, because as T and U Visa applicants these immigrant crime victims would otherwise be assisting them in their law enforcement investigations. The detention and removal of immigrant crime victims also endangers their safety. Often crime victims are fleeing domestic violence in their home countries or experience violence during the process of migrating to the United States.²⁵ To remove these victims to their home countries without screening for immigration eligibility in the U.S. places them back in danger.

Both the 287(g) program and Secure Communities are leading to the detention and potential removal of immigrant women who are in the process of obtaining legal immigration status under VAWA and the Trafficking Victims Protection Act (which may involve months or even years of administrative processing).²⁶ Local law enforcement do not have the expertise to recognize the various forms of documentation immigrant victims will be provided by DHS while they are in the process of filing for and receiving legal immigration status. Such victims receive documentation in the form of “*prima facie* determinations” or “deferred action status,” but do not receive an ID card or formal judicial order. Federal policies advise that stays of removal be granted for persons with pending U Visa applications who demonstrate *prima facie* eligibility, including consideration of “humanitarian factors.”²⁷ Federal policies also require release from detention for VAWA, T-visa and U-visa applicants, and for other persons with pending valid applications for immigration benefits.²⁸ However, local law enforcement officials are not aware of remedies for immigrant victims and are not trained to recognize the types of documentation victims will have.

The Effect of DHS Enforcement Programs on Mother Child Separations

Enhanced DHS enforcement, particularly through 287(g) and Secure Communities is exacerbating the likelihood that children will be separated from their immigrant parents. Sole and primary caretaker immigrant mothers are deterred from undertaking day-to-day activities crucial to their children’s healthy development. Immigrant children are at risk every time an immigrant mother leaves her home, because she risks arrest, detention, and separation from her children.

The increase in local police involvement in immigration enforcement is causing far more parental separations than federal immigration enforcement actions.²⁹ The forced separations caused by the 287(g) and Secure Communities programs, however long the duration of the separations, cause significant irreparable harm to children and violate immigrant mothers’ constitutional rights to nurture, care for, and have custody and decision-making over their child’s health, welfare, and development.³⁰ Detention of a mother who has been abused often results in

²⁵ See Detained and Dismissed at 57-58. See also Rabin at 53.

²⁶ Gorman, A., “U-visa program for crime victims falters,” Los Angeles Times (Jan. 26, 2009); Ingram, M. *et al.*, “Experiences of Immigrant Women Who Self-Petition Under the Violence Against Women Act,” VIOLENCE AGAINST WOMEN (August 2010) 16:858

²⁷ U.S. Immigration and Customs Enforcement, Memorandum re “Guidance: Adjudicating Stay Requests Filed by U Nonimmigrant Status (U-visa) Applicants (Sept. 24, 2009), available at http://www.ice.gov/doclib/foia/dro_policy_memos/11005_1-hd-stay_requests_filed_by_u_vis_a_applicants.pdf.

²⁸ John Morton, Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending or Approved Applications or Petitions, 2-3 (DHS, U.S. Immigration and Customs Enforcement, August 20, 2010)

²⁹ Chaudry, A. *et al.*, Facing our Future, Children in the Aftermath of Immigration Enforcement, The Urban Institute at 26 (February 2010).

³⁰ Discussing the parental rights of undocumented, detained, and deported immigrant parents in the context of termination of

children being turned over to the abusive spouse.³¹

The significant damage to the mother-child relationship and the health and well-being of children led federal immigration authorities to develop and implement “humanitarian guidelines” that attempt to promptly identify immigrants who are sole caregivers of children, to coordinate with social services agencies, and to release on orders of recognizance or offer alternatives to detention of immigrant parents, usually mothers.³² DHS also has instructed that nursing mothers be released from detention.³³ Federal immigration policies direct the use of prosecutorial discretion to decline initiation of immigration enforcement actions against persons who ultimately will be awarded lawful immigration status.³⁴ Local law enforcement officials operating under 287(g) agreements are not being required to adhere to the protections, mandates or considerations that DHS enforcement officers must follow. An immigrant victim arrested by a police officer who relied on her abuser’s version of the “facts” and arrested the victim instead of or in addition to the perpetrator, enters the DHS enforcement system through Secure Communities as arrested suspects. As a result her crime victimization, if identified at all, is not identified until after DHS has initiated an enforcement action against the victim.

