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“Helpfulness” is a Two-Way Street: How the Commonwealth of Virginia Can Support Undocumented Survivors of Domestic Violence

J. NICOLE ALANKO*

ABSTRACT

Domestic violence is not limited to one race, ethnicity, socioeconomic status, nationality, or religion, nor to one town, city, or region. Immigrant survivors of domestic violence residing in the United States face barriers to reporting the violence they have experienced similar to U.S. citizen survivors, such as a fear of more violence upon leaving the relationship, religious and social pressure, and a fear of being “outed” as LGBTQ+ by their partner. However, these barriers may be exacerbated or seem insurmountable because of their immigration status, or lack thereof. In 2000, Congress created the U Visa to help support undocumented immigrant survivors of crimes—including domestic violence—by creating a path to lawful status if they worked with law enforcement in the investigation or prosecution of the crime. Because of the increased collaboration between local law enforcement and immigration enforcement authorities, it is imperative that states, including Virginia, pass legislation that meets survivors halfway. Survivors overcome layering barriers to seeking help in cases of domestic violence, and especially in reporting to law enforcement. In recognition of the barriers that survivors face in reporting domestic violence cases, states like Virginia should pass legislation that (1) makes federal definitions of key terms in the U Visa regulations part of Virginia law, (2) includes a presumption of helpfulness for the purposes of Law Enforcement Certifications, (3) explicitly says that the conviction of the perpetrator or testifying at trial are unnecessary for helpfulness, (4) ensures that education on U and T Visas is part of police training, and (5) includes a data collection mechanism on U Visa certifications. This localized legislation would drastically change the lives of survivors across the Commonwealth of Virginia, bringing stability to the lives of survivors and rebuilding trust between survivors and law enforcement.

* Immigrant Justice Corps Fellow, Safe Horizon Immigration Law Project; J.D. William & Mary Law School. The views expressed in this Article are strictly my own and do not reflect the views of my employer or my academic institutions. This Article is dedicated to survivors across the country who show incredible strength and courage every day. May our legislators display the same courage in the face of injustice.

Introduction

Domestic violence is not limited to one nationality, race, ethnicity, socioeconomic class or religion, nor is it limited in its geographic reach. Domestic violence affects communities large and small across Virginia. Like all survivors¹ of domestic violence, immigrant survivors—including undocumented survivors—deserve protection from their abusers. For immigrant survivors, this often means protection in the form of immigration status. In 2000, Congress created the U Visa to assist undocumented survivors of crime, including domestic violence, by giving a pathway to permanent legal status and stability for those who are “helpful” to law enforcement and prosecutors in the investigation or prosecution of the crime.² This “helpfulness” is shown through the Law Enforcement Certification, a form which must be signed by a local law enforcement agency, prosecutor, or judge, and submitted with a survivor’s application.³ However, the entire process is moot if a survivor never calls the police or reports the crime. Undocumented survivors of domestic violence may not trust law enforcement because working with prosecutors or calling the police could expose them to heightened risks of violence from their partners and deportation.⁴ Because of this lack of trust between survivors and law enforcement, many survivors who would otherwise have a strong case may not be able to meet this requirement for the U Visa, and are left vulnerable in an era of heightening immigration enforcement.

The Virginia General Assembly is in a unique position to meet immigrant survivors in the middle, extending a hand to rebuild trust between immigrant communities and local law enforcement. The General Assembly should adopt legislation to fill gaps where federal legislation is lacking and empower local officials to use the tools that Congress created for them. This Article will use Virginia as an example of how state legislatures—including those in more conservative states—can support undocumented survivors of domestic violence, rebuild trust between immigrant communities and local law enforcement, and bolster the efforts of local law enforcement to investigate and prosecute crimes against immigrants, particularly

1. I use the word “survivor” throughout this piece in place of “victim,” unless directly quoted from statutes or other sources, because “survivor” is considered to be a more empowering term because it centers a person’s self-definition based on their own actions, rather than being defined by the violence of others. See, e.g., Rachael Kaufman, *Victim, Survivor, or Just a Person?*, YWCA (Apr. 18, 2016), <https://ywarichmond.org/sexual-violence/salanguage>; but see Kate Simon, *I was raped. Call me a victim, not a ‘survivor’*, THE LILY (Apr. 20, 2018), <https://www.thelily.com/i-was-raped-call-me-a-victim-not-a-survivor>.

2. Rachel Gonzales Settlage, *Uniquely Unhelpful: The U Visa’s Disparate Treatment of Immigrant Victims of Domestic Violence*, 68 RUTGERS L. REV. 1747, 1750 (Summer 2016); Leslye E. Orloff, et al., *Mandatory U-Visa Certification Unnecessarily Undermines the Purpose of the Violence Against Women Act’s Immigration Protections and Its “Any Credible Evidence” Rules – A Call for Consistency*, 11 GEO. J. GENDER & L. 619, 619–620 (2010); Immigration and Nationality Act § 214(p)(1) [hereinafter INA], 8 U.S.C. § 1184(p)(1) (2018). For consistency, this Article will cite to both the INA and the U.S. Code.

3. INA § 214(p)(1), 8 U.S.C. § 1184(p)(1) (2018).

4. See *infra* Part II(A).

domestic violence. The legislation suggested in this Article would drastically change the lives of survivors across the Commonwealth, increasing their willingness to work with law enforcement on cases and bringing stability to their lives after they leave their abusive relationships. This legislation would not be able to repair all of the rifts between law enforcement and undocumented communities, especially in the current political climate, but it would be a start to rebuilding trust that would make law enforcement more effective and provide better protection for immigrant survivors.

Part I begins by defining domestic violence, explaining what a U Visa is, and how a survivor would apply for a U Visa. Part I (A) first explores the different manifestations of domestic violence and how it these manifestations interact with intersecting identities, including immigration status, race, sexual orientation, and gender identity. Part I (B) describes Congress’s reasons for creating the U Visa and the U Visa’s niche in humanitarian immigration protections. Finally, Part I(C) walks through the steps of the U Visa application process and explains the role of the Law Enforcement Certification.

Part II of this Article explores why the Law Enforcement Certification process is problematic for immigrant survivors. In practice, the Law Enforcement Certification puts two very difficult demands on immigrant survivors: that survivors leave their abusive partner, and that they report the crime to law enforcement. The process fails to take into account the myriad of reasons that survivors do not leave their abusive partners—such as family or religious pressures—and reasons that survivors do not involve law enforcement—such as police violence against communities of color. Part II (A) describes why survivors may be fearful of leaving their abusive partners, and their reasons for staying in an abusive relationship. Part II (B) describes why many survivors distrust law enforcement, including reasons based on the intersecting identities of race, sexual orientation and gender identity, and immigration status. Part II(C) describes how the recent increase in cooperation between local law enforcement and immigration enforcement is eroding trust between immigrant communities and law enforcement. Part II(C) also describes different ways in which local law enforcement and federal immigration authorities cooperate, and their comparative “effectiveness” in the eyes of those who want to deport as many people as possible. Part II (D) explains that a Law Enforcement Certification is ultimately never guaranteed, and how therefore calling the police becomes a calculated risk for survivors.