Mothers in detention face multiple barriers to reuniting with their children. Some state child welfare agencies actively prevent or impede the immigrant’s access to her children and ability to participate in custody and termination of parental rights proceedings. *See generally In re Angelica L.*, 767 N.W. 2d 74 (2009). Systemic barriers in family court proceedings that impede immigrant mothers’ ability to maintain custody of their children include language barriers; family court judges who base custody decisions on immigration status rather than parenting ability and the children’s best interests as required by state law;³⁵ limited access to services; and reunification case-plan requirements imposed by child welfare authorities that make reunification virtually impossibility for many immigrant mothers.³⁶

parental rights proceedings, the Supreme Court of Nebraska unanimously ruled: “We have explained that the interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by the U.S. Supreme Court. Accordingly, before the State attempts to force a breakup of a natural family, over the objections of the parents and their children, the State must prove parental unfitness. . . . [T]he ‘best interests’ standard is subject to the overriding presumption that the relationship between parent and child is constitutionally protected and that the best interests of a child are served by reuniting the child with his or her parents. This presumption is overcome only when the parent has been proved unfit.” *In re Angelica L.*, 767 N.W.2d 74, 92 (Neb. 2009).

³¹ Unseen Prisoners: A Report on Women in Immigration Detention Facilities in Arizona (U. Ariz. Jan. 2009) at 44, *available at* <http://sirow.arizona.edu/files/UnseenPrisoners.pdf>. Fear of separation from children is a primary reason abused immigrant women do not report domestic violence. *See also* Dutton, M. A. *et al.*, “Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas,” *GEORGETOWN JOURNAL ON POVERTY LAW & POLICY* 7 (2) at 270-271, 276 (2000). Among battered immigrant women living with their abusers, fear of losing their children was reported by almost half (48.2%) as one of the most significant reasons for not leaving their abusers. *See* Wood, S.M., “VAWA’s Unfinished Business: The Immigrant Women Who Fall Through the Cracks,” 11 *DUKE J. OF GENDER L. & POLICY* 141, 152-53 (2004).

³² *See* Cervantes, W. & Lincroft Y., MBA, “The Impact of Immigration Enforcement on Child Welfare,” *Caught Between Systems: The Intersection of Immigration and Child Welfare Policies at 3* (First Focus and Migration and Child Welfare National Network March 2010), *available at* <http://www.firstfocus.net/Download/Enforcement4.7.pdf>; U.S. Department of Justice, Memorandum re “Exercising Prosecutorial Discretion” (Nov. 17, 2000).

³³ U.S. Department of Homeland Security, Memorandum re “Prosecutorial and Custody Discretion” (Nov. 7, 2007)

³⁴ U.S. Department of Homeland Security, Memorandum re “Prosecutorial and Custody Discretion” (Nov. 7, 2007); U.S. Department of Justice, Memorandum re “Exercising Prosecutorial Discretion” (Nov. 17, 2000) at 7-8.

³⁵ *Diana H. v. Rubin*, 217 Ariz. 131, 138 (2007).

³⁶ *See* Cervantes, W. & Lincroft Y., MBA, “The Impact of Immigration Enforcement on Child Welfare,” *Caught Between Systems: The Intersection of Immigration and Child Welfare Policies at 4-6* (First Focus and Migration and Child Welfare National Network March 2010), *available at*

Separations stemming from a mother's detention pose serious risks to children's immediate safety, economic security, well-being, and long-term development, causing eating and sleeping disorders, anxiety, withdrawal, aggression, and academic and behavioral problems.³⁷ Largely because of this trauma, even mothers who are clearly eligible for immigration relief abandon their attempts to challenge removal proceedings so that they can gain speedy release from detention and reunite with their children as soon as possible. An Arizona lawyer working with immigrant women reported that immigrant women's "needs are so different from men. All they want is their children. So it's very hard to work with them because they don't want to . . . hear 'you have to be here four months fighting your case.' They just say, 'You know, I don't care about my case; I care about my kids.'"³⁸

Immigrant Women's Susceptibility To Abuse³⁹

During the last two decades, the United States Congress and the Department of Homeland Security (DHS) specifically and repeatedly acknowledged the particular vulnerabilities of immigrant women and the widespread barriers to assistance experienced by immigrant victims of domestic violence, sexual assault, and human trafficking. Women who do not have stable immigration status are far more likely to be exploited in the workplace, at home, and in accessing services and exercising their legal rights.

The federal government enacted protections for these most vulnerable members of our society — rights that Congress called "an essential step in forging a national consensus that our society will not tolerate violence against women."⁴⁰ These laws establish special immigration protections to encourage immigrant women to report and fully participate in investigation of crimes and prosecution of perpetrators without fear of arrest and removal.⁴¹ DHS also issued policies designed to prevent the detention of immigrant women, acknowledging their roles as mothers and caretakers of children.⁴²

For reasons related to family, employment, the problem of human trafficking, limited English proficiency, and lack of knowledge about their legal rights, immigrant women are particularly likely to suffer abuse, violence, sexual assault, and other crimes. Most immigrant women who seek lawful permanent resident status do so through the family immigration visa

<http://www.firstfocus.net/Download/Enforcement4.7.pdf>

³⁷ Chaudry, A. *et al.*, Facing Our Future, Children in the Aftermath of Immigration Enforcement, The Urban Institute at 26 (February 2010).; Capps, R. *et al.*, "Paying the Price: The Impact of Immigration Raids on America's Children," at 50-53, Report by the Urban Institute for the National Council of La Raza (2007), available at http://www.urban.org/UploadedPDF/411566_immigration_raids.pdf; Cervantes & Lincroft, *supra* n.36.

³⁸ Capps, *supra* n.37, at 45.

³⁹ This section adopted from: Legal Momentum's amicus brief authored by MANATT, PHELPS & PHILLIPS, LLP, JOANNA S. MCCALLUM, GREGORY N. PIMSTONE, RONALD G. BLUM, LYDIA MENDOZA, SIRENA CASTILLO, filed in U.S. v. State of Arizona, U.S. Court of Appeals for the 9th Circuit, September 30, 2010 available at: <http://www.ca9.uscourts.gov/datastore/general/2010/10/25/amicus.brief19.pdf>

⁴⁰ Senate Judiciary Committee Report accompanying S.B. 103-138 at 41-42.

⁴¹ Victims of Trafficking and Violence Protection Act of 2000, P.L. No. 106-386 (2000) ("VAWA 2000") §§ 1501-13. The protections are not limited to women but women are at far greater risk than men of domestic and sexual violence and exploitation.

⁴² U.S. Department of Homeland Security, Memorandum re "Prosecutorial and Custody Discretion" (Nov. 7, 2007); U.S. Department of Justice, Memorandum re "Exercising Prosecutorial Discretion" (Nov. 17, 2000).

system.⁴³ In abusive relationships, abusers with control over their wives' and children's immigration status use threats of deportation and separation of mothers from children to keep them from seeking help or calling the police.⁴⁴ When a woman seeks legal immigration status based upon a family relationship (as most do), she may languish for many years in a long queue for a visa.⁴⁵ If she needs to work, she must do so without legal immigration status, making her vulnerable to exploitation, sexual harassment/assault, and retaliation by unscrupulous employers.