Finally, Part III suggests a solution that the Commonwealth of Virginia—and other states—can adopt to repair the relationship between immigrant—particularly undocumented—communities and law enforcement. Part III suggests that the Virginia General Assembly should adopt legislation that (1) incorporates federal definitions from the U Visa regulations into the Virginia Code, (2) includes a presumption of helpfulness as it is defined by the U Visa regulations for the purposes of Law Enforcement Certifications, (3) explicitly specifies that the conviction of the perpetrator or testifying at trial are unnecessary for helpfulness, (4) ensures that education on U and T Visas is part of law enforcement training, and (5) includes a data collection mechanism on U Visa certifications. This legislation would not repair the relationship instantly. However, the legislation would demonstrate that the plight of immigrant survivors of violence is a priority of the Commonwealth and other

states and would lay the foundation for a better relationship between law enforcement and immigrant survivors of violence.

I. Domestic Violence Against Immigrants and Congress' Response

A. What is Domestic Violence?

Domestic violence is generally defined as “a pattern of behavior that one intimate partner or spouse exerts over another as a means of control.”⁵ This pattern of behavior manifests in several different ways, including physical abuse, emotional or psychological abuse, sexual abuse, and financial abuse. Generally, in the United States, “24 people per minute are victims of rape, physical violence or stalking by an intimate partner in the United States—more than 12 million women and men over the course of a year.”⁶ This violence starts earlier than many may expect. According to a survey by the Centers for Disease Control, “9.4% of high school students report being hit, slapped, or physically hurt on purpose by their boyfriend or girlfriend” in the past 12 months. By college, “[n]early 1 in 3 (29%) [of] college women say they have been in an abusive dating relationship.”⁷ This violence often becomes deadly. According to a report from the Centers for Disease Control, “[m]ore than half of female homicide victims were killed in connection to intimate partner violence—and in 10 percent of those cases, violence shortly before the killing might have provided an opportunity for intervention.”⁸

Domestic violence is almost always portrayed in heterosexual relationships, where a straight, cisgender⁹ man is the perpetrator, and a straight, cisgender woman is the survivor. However, these portrayals are based on stereotypes that make it more difficult for those who are not straight, cisgender women to get assistance that they need—including straight, cisgender men, gay men, lesbians, and transgender¹⁰ people. While “82 percent of domestic, dating, and sexual violence was committed against females, . . . 18 percent [was committed] against males.”¹¹

5. Leslye E. Orloff & Rachel Little, *Overview of Domestic Violence and Battered Immigrant Issues*, in *SOMEWHERE TO TURN* 5 (2011), <http://library.niwap.org/wp-content/uploads/2015/Somewhere-to-Turn-2011.pdf>.

6. *Get the Facts & Figures*, NAT'L DOMESTIC VIOLENCE HOTLINE, <http://www.thehotline.org/resources/statistics> (last visited Nov. 5, 2018).

7. *Id.*

8. Camila Domonoske, *CDC: Half Of All Female Homicide Victims Are Killed By Intimate Partners*, NPR (July 21, 2017, 2:22 PM EST), <https://www.npr.org/sections/thetwo-way/2017/07/21/538518569/cdc-half-of-all-female-murder-victims-are-killed-by-intimate-partners>.

9. “Cisgender refers to people whose gender identity is the same as their assigned or presumed sex at birth.” *Glossary*, LAMBDA LEGAL, <https://www.lambdalegal.org/protected-and-served/glossary> (last visited Nov. 5, 2018).

10. “Transgender refers to people whose gender identity, one’s inner sense of being male, female, or something else, differs from their assigned or presumed sex at birth.” *Id.*

11. *Frequently Asked Questions about Domestic Violence*, NAT'L NETWORK TO END

People in the LGBTQ+¹² community also experience domestic violence, and at even higher rates than people in heterosexual relationships.¹³ According to the Human Rights Campaign, “44 percent of lesbians and 61 percent of bisexual women experience rape, physical violence, or stalking by an intimate partner, compared to 35 percent of heterosexual women.”¹⁴ Abusive partners in LGBTQ+ relationships will often use societal expectations and stereotypes against their partners, making leaving an abusive relationship more complex.¹⁵ For example, an abusive partner may “out” their partner before they¹⁶ are ready or “[p]ortray . . . the violence as mutual and even consensual, or as an expression of masculinity or some other ‘desirable’ trait.”¹⁷

Domestic violence also affects transgender and gender-nonconforming people. “[Forty-seven percent] of transgender people [have been] sexually assaulted at some point in their lifetime.”¹⁸ While collecting data on violence against transgender people can be difficult,¹⁹ one survey showed that nearly one-third of transgender respondents “identified themselves as domestic violence survivors.”²⁰ Abusive partners often use “societal transphobia . . . to isolate and deprecate their partners.”²¹ Policies at shelters and fear of abuse by police are two reasons why many transgender survivors do not seek help.²² Because survivors are often isolated from assistance, the violence becomes deadly. “Among the . . . known transgender victims from

DOMESTIC VIOLENCE, <https://nnedv.org/content/frequently-asked-questions-about-domestic-violence> (last visited Nov. 5, 2018).

12. “LGBTQ+” is one of a myriad of abbreviations to include lesbian, gay, bisexual, transgender, queer and other communities. This paper uses “LGBTQ+” in order to be as inclusive as possible of all communities who fall under this broad umbrella. See, e.g., *LGBTQIA Resource Center Glossary*, UC DAVIS, <https://lgbtqia.ucdavis.edu/educated/glossary.html> (last visited Nov. 5, 2018).

13. See Kae Greenberg, *Still Hidden in the Closet: Trans Women and Domestic Violence*, 27 BERKELEY J. GENDER, L. & JUST. 198, 200 (2012).

14. *Sexual Assault and the LGBTQ Community*, HUMAN RIGHTS CAMPAIGN, <https://www.hrc.org/resources/sexual-assault-and-the-lgbt-community> (last visited Nov. 5, 2018).

15. *LGBTQ Abuse*, NAT’L DOMESTIC VIOLENCE HOTLINE, <http://www.thehotline.org/is-this-abuse/lgbt-abuse>.

16. This Article will regularly use the singular “they” in place of gendered pronouns in recognition that gendered pronouns not only perpetuate stereotypes about domestic violence, but also exclude the experiences of transgender and non-binary survivors.

17. *LGBTQ Abuse*, NAT’L DOMESTIC VIOLENCE HOTLINE, <http://www.thehotline.org/is-this-abuse/lgbt-abuse>.