Many battered immigrant women report an increase in abuse after immigrating to the United States.⁴⁶ Among immigrant battered women from diverse cultures, 65% report that their spouses used threats of deportation and of not filing or withdrawing immigration papers as a coercive control tactic in the abusive relationship.⁴⁷

Immigrant Victims Willingness To Call The Police For Help⁴⁸

Immigration status significantly affects the willingness of immigrant women to seek law enforcement help. Immigrants with stable permanent immigration status are more than twice as likely as women with temporary legal immigration status to call police for help in domestic violence cases (43.1% vs. 20.8%). This rate decreased to 18.8% if the battered immigrant was undocumented.⁴⁹ These reporting rates are significantly lower than reporting rates of battered women generally in the United States (between 53% and 58%).⁵⁰ The reporting rates in the U.S. among rape and sexual assault victims are extremely low; only 16 % of all rape victims report the crime to law enforcement.⁵¹ The heightened fear of detention and deportation that increased immigration enforcement through 287(g) and Secure Communities is making it even less likely that immigrant victims will report and aid in the prosecution of rape and sexual assault.

⁴³ Jefferys, K., "Characteristics of Family-Sponsored Legal Permanent Residents: 2004," Office of Immigration Statistics, DHS (Oct. 2005), "Table 1: Demographic Characteristics of All LPRs and Family-Sponsored LPRs: Fiscal Year 2004."

⁴⁴ Ammar, N. *et al.*, "Calls to Police and Police Response: A Case Study From the Latina Immigrant Women," 7 U.S. J. OF INT'L POLICE SCI. & MGM'T 230, 239 (2005); Natarajan, M., "Domestic Violence Among Immigrants From India: What We Need to Know – and What We Should Do," 26 INT'L J. OF COMPARATIVE & APPLIED CRIMINAL JUSTICE 301, 310 (Fall 2002); Ramos, M.D. & Runner, M.W., "Cultural Considerations in Domestic Violence Cases: A National Judges Benchbook," San Francisco: State Justice Inst. & Family Violence Prevention Fund (1999); Raj, A. *et al.*, "Immigration Policies Increase South Asian Immigrant Women's Vulnerability to Intimate Partner Violence," 60 J. OF THE AMERICAN MEDICAL WOMEN'S ASS'N 26-32 (2005). When abusers controlled the immigration status of a victim spouse, 72.3% never filed immigration papers on her behalf. Those who did so delayed in filing, on average, almost 4 years. Dutton, M.A. *et al.*, "Characteristics of Help-Seeking Behaviors, Resources, and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications," 7 GEORGETOWN JOURNAL OF POVERTY, LAW AND POLICY 245, 259, 302, Table 12 (2000).

⁴⁵ See http://www.travel.state.gov/visa/bulletin/bulletin_4879.html (information on availability of visas).

⁴⁶ Hogeland, C. & Rosen, K., "Dreams Lost, Dreams Found: Undocumented Women in the Land of Opportunity," Coalition for Immigrant and Refugee Rights and Services (1990) (48% report rise in family violence following immigration); Hass, G.A. *et al.*, "Battered Immigrants and U.S. Citizen Spouses" at 3 (April 24, 2006), *available at* <http://legalm.convio.net/site/DocServer/dvusc.pdf?docID=314> (31% of immigrant victims reported rise in domestic violence following immigration).

⁴⁷ *Id.*

⁴⁸ This section adopted from: Legal Momentum's amicus brief authored by MANATT, PHELPS & PHILLIPS, LLP, JOANNA S. MCCALLUM, GREGORY N. PIMSTONE, RONALD G. BLUM, LYDIA MENDOZA, SIRENA CASTILLO, filed in U.S. v. State of Arizona, U.S. Court of Appeals for the 9th Circuit, September 30, 2010 available at: <http://www.ca9.uscourts.gov/datastore/general/2010/10/25/amicus.brief19.pdf>

⁴⁹ Ammar, N. *et al.*, "Calls to Police and Police Response: A Case Study From the Latina Immigrant Women," 7 U.S. J. OF INT'L POLICE SCI. & MGM'T 230 at 236 (2005)

⁵⁰ Coulter, M.L. *et al.*, "Police-Reporting Behavior and Victim-Police Interactions as Described by Women in a Domestic Violence Shelter," 14 J. INTERPERSONAL VIOLENCE 1290, 1293 (Dec. 1999); Rennison, C.M. & Welchans, S., "Intimate Partner Violence" 7, U.S. Dep't of Justice, Bureau of Justice Statistics Special Report (May 2000).

⁵¹ "Violence Against Women: The Response to Rape; Detours on the Road to Equal Justice," Rpt. of the Senate Jud. Comm. Majority Staff, 103 Cong. (May 1993).

Immigrants will be made even more vulnerable to repeated assaults by perpetrators who play on their fears of detention, using the threat of deportation as a weapon to ensure their silence. In addition, immigrant witnesses to rapes, sexual assaults, and other violent crimes will be less likely to report and aid in prosecution, fearing deportation themselves.

Immigrant women are especially affected by workplace abuse. Immigrant women constitute most of the workforce in the informal, sometimes underground, employment sector, serving as childcare workers, elder and home health care providers, domestic workers, hotel and office cleaners, and farm and factory workers. Because many undocumented women have no other options to feed and support their families, employers – knowing that immigrant women will endure exploitative and dangerous working conditions, including sexual harassment and assault – have a perverse incentive to employ them. Sexual harassment at work is reported by 77% of Latina immigrants.⁵² Employers take advantage of undocumented women’s lack of stable immigration status, lack of language proficiency, and fear of government authorities to create or maintain unsafe working conditions and underpaid wages. Employers and managers threaten to report undocumented employees to immigration authorities in order to ensure the silence of workers who have been sexually harassed or assaulted at work and to discourage reporting of abuse and labor law violations.⁵³

In addition, human trafficking results in approximately 14,500-17,500 women, children, and men trafficked into the United States every year, most of whom are women and girls.⁵⁴ Traffickers use force, fraud, or coercion to compel work and in many instances to subject workers to sexual violence.⁵⁵ Already exploited by their traffickers who withhold wages, threaten deportation, and physically harm them, trafficked women are told by their traffickers that calling the police or anyone else will result in the victim’s deportation.⁵⁶

Congressional Response – The Violence Against Women Act And The Trafficking Victims Protection Act⁵⁷

Recognizing the severity of domestic abuse, sexual assault, and trafficking perpetrated against immigrant women, as well as the need for immigrant women and their children to access social services designed to help and support victims, Congress has specifically, and repeatedly, acted to protect the rights and well-being of immigrant victims.

The Violence Against Women Act (“VAWA”) is the centerpiece of congressional protections for immigrant victims of crime.⁵⁸ Originally enacted in 1994, and expanded in 2000 and 2005, VAWA encourages immigrant women to report crimes, including domestic violence, child abuse, sexual assault and human trafficking, regardless of immigration status. This reflects

⁵² “Under Siege: Life for Low Income Latinos in the South” at 28 (Southern Poverty Law Center, April 2009).

⁵³ *Id.*; see also, e.g., Konrad, S.P., “Legal Challenges That Immigrant Women and Children Victims of Crimes of Violence Are Facing Today,” witness statement presented at briefing on the aftermath of the Postville, Iowa Raid convened by Representative Hilda Solis (Sept. 23, 2008).

⁵⁴ U.S. Department of State, Trafficking in Persons Report at 15, 23 (2004), available at <http://www.state.gov/documents/organization/34158.pdf>.

⁵⁵ *Id.* at 6, 15.

⁵⁶ *Id.* at 12.