18. *Sexual Assault and the LGBTQ Community*, HUMAN RIGHTS CAMPAIGN, <https://www.hrc.org/resources/sexual-assault-and-the-lgbt-community>.

19. See generally Leonore F. Carpenter & R. Barrett Marshall, *Walking While Trans: Profiling of Transgender Women by Law Enforcement, and the Problem of Proof*, 24 WM. & MARY J. WOMEN & L. 5 (2017) (discussing how and why law enforcement does not collect data of violence against transgender women).

20. Greenberg, *supra* note 13, at 200.

21. *Id.* at 202.

22. *Id.* at 203.

2013-15: . . . 15 percent. . . were killed by intimate partners.”²³

B. Manifestations of Domestic Violence

While not all forms of abuse would qualify an immigrant for a U Visa, combinations of different abusive behaviors can impact how—and if—a survivor seeks help. Understanding the manifestations of these behaviors and how they interact is important to improving the processes for immigrant survivors to get the help they need.

Physical abuse is often the public’s first association for “domestic violence.” Physical abuse “include[s]: hitting, punching, kicking, slapping, strangling, smothering, using or threatening to use weapons, shoving, interrupting your sleep, throwing things, destroying property, hurting or killing pets, and denying medical treatment.”²⁴ These serious forms of violence are extremely widespread in the United States. Approximately “1 in 4 women (24.3%) and 1 in 7 men (13.8%) aged 18 and older in the United States have been the victim of severe physical violence by an intimate partner in their lifetime.”²⁵ Strangulation, in particular, is a “significant predictor for future lethal violence.”²⁶ One study showed that, when abused women who had been strangled and those who had not were compared, the women who were “victims of completed or attempted homicide were far more likely to have a history of strangulation.”²⁷ Strangulation also results in many short-term and long-term health effects, even without leaving visible signs.²⁸ The effects include, but are not limited to, “brain damage, miscarriage, heart attacks, and delayed death, days or even weeks after the assault.”²⁹

23. HUMAN RIGHTS CAMPAIGN & TRANS PEOPLE OF COLOR COALITION, ADDRESSING ANTI-TRANSGENDER VIOLENCE: EXPLORING REALITIES, CHALLENGES AND SOLUTIONS FOR POLICYMAKERS AND COMMUNITY ADVOCATES 28 (2015), https://assets2.hrc.org/files/assets/resources/HRC-AntiTransgenderViolence-0519.pdf?_ga=2.36999264.1156326781.1530580147-821063018.1530458636.

24. *Forms of Abuse*, NAT’L NETWORK TO END DOMESTIC VIOLENCE, <https://nnedv.org/content/forms-of-abuse> (last visited Nov. 4, 2018).

25. *Get the Facts & Figures*, NAT’L DOMESTIC VIOLENCE HOTLINE, <http://www.thehotline.org/resources/statistics> (last visited Nov. 4 2018).

26. *The Dangers of Strangulation*, NAT’L DOMESTIC VIOLENCE HOTLINE (Mar. 15, 2016), <http://www.thehotline.org/2016/03/15/the-dangers-of-strangulation>. See also Rachel Louise Snyder, *Which domestic abusers will go on to commit murder? This one act offers a clue.*, WASH. POST (Nov. 16, 2017), https://www.washingtonpost.com/outlook/which-domestic-abusers-will-go-on-to-commit-murder-this-one-act-offers-a-clue/2017/11/16/80881ebc-c978-11e7-aa96-54417592cf72_story.html?utm_term=.a280558a7833.

27. Nancy Glass, et al., *Non-fatal strangulation is an important risk factor for homicide of women*, 35 J. EMERGENCY MEDICINE 329, 332 (2008).

28. Katheryn Utley, *Health Issues Result from Strangulation*, TRAINING INSTITUTE ON STRANGULATION PREVENTION (Apr. 30, 2014, 10:44 PM), <https://www.strangulationtraininginstitute.com/health-issues-result-from-strangulation>.

29. *Id.*

Emotional abuse (also called psychological abuse or psychological aggression) is “the use of verbal and non-verbal communication with the intent to harm another person mentally or emotionally, and/or to exert control over another person.”³⁰ Emotional abuse is often not recognized as abuse, but the psychological effects of emotional abuse have been compared to the effects of torture on prisoners of war because of the “manipulation of perception, humiliation, the administration of drugs and alcohol, and occasional, random indulgences that ‘keep hope alive that the torture will cease.’”³¹ Emotional abuse is also remarkably common. Of the kinds of abuse discussed in calls to a domestic violence hotline, 86% of callers reported emotional or psychological abuse.³² While emotional abuse is not criminal, it leaves a lasting impact on a survivor,³³ and its effects can be a reason why a survivor does not leave an abusive relationship.

Sexual abuse is a broad category of abuse that includes both physical and non-physical acts. As defined by the National Network to End Domestic Violence, sexual abuse involves “physically forcing sex, making [a partner] feel fearful about saying no to sex, forcing sex with other partners, forcing [a partner] to participate in demeaning or degrading sexual acts, violence or name calling during sex, and denying contraception or protection from sexually transmitted diseases.”³⁴ Additionally, the Centers for Disease Control explain that sexual abuse can also include “sexual events that are not of a physical nature that occur without the victim’s consent.”³⁵ For example, technology and social media can be used to share sexually explicit, shaming, or embarrassing information or photos on social media or pornographic websites without a person’s consent.³⁶

30. *Intimate Partner Violence: Definitions*, CTR. FOR DISEASE CONTROL (Aug. 22, 2017), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/definitions.html>.

31. Leigh Stein, *He didn’t hit me. It was still abuse.*, WASH. POST (July 15, 2016), https://www.washingtonpost.com/posteverything/wp/2016/07/15/he-didnt-hit-me-it-was-still-abuse/?utm_term=.89355e31c707.

32. Press Release, National Domestic Violence Hotline Advocates Announce Current Trends and Insights Identified in Annual Impact Report, NAT’L DOMESTIC VIOLENCE HOTLINE (June 21, 2018), <http://www.thehotline.org/2018/06/21/national-domestic-violence-hotline-advocates-announce-current-trends-and-insights-identified-in-annual-impact-report>.

33. See Gayle L. Reed et al., *The Effects of Forgiveness Therapy on Depression, Anxiety, Posttraumatic Stress for Women After Spousal Emotional Abuse*, 74 J. CONSULTING & CLINICAL PSYCHOLOGY 920 (2006) (“The negative psychological outcomes of spousal psychological abuse include depression, anxiety, posttraumatic stress disorder, low self-esteem, learned helplessness, and an ongoing, debilitating resentment of the abuser. A number of researchers have demonstrated that these negative outcomes last well beyond the end of the abusive relationship.” (internal citations omitted)).

34. *Forms of Abuse*, *supra* note 24.

35. *Intimate Partner Violence: Definitions*, CTR. FOR DISEASE CONTROL (Aug. 22, 2017), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/definitions.html>.

36. *Using Technology to Hurt Others*, RAINN, <https://www.rainn.org/articles/using-technology-hurt-others>. Cf. Charlotte Alter, *‘It’s Like Having an Incurable Disease’: Inside the Fight Against Revenge Porn*, TIME (June 13, 2017), <http://time.com/4811561/revenge-porn>.

Financial abuse is using one's finances as a means of control. The abusive partner often exerts this kind of control by only giving the survivor an allowance, not allowing the survivor to have their own money or a job, and running up debt.³⁷ Financial abuse is a common reason that survivors say they stayed with an abusive partner.³⁸ Lack of access to finances makes it difficult for survivors to leave, and also makes it difficult for survivors to gain employment, housing, and other means of stability long after they have left the abusive relationship.³⁹

C. Domestic Violence and Immigrants

Domestic violence against immigrants is an underreported problem in the United States. Because an imbalance of power between the abuser and survivor is at the root of domestic violence, immigrant partners are particularly vulnerable when they are dependent on their partners for status or have no status at all. Immigrant survivors are often "less likely to report abuse when it happens, [and] are more likely to be victims of domestic abuse in the first place"⁴⁰ than women born in the United States.

Domestic violence against immigrants is not limited to one ethnicity or nationality. One survey showed that 60 percent of Korean immigrant women "had been battered by their husbands,"⁴¹ while another showed that "56% of Filipinas and 64% of Indian and Pakistani women had experienced sexual violence."⁴² While violence is not limited to one culture or nationality, certain means of abuse and control may be more common in one community than another.⁴³ For example, alcohol is a significant contributor to domestic violence across the world,⁴⁴ but one study of violence among Korean immigrant families found that factors leading to higher prevalence of domestic violence included "heavy drinking among Korean

37. *Forms of Abuse*, *supra* note 24.

38. *About Financial Abuse*, NAT'L NETWORK TO END DOMESTIC VIOLENCE, <https://nmedv.org/content/about-financial-abuse> (last visited Nov. 4, 2018).

39. *Id.*

40. Settlege, *supra* note 2, at 1754. *See also* GISELLE AGUILAR HASS, ET AL., BATTERED IMMIGRANTS AND U.S. CITIZEN SPOUSES (2006), http://library.niwap.org/wp-content/uploads/2015/BB_RSRCH_ImmVictims_Battered_Imm.pdf.

41. FUTURES WITHOUT VIOLENCE, THE FACTS ON IMMIGRANT WOMEN AND DOMESTIC VIOLENCE, https://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Immigrant.pdf.

42. ASIAN PACIFIC INSTITUTE ON GENDER-BASED VIOLENCE, FACTSHEET: STATISTICS ON GENDER-BASED VIOLENCE IN ASIAN AND PACIFIC ISLANDER COMMUNITIES 1, 2 (Dec. 2017), <https://s3.amazonaws.com/gbv-wp-uploads/wp-content/uploads/2017/12/06220818/Factsheet-Statistics-GBV-in-API-communities-Dec-2017.pdf>.

43. *See infra* Part II(A). *See also* Siyon Rhee, *Domestic Violence in the Korean Immigrant Family*, 24 J. SOC. & SOC. WELFARE 63, 63 (1997).

44. *See* WORLD HEALTH ORGANIZATION, INTIMATE PARTNER VIOLENCE AND ALCOHOL 1 (2006), http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/fs_intimate.pdf.

men and permissive attitudes toward male drinking in Korean culture.”⁴⁵

One factor common among immigrants from around the world is an increase in violence due to relocation. In one study of immigrant survivors from 35 countries living in the United States, half said the violence increased, and another quarter said it began upon arriving in the United States.⁴⁶ Consistent with this study, “[f]orty-eight percent of Latinas in one study reported that their partner’s violence against them had increased since they immigrated to the United States.”⁴⁷ This violence also turns deadly. Just over half “of intimate partner homicide victims were foreign-born.”⁴⁸

Despite how common domestic violence is in both straight and LGBTQ+ relationships, not much data or literature is available about the immigrant LGBTQ+ experience with domestic violence perpetrated in the United States, including how their LGBTQ+ identity interacts with their immigration status. “[T]he intersection of anti-LGBTQ[+] and anti-immigrant bias, particularly against Latin@,⁴⁹ Arab/Middle Eastern and Muslim communities renders them among those most vulnerable to LGBTQ[+] domestic/intimate partner violence.”⁵⁰ This lack of data and literature is due to underreporting. For example, “queer Asian women divulged [in focus groups] that they did not feel safe reporting relationship violence to the police or authorities. They feared that disclosing oneself as a lesbian being abused by another lesbian may subject them to further abuse at [the] hands of the police.” Additionally, queer Asian women reported that they did not want to seek help from shelters or other organizations because these organizations “were not able to meet their needs”⁵¹ or find a solution that fit with their intersecting identities. This is because

[t]he mainstream domestic violence movement understands violence as a patriarchal phenomenon, deriving from sexism, with men using violence to control women. . . . The typical response of

45. Rhee, *supra* note 43, at 63.

46. Edna Erez, et al., *Intersections of Immigration and Domestic Violence*, 4 FEMINIST CRIM. 32, 44 (2009).

47. FUTURES WITHOUT VIOLENCE, *supra* note 41.

48. Anita Raj & Jay Silverman, *Violence Against Immigrant Women: The Role of Culture, Context, and Legal Immigrant Status on Intimate Partner Violence*, 8 VIOLENCE AGAINST WOMEN 367, 367 (2002).

49. See Tanisha Love Ramirez and Zeba Blay, *Why People Are Using the Term ‘Latinx’*, HUFFINGTON POST (Oct. 17, 2017), https://www.huffingtonpost.com/entry/why-people-are-using-the-term-latinx_us_57753328e4b0cc0fa136a159 (“Latin@” is one of many identifiers, including “Latinx,” that is being used as a gender-neutral alternative to “Latino” and “Latina” to be more inclusive of the Spanish-speaking LGBTQ+ community).

50. NAT’L COAL. OF ANTI-VIOLENCE PROGRAMS, LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUEER DOMESTIC/INTIMATE PARTNER VIOLENCE IN THE UNITED STATES IN 2009 1, 22 (2010), https://avp.org/wp-content/uploads/2017/04/2009_NCAVP_IPV_Report.pdf.

51. LORA JO FOO, ASIAN AMERICAN WOMEN: ISSUES, CONCERNS, AND RESPONSIVE HUMAN AND CIVIL RIGHTS ADVOCACY 137 (2002).

mainstream domestic violence agencies[] is to ostracize the batterer. But banishing the abuser from a small, marginalized queer Asian community is akin to cutting her off from her only family members.⁵²

Hopefully, as advocates and attorneys are better trained, academics in legal scholarship and other disciplines will pay more attention to the role of intersecting identities in shaping the experiences of LGBTQ+ immigrant survivors.