⁵⁷ This section adopted from: Legal Momentum’s amicus brief authored by MANATT, PHELPS & PHILLIPS, LLP, JOANNA S. MCCALLUM, GREGORY N. PIMSTONE, RONALD G. BLUM, LYDIA MENDOZA, SIRENA CASTILLO, filed in U.S. v. State of Arizona, U.S. Court of Appeals for the 9th Circuit, September 30, 2010 available at: <http://www.ca9.uscourts.gov/datastore/general/2010/10/25/amicus.brief19.pdf>

⁵⁸ Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355 (1994).

a strong congressional message that life, health, and individual and public safety come first, regardless of a woman's immigration status. VAWA 1994 includes findings that:

Domestic battery problems can become terribly exacerbated in marriages where one spouse is not a citizen, and the non-citizen[']s legal status depends on his or her marriage to the abuser. Current law fosters domestic violence in such situations by placing full and complete control of the alien spouse's ability to gain permanent legal status in the hands of the citizen Consequently, a battered spouse may be deterred from taking action to protect himself or herself, such as filing for a civil protection order, filing criminal charges, or calling the police, because of the threat or fear of deportation.⁵⁹

The 2000 VAWA amendments broadened protection beyond domestic violence by creating two visa categories for crime victims who cooperate with law enforcement: the "T Visa" for victims of human trafficking and the "U Visa" for victims of domestic violence, sexual assault, and other crimes.⁶⁰ Congress created the U Visa because "[a]ll women and children who are victims of these crimes [including domestic violence and sexual assault] committed against them in the United States must be able to report these crimes to law enforcement and fully participate in the investigation of the crimes . . . and the prosecution of the perpetrators"⁶¹

Both the T and U Visa programs require coordination with local law enforcement agencies and endorsement of the victims' cooperation in investigations and/or prosecutions.⁶² The Department of Justice (DOJ) funds anti-trafficking task forces across the country that encourage coordination among service providers, law enforcement, and prosecutors, acknowledging that human trafficking cases cannot be prosecuted unless trafficking victims have access to services and the protection from deportation that come with the T Visa.⁶³ The city of Phoenix hosts one such federally funded task force.⁶⁴ The Department of Justice, through the Office on Violence Against Women, provides significant funding for coordinated community response teams in every state, including Arizona. These model teams involve police, prosecutors, forensic nurses, courts, victim advocacy programs, and others to develop and implement effective community based responses needed to bring crime perpetrators to justice and offer help, safety, and protection to immigrant and other crime victims.

The protections Congress offers to immigrant victims extends beyond the relief provided in federal immigration laws to offer a range of additional protections Congress deemed essential to encouraging and supporting immigrant crime victims in receiving the financial and emotional help they need so that they can report criminal activity and participate with law enforcement in detection, investigation and prosecution of crime perpetrators. When enacting 1996 immigration

⁵⁹ House Judiciary Committee Report accompanying H.R. Rep. No. 103-395 at 26.

⁶⁰ VAWA 2000 §§ 1501-13.

⁶¹ VAWA 2000 § 1513(a)(1)(B); Immigration and Nationality Act §§ 101(a)(15)(T), 101(a)(15)(U), 214(o), 214(p), 245(l), 245(m); 67 Fed. Reg. 4784 (Jan. 31, 2002); 72 Fed. Reg. 53014 (Sept. 17, 2007); USCIS Interim Final Rule, "Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status," 73 Fed. Reg. 75540 (Dec. 1, 2008). In 2005, VAWA was amended again, to further increase protections and ease restrictions for battered immigrant women and their children. Violence Against Women and Department of Justice Reauthorization Act of 2005 ("VAWA 2005"), P.L. 109-162 (2006), §§ 801-34.

⁶² VAWA 2000 §§ 1501-13.

⁶³ Bureau of Justice Assistance Anti-Human Trafficking Task Force Initiative, *available at* <http://www.ojp.usdoj.gov/BJA/grant/httf.html>.