D. The U Visa: A Response to Domestic Violence Against Immigrants

Before 2000, only immigrants who were married to a U.S. citizen or lawful permanent resident were eligible for immigration relief if they were abused, giving them a way to leave their abusive partners without jeopardizing their status.⁵³ Congress recognized that these protections only helped a small subset of individuals vulnerable to abuse.⁵⁴ Regardless of the strength of their case, unless an undocumented survivor was married to a U.S. citizen or lawful permanent resident, they were excluded from this protection, but, as discussed *infra*, they face several intersecting layers of vulnerability to violence.⁵⁵ Other categories of immigrants who have been harmed in the United States, such as survivors of other crimes and survivors of human trafficking, were also not protected under immigration law. The U Visa was created to shield survivors of violence and plays a vital role in protecting those who had not been protected before under immigration law.⁵⁶

1. What is a U Visa?

A U Visa is a nonimmigrant⁵⁷ visa that gives an individual lawful permission

52. *Id.*

53. See Veronica Thronson, *Immigration Remedies for Domestic Violence Survivors*, 43 MICHIGAN FAMILY L.J. 45, 50 (2013). See also *Battered Spouse, Children & Parents*, U.S. CITIZENSHIP & IMMIGR. SERVICES, <https://www.uscis.gov/humanitarian/battered-spouse-children-parents>.

54. Settlege, *supra* note 2, at 1750.

55. See *infra* Part II(A).

56. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386 § 1513, 114 Stat. 1464 (2000).

57. “Nonimmigrant” is a term of art used in immigration law to differentiate between visas for people who intend to live permanently in the United States (immigrant visas) and visas for people who maintain permanent residence outside the United States but are coming to the United States for a specific period of time and a specific purpose. *What is the difference between an Immigrant Visa vs. Nonimmigrant Visa?*, U.S. CUSTOMS & BORDER PROTECTION (Mar. 9, 2017 1:09 PM), https://help.cbp.gov/app/answers/detail/a_id/72/~what-is-the-difference-between-an-immigrant-visa-vs.-nonimmigrant-visa-%3F.

to remain in the United States for up to four years.⁵⁸ When applying, a survivor is also able to apply for certain family members, such as their children, who also may be undocumented.⁵⁹ Once the application is submitted, USCIS reviews the application to determine if the person is approved or denied. Because only 10,000 U Visas are available each year, the wait for an application to be processed and reviewed takes several years.⁶⁰ After waiting for the application to be processed and reviewed, and then another three years after the U Visa is approved, the survivor is eligible to adjust their status and become a lawful permanent resident (LPR).⁶¹ This option to become an LPR is very important, because it is not available for all of the nonimmigrant visas.⁶² After five years as an LPR, the survivor is eligible to become a U.S. citizen, and can apply for naturalization.⁶³

To be eligible for a U Visa, an individual must show U.S. Citizenship and Immigration Services (USCIS) that they

ha[ve] suffered substantial physical or mental abuse as a result of having been a victim [of qualifying criminal activity]; [they] possess[] information concerning criminal activity . . . ; [they] ha[ve] been helpful, [are] being helpful, or [are] likely to be helpful to a Federal, State, or local law enforcement official . . . ; and the criminal activity . . . violated the laws of the United States or occurred in the United States.⁶⁴

58. *Victims of Criminal Activity: U Nonimmigrant Status*, U.S. CITIZENSHIP & IMMIGR. SERVICES (last visited Nov. 4, 2018), <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>.

59. *Id.*

60. See Sara Ramey, *Eliminating the U Visa cap will help catch criminals*, THE HILL (Feb. 14, 2018, 11:45 AM), <http://thehill.com/opinion/immigration/373808-eliminating-the-u-visa-cap-will-help-catch-criminals>.

61. *Green Card for a Victim of a Crime*, U.S. CITIZENSHIP & IMMIGR. SERVICES (Mar. 23, 2011), <https://www.uscis.gov/green-card/other-ways-get-green-card/green-card-victim-crime-u-nonimmigrant>. This is a very brief explanation of the process of adjustment of status and does not consider the nuances of this process, including the nuances that apply to U Visa holders; see also *Adjustment of Status*, U.S. CITIZENSHIP & IMMIGR. SERVICES (Nov. 8, 2017), <https://www.uscis.gov/greencard/adjustment-of-status>.

62. The concept that allows a person to have a nonimmigrant visa but also work toward permanent residency in the United States is called “dual intent.” Dual intent is not recognized in all nonimmigrant visas. For more on dual intent in the broader context of immigration law, see *The Immigration Concept of Dual Intent*, TEMPLE UNIVERSITY, <https://www.temple.edu/iss/international/DualIntent.htm>.

63. For more on naturalization, see *10 Steps to Naturalization: Understanding the Process of Becoming a U.S. Citizen*, U.S. CITIZENSHIP & IMMIGR. SERVICES, <https://www.uscis.gov/citizenship/learners/apply-citizenship> (follow “Form N-400, Application for Naturalization” hyperlink, then follow “Naturalization Requirements Information” hyperlink)

64. INA § 101(a)(15)(U)(i), 8 U.S.C. § 1101(a)(15)(U)(i) (2018).

There are two important elements to this definition. First, a person must be a victim of a qualifying crime.⁶⁵ Several different crimes qualify a person for a U Visa, including “rape, torture, kidnapping, trafficking, incest, domestic violence, sexual assault, female genital mutilation, forced prostitution, involuntary servitude, being held hostage or being criminally restrained.”⁶⁶ Unlike the T Visa, which only applies to survivors of human trafficking, the U Visa is intended to be broad.⁶⁷ When applying for a U Visa, a survivor generally demonstrates through various possible types of evidence to USCIS that they are, in fact, the victim of a crime, including but not limited to their personal statements, police reports, affidavits by witnesses or others, medical records, or court transcripts.⁶⁸

One of the purposes of the statute creating the U Visa was to encourage immigrant survivors to report crimes to law enforcement by removing the fear of deportation.⁶⁹ To this end, the second important element of a U Visa is that a survivor must be helpful in the investigation of the crime.⁷⁰ According to federal regulations, helpfulness means “assisting law enforcement authorities in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim.”⁷¹ If someone only reports a crime but does not provide any other information that is not requested of them, the government has determined that the purpose of the Act that created the U Visa is not met, and therefore this individual does not qualify for protection.⁷²

Importantly, the U Visa is not available to survivors of domestic violence—or other crimes—who suffered the crime *solely* outside of the United States.⁷³ Because the purpose of the U Visa is to encourage the investigation and prosecution of crimes that occur in the United States, a survivor of a crime that occurred outside of the United States would not qualify for a U Visa. Survivors of domestic violence, child abuse, and gang violence who flee violence in their home countries regularly apply

65. *Id.* at § 101(a)(15)(U)(i)(I).

66. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386 § 1513, 114 Stat. 1464 (2000). *See also* 8 U.S.C.S § 1101(a)(15)(U)(iii).

67. *Compare* Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386 § 107, 114 Stat. 1477–78 (2000) *with* Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386 § 1513, 114 Stat. 1464, 1533 (2000).

68. U.S. CITIZENSHIP & IMMIGRATION SERVICES, INSTRUCTIONS FOR PETITION FOR U NONIMMIGRANT STATUS AND SUPPLEMENT A, PETITION FOR QUALIFYING FAMILY MEMBER OF U-1 RECIPIENT 10 (2017), <https://www.uscis.gov/sites/default/files/files/form/i-918instr.pdf> [hereinafter U Visa Application Instructions].

69. *See* Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386 § 1513, 114 Stat. 1464 (2000).

70. INA § 101(a)(15)(U)(i)(III), 8 U.S.C. § 1101(a)(15)(U)(i)(III).

71. 8 C.F.R. § 214.14(b)(3).

72. New Classification for Victims of Criminal Activity; Eligibility for “U” Nonimmigrant Status, 72 Fed. Reg. 53,014, 53,019 (Sept. 17, 2007) (codified in scattered sections of 8 C.F.R.).

73. INA § 101(a)(15)(U)(i), 8 U.S.C. § 1101(a)(15)(U)(i); *see also* Lydia Brashear Tiede, *Battered immigrant women and immigration remedies: Are the standards too high?*, 28 HUM. RTS 21 (2001).

for another humanitarian immigration benefit called asylum upon arriving to the United States.⁷⁴ Asylum protects individuals who are outside of their countries of origin and are not able or willing to return because of past or fear of future persecution based on their race, religion, national origin, membership in a particular social group, or political opinion.⁷⁵ In June 2018, in a case called *Matter of A-B-*,⁷⁶ Attorney General Jeff Sessions overturned powerful precedent that helped survivors of domestic violence seek asylum,⁷⁷ and wrote powerful dicta showing his disdain for asylum for survivors of domestic violence and other crimes.⁷⁸ Unfortunately for these survivors, U Visas are not a path that they can seek for protection. U Visas, and thereby this Article, focus instead on survivors who suffered abuse in the United States. However, if a survivor suffered abuse in their home country, moved to the United States, and was again abused, they could apply for a U Visa based on the abuse that occurred in the United States.

2. How to Apply for a U Visa

To apply for a U Visa, an applicant must send all required documentation to USCIS.⁷⁹ The application packet includes Form I-918,⁸⁰ the Law Enforcement Certification (Form I-918, Supplement B),⁸¹ evidence about the crime committed against them, demonstrating that the individual has “suffered substantial physical or mental abuse,”⁸² and a personal statement.⁸³ Evidence about the crime can include photographs, police reports, court transcripts, medical records, and affidavits from witnesses and counselors.⁸⁴ All of this information is then assembled and mailed to USCIS. The timeline for a decision has increased dramatically in the past several

74. See Tatyana Delgado, *Landmark Asylum Decision for Domestic Violence Victims*, CATH. LEGAL IMMIGR. NETWORK, INC., <https://cliniclegal.org/resources/articles-clinic/landmark-asylum-decision-domestic-violence-victims>. See also THE GLOBAL WOMEN’S INSTITUTE, PROTECTING WOMEN FROM VIOLENCE AT HOME AND ABROAD: THE ROLE OF THE U.S. AND COMPREHENSIVE IMMIGRATION REFORM (2009), <https://globalwomensinstitute.gwu.edu/sites/g/files/zaxdzs1356/f/downloads/Protecting%20Women%20from%20Violence%20at%20Home%20and%20Abroad.pdf>.

75. INA § 101(a)(42)(A), 8 U.S.C. § 1101(a)(42)(A).

76. *Matter of A-B-*, 27 I. & N. Dec. 316 (A.G. 2018).

77. *Id.* at 317.

78. *Id.* at 320 (“Generally, claims by aliens pertaining to domestic violence or gang violence perpetrated by non-governmental actors will not qualify for asylum”). See also *Backgrounder and Briefing on Matter of A-B-*, CTR. FOR GENDER & REFUGEE STUDIES, <https://cgrs.uchastings.edu/our-work/matter-b>.

79. See generally U Visa Application Instructions, *supra* note 68.

80. *Id.* at 10.

81. *Id.*

82. *Id.* at 11.

83. *Id.* at 13.

84. *Id.* at 11.

years.⁸⁵ The number of U Visas issued each year is capped at 10,000.⁸⁶ However, in 2016 alone, USCIS received 60,710 U Visa applications from victims of crime and their family members.⁸⁷ At the end of the third quarter of FY 2017, there were 177,340 U Visa applications pending.⁸⁸ Because of this, the wait to receive a response on a U Visa application takes several years.⁸⁹

3. The Law Enforcement Certification

The Law Enforcement Certification is a required form to prove the “helpfulness” requirement.⁹⁰ Not all agencies and not all people in eligible agencies can provide certification.⁹¹ A “certifying agency” is “a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of the qualifying criminal activities designated in the [Battered Immigrant Women’s Protection Act].”⁹² Within a certifying agency, a “certifying official” is “the head of the certifying agency or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue⁹³ U nonimmigrant status certifications on behalf of that agency, or a Federal, State, or local judge.”⁹⁴ In the certification, the certifier describes the criminal activity and is asked a series of questions about the helpfulness of the

85. U.S. CITIZENSHIP & IMMIGR. SERVICES, NUMBER OF FORM I-918, PETITION FOR U NONIMMIGRANT STATUS, BY FISCAL YEAR, QUARTER AND CASE STATUS 2009–2017, *available at* https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2017_qtr4.pdf.

86. *Id.*

87. *Id.*

88. *Id.*

89. *Check Case Processing Times*, U.S. CITIZENSHIP & IMMIGR. SERVICES, <https://egov.uscis.gov/processing-times> (select form “I-918 Petition for U Nonimmigrant Status” for the “Form” field; then select “Vermont Service Center” for the “Service Center” field; then select “Get processing time”; article refers to webpage results presenting processing time for receipt dated October 24, 2014).

90. INA § 214(p)(1), 8 U.S.C. § 1184 (2018) (“The petition filed by an alien under section 101(a)(15)(U)(i) shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity . . .”).

91. 8 CFR § 214.14(a)(2) (2018).

92. *Id.* For more on the Battered Immigrant Women’s Protection Act (BIWPA), *see HR.3083 – Battered Immigrant Women Protection Act of 1999*, CONGRESS.GOV, <https://www.congress.gov/bill/106th-congress/house-bill/3083>.