⁶⁴ *Id.*, map of Human Trafficking Task Forces, *available at* <http://www.ojp.usdoj.gov/BJA/grant/40HTTF.pdf>.

reforms in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Congress underscored its intent to protect battered immigrants by adding battered immigrant women and children to the categories of immigrants qualified to receive welfare benefits that prior legislation took away.⁶⁵ IIRAIRA's restoration of benefits for battered immigrants reflected Congress's recognition that economic survival is a significant reason victims remain with abusers. IIRAIRA enables victims to break the cycle of economic dependency on an abusive spouse, partner, parent, or employer.

Recommendations:

Mitigating the effects of DHS enforcement on immigrant victims will be a significant focus of Legal Momentum's and the National Network to End Violence Against Immigrant Victim's VAWA 2011 advocacy. The policy priorities that will be part of both our DHS and VAWA 2011 advocacy include:

- End 287(g) agreements with local law enforcement.
- Establish and implement immigrant crime victim screening protocols throughout all Immigration and Customs Enforcement Programs, including Secure Communities and 287(g) programs.
- Expand the existing humanitarian guidelines to screen for immigrant crime victims.
- VAWA confidentiality protections and enforcement penalties apply to all states that enter into 287(g) agreements with DHS and to all law enforcement agencies participating in Secure Communities. Agencies are required to receive training annually on VAWA, T and U visa immigration relief, screening crime victims and VAWA confidentiality.
- DHS enforcement officials must receive mandatory annual training on VAWA, T and U visa immigration relief, VAWA confidentiality, screening for victimization and the 384 red flag system.
- DHS to develop training on identifying immigrant crime victims, VAWA confidentiality and connecting with NGOs to address their social services needs.

In the Secure Communities Program:

- Seek to employ the least restrictive alternatives to detention for immigrant crime victims in situations where detention would otherwise be necessary.
- Create training for local law enforcement participating in Secure Communities, in consultation with non-governmental organizations (NGOs) knowledgeable about the legal rights of immigrant victims, for the purposes of building skills to identify victims, potential immigration eligibility, and compliance with VAWA Confidentiality.
- Include, in the training protocols to local law enforcement, the identification of crime victims and connecting with NGOs to address the social services needs of crime victims and training of local law enforcement on U visa and T visa certifications.
- Include policies to reassess a person's victimization after the individual has had access to NGO services and consultation.

⁶⁵ Pub. L. No. 104-208, 110 Stat. 3009 (1996). PRWORA had cut off access to public benefits for many immigrant non-citizens.

VAWA 2011 Priorities That Will Improve Protections and Options for Immigrant Victims

- Allow U-visa victims to prove cooperation through any credible evidence including a U-visa certification. The U-visa certification will be primary evidence in the victim's case, but not a mandatory part of the victim's application.
- Provide T and U visa victims, VAWA self-petitioners and VAWA cancellation of removal and suspension of deportation applicants and special immigrant juveniles' access to work authorization and deferred action status within 45 days of filing their case.
- Accept applications for relief from abused spouses entitled under VAWA 2005 to work authorization as abused spouses of work visa holders and provide at least temporary work authorization within 45 days of filing.
- Offer T visa victims, VAWA self-petitioners and VAWA cancellation of removal and suspension of deportation applicants the same access to inadmissibility waivers and U-visa victims receive.
- Grant VAWA self-petitioners, VAWA cancellation of removal and suspension of deportation applicants and U visa victims the same access to services and benefits that T visa victims currently receive.
- Expand the list of U-visa covered crimes to cover --stalking; dating violence, child labor exploitation; child abuse; child neglect; child endangerment; elder abuse, neglect or exploitation; the unlawful practice of law, and civil labor and employment law violations that are in EEOC. And DOL jurisdiction.
- Adjudicate all VAWA, T, U, Battered Spouse Waiver and Section 106 work authorizations at the VAWA Unit of the Vermont Service Center
- Allow all immigrant victims to naturalize after 3 years.
- Provide Battered Spouse Waiver Applicants with protections equal to those provided VAWA self-petitioners
- VAWA Confidentiality improvements