93. The regulations use the word “issue” here to refer to the process of filling out and signing the certifications, though this wording makes it seem as though the certification originates with the agency. In practice, when a survivor is seeking a certification, the survivor or survivor’s attorney will often send the certification to the certifying agency for signature.

94. 8 C.F.R. § 214.14(a)(3) (2018).

survivor.⁹⁵ Although local officials, such as prosecutors and police officers, are involved in the Law Enforcement Certification process, “USCIS has sole jurisdiction over all petitions for U nonimmigrant status.”⁹⁶ USCIS is the only entity that can decide whether or not someone qualifies for a U Visa.⁹⁷ When signing a Law Enforcement Certification, officers and prosecutors are not required, and not permitted, to assess the application as a whole or to decide whether or not to sign based off of their perceived likelihood that someone will be approved.⁹⁸

II. Why the Law Enforcement Certification is Problematic

The Law Enforcement Certification (LEC) process requires more of a survivor than leaving the abusive partner. It requires a survivor to be “helpful” in the investigation or prosecution of the partner. This additional step means that the LEC process is burdened with the reasons that a survivor would not want to leave their abusive partner, as well as the reasons why a survivor would not want to report the violence to law enforcement. This Part will begin by discussing why survivors of violence would not leave their abusive partners or seek help from social service organizations, including reasons that stem from survivors’ intersecting identities such as their race, immigration status, and sexual orientation.⁹⁹ Next, this Part will discuss specific barriers that impact survivors’ willingness and ability to work with law enforcement, including barriers that stem from survivors’ intersecting identities. Finally, this Part will explore in more detail the growing relationship between local law enforcement and immigration enforcement authorities, which is one particular aspect of why immigrant survivors are less willing to call the police.

A. Why Survivors “Don’t Just Leave” an Abusive Partner

1. Factors Common Across Domestic Violence Cases

There are several factors that impact a survivor’s ability or willingness to leave

95. U.S. CITIZENSHIP & IMMIGR. SERVICES, SUPPLEMENT B, U NONIMMIGRANT STATUS CERTIFICATION 2–3 (2017), <https://www.uscis.gov/sites/default/files/files/form/i-918supb.pdf>.

96. 39.1 *U Immigrants*, U.S. CITIZENSHIP & IMMIGR. SERVICES, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-16853/0-0-0-16858.html> (last visited Nov. 4, 2018).

97. DEP’T OF HOMELAND SECURITY, U VISA LAW ENFORCEMENT CERTIFICATION RESOURCE GUIDE FOR FEDERAL, STATE, LOCAL, TRIBAL AND TERRITORIAL LAW ENFORCEMENT 4, available at https://www.dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf.

98. *Id.*

99. The Author recognizes that this process of identifying patterns is, as one author described it, “fraught with peril” because generalizations necessarily leave out many survivors’ experiences. See Michelle VanNatta, *Constructing the Battered Woman*, 31 FEMINIST STUDIES 416, 420 (2005). However, this Part is meant to serve as an overview of the diverse experiences of survivors and to describe the multitude of hardships survivors face.

an abusive relationship. These factors include, but are not limited to, isolation from friends and family, economic dependence on their partner, and a local service provider's lack of resources. This section will discuss these factors in more detail, but these are by no means an exhaustive list.

Abusive partners often isolate survivors in order to exert control over them. Isolation can take multiple forms, such as "telling the other partner what activities are okay to join, insisting that a dating partner 'check-in' to see where they are at all times, or telling a dating partner to quit activities because the only that should matter is their relationship."¹⁰⁰ An abusive partner may constantly belittle a survivor's family or friends to the survivor in an effort to convince the survivor to not want to spend time with them.¹⁰¹ Isolation can also manifest in acting in ways that make a survivor's friends and family not want to spend time with the survivor, such as making friends and family uncomfortable when they are all spending time together. All of these are calculated—even if not conscious—tactics to keep a survivor bound to the abusive relationship.

Survivors are often financially dependent on their abusive partners, making leaving a relationship more difficult. Through financial abuse, as discussed *supra*, an abusive partner takes steps to keep a survivor financially dependent on them. This can be accomplished by ruining a survivor's credit, or preventing a survivor from getting or keeping a job.¹⁰² When a survivor lacks financial resources, they may not be able to get away from the home or stay anywhere for an extended period.

Finally, a survivor may want to leave an abusive relationship, but the resources in their community may not have the capacity to help the survivor, even in the most basic of ways. In 2014, the National Network to End Domestic Violence reported that, on an average day in the United States, over 10,000 requests for assistance to local domestic violence service providers went unanswered because they did not have the resources to help.¹⁰³ Half of these requests were for housing.¹⁰⁴ Over 167,000 requests for emergency shelter within one fiscal year were not met.¹⁰⁵ With domestic violence as a leading cause of homelessness among women and children,¹⁰⁶

100. *Know the Signs: Spotlight on Isolation from Friends and Family*, BREAK THE CYCLE (June 7, 2017, 12:21 PM), <https://www.breakthecycle.org/blog/know-signs-spotlight-isolation-friends-and-family>.

101. *Warning Signs Spotlight: Isolation*, BREAK THE CYCLE (Feb. 22, 2018, 1:25 PM), <https://www.breakthecycle.org/blog/warning-signs-spotlight-isolation>.

102. Melissa Jeltsen, *Financial Abuse Takes Heavy Toll On Domestic Violence Survivors*, HUFFINGTON POST (July 24, 2014 7:00 AM), https://www.huffingtonpost.com/2014/07/24/domestic-violence_n_5611887.html.

103. Melissa Jeltsen, *Why So Many Domestic Violence Survivors Don't Get Help—Even When They Ask For It*, HUFFINGTON POST (June 10, 2015, 11:49 AM), https://www.huffingtonpost.com/2015/06/10/domestic-violence-help_n_7537554.html.

104. *Id.*

105. *No Room at the Shelter, Now What?*, DOMESTICSHELTERS.ORG (Apr. 26, 2015), <https://www.domesticshelters.org/domestic-violence-articles-information/no-room-at-the-shelter>.

106. *Id.*

it is no surprise that a survivor may not want to risk their safety if there is nowhere to go.

2. Factors Common Across Religious Survivors

Survivors may also be influenced by interpretations of their religion to stay—or leave—an abusive relationship. Religion retains an important role in the lives of many people in the United States.¹⁰⁷ Importantly to this Article, a Pew Research Center study found that 58% of immigrant adults say religion is “very important” in their lives.¹⁰⁸ Moreover, immigrant women “rely more heavily on their religious communities and clergy for help” in situations of domestic violence.¹⁰⁹ Often, immigrant survivors and survivors of color turn to religious leaders because they worry that mainstream agencies will not address all of their needs, particularly those related to their faith.¹¹⁰ Although an individual’s faith and organized religious institutions can play an important role in leaving an abusive relationship and healing,¹¹¹ religious scriptures, traditions, and structures are also used against a survivor during the relationship.

Often, certain passages of religious scripture or traditional concepts are used to justify the abuse.¹¹² For example, Christian abusers may cite Ephesians 5:22-24: “Wives, be subject to your husbands as you are to the Lord. For the husband is the head of the wife just as Christ is head of the church, the body of which he is the Savior. Just as the church is subject to Christ, so also wives ought to be, in everything to their husbands.”¹¹³ Jewish abusers may misuse the concept of *shalom bayit* (peace in the home) to “place on women the sole responsibility for maintaining peace in the

107. *Chapter 1: Importance of Religion and Religious Beliefs*, PEW RESEARCH CTR. (Nov. 3, 2015), <http://www.pewforum.org/2015/11/03/chapter-1-importance-of-religion-and-religious-beliefs>.

108. *Immigrant status*, PEW RESEARCH CTR., <http://www.pewforum.org/religious-landscape-study/immigrant-status>.

109. Y. Joon Choi, *Korean American Clergy Practices Regarding Intimate Partner Violence: Roadblock or Support for Battered Women?*, 30 J. FAM. VIOLENCE 293, 293 (2015).

110. *Id.* at 294.

111. *See, e.g.*, Nafiseh Ghafournia, *Muslim women and domestic violence: Developing a framework for social work practice*, 36 J. RELIGION & SPIRITUALITY SOC. WORK 146, 146 (2017). *See generally* Tamsin Bradley, *Religion as a bridge between theory and practice in work on violence against women in Rajasthan*, 19 J. GENDER STUD. 361 (2010); Christopher G. Ellison & Kristin L. Anderson, *Religious Involvement and Domestic Violence Among U.S. Couples*, 40 J. SCI. STUD. RELIGION 269 (2001); Dawnovise N. Fowler et al., *The influence of spirituality on service utilization and satisfaction for women residing in a domestic violence shelter*, 17 VIOLENCE AGAINST WOMEN 1244 (2011). For more on the role of Korean American churches and clergy, see Choi, *supra* note 109.

112. MARIE M. FORTUNE & CINDY G. ENGER, *VIOLENCE AGAINST WOMEN AND THE ROLE OF RELIGION* (2005), https://vawnet.org/sites/default/files/materials/files/2016-09/AR_VAW_Religion_0.pdf (discussing passages from the Bible and the Quran, as well as traditional concepts in Judaism).

113. *Id.* at 2.

home and even . . . to pressure women to remain in or return to homes in which they have been victims of abuse.”¹¹⁴ In Islam, ayah 34 of Surah four has been labeled “the most abused verse” by one Muslim scholar and activist.¹¹⁵ This passage, as translated, says: “Concerning women whose rebellious disloyalty you fear, admonish them, then refuse to share their beds, then hit them.”¹¹⁶ One scholar argues that the translation of this passage using “to hit” is in direct contradiction to the teachings of the Prophet Mohammed.¹¹⁷ In addition to using scripture to justify abuse, abusers can also use religious scriptures to further other tactics of abuse.¹¹⁸ For example, an abusive partner may tell a survivor to stay silent in church events or gatherings because “women are to keep silent in the churches,”¹¹⁹ thereby isolating the survivor from a potential support system.

Abusive partners may also use tenants of a survivor’s religion to pressure them to stay in the relationship. For example, Catholic women may experience pressure from interpretations of their faith and traditions to “put the needs of their famil[ies] above their own.”¹²⁰ Threats of divorce may be used against women of the Muslim faith, because, according to some, “divorce is the most hated thing to God.”¹²¹ Additionally, one study showed that “the tendency to forgive and even to keep an abusive relationship intact due to spiritual principles has been found to be damaging.”¹²² These are just a few examples of how religion may influence how a survivor may perceive their relationship and if they feel they can leave.

3. Factors Common Among LGBTQ+ Survivors

Despite the high rates of domestic violence, LGBTQ+ survivors face

114. *Id.*

115. *Id.* at 3.

116. *Id.*

117. *Id.* For an in-depth discussion on how Quran verse 4:34 can be used to pre-empt domestic violence, rather than perpetuate it, see Qasim Rashid, *The Islamic Solution to Stop Domestic Violence*, HUFFINGTON POST (Feb. 21, 2013), https://www.huffingtonpost.com/qasim-rashid/islamic-solution-to-end-domestic-violence_b_1307305.html.

118. See *Faith and Religion*, PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE, <http://www.pcadv.org/Learn-More/Domestic-Violence-Topics/Faith-And-Religion>.

119. Mary J. Yerkes, *Emotional Abuse in the Local Church*, FOCUS ON THE FAMILY, <https://www.focusonthefamily.com/lifechallenges/abuse-and-addiction/understanding-emotional-abuse/emotional-abuse-in-the-local-church>. The Author cites this article from Focus on the Family cautiously, as an example of how Conservative Christian communities view, discuss, and address abuse. The Author recognizes, and discusses *infra*, how homophobic views like those of Focus on the Family can also impact LGBTQ+ survivors’ ability to seek safety.

120. Michelle DeCasas, Comment, *Protecting Hispanic Women: The Inadequacy of Domestic Violence Policy*, 24 CHICANO-LATINO L. REV. 56, 70 (2003).

121. Nooria Faizi, Comment, *Domestic Violence in the Muslim Community*, 10 TEX. J. WOMEN & L. 209, 215 (2001).

122. Ghafournia, *supra* note 111 (citing Fowler et al., *supra* note 111, at 1248).

significant barriers to leaving an abusive relationship and seeking assistance. Often, survivors are reluctant to leave an abusive relationship because of discrimination, homophobia, and transphobia, and a fear of being “out.”

Discrimination, homophobia, and transphobia present in a number of different ways in cases of LGBTQ+ domestic violence. For example, in one survey, because shelter workers were unable to distinguish the “abuser” and “victim” along stereotypical, gendered lines, the shelter workers perceived lesbian survivors as “participating equally” in the violence.¹²³ A similar belief that “women cannot be abusers and men cannot be abused” has been shown to impact others who could help a survivor, including “witnesses [in court cases], health care workers, attorneys, judges, and jurors.”¹²⁴ Additionally, this homophobia does not have to come from someone outside of the relationship. Internalized homophobia is “the degree to which individuals belonging to a sexual minority have internalized negative feelings, attitudes, beliefs, behaviors, and assumptions about their homosexuality.”¹²⁵ One meta-analysis of published statistical data showed that higher levels of internalized homophobia were related to higher levels of domestic violence in LGBTQ+ relationships.¹²⁶

Fear of “coming out” is another reason many LGBTQ+ survivors stay in abusive relationships or do not seek help from social services organizations. Many abusive partners threaten to “out” the survivor as LGBTQ+ as a tactic to force the survivor to stay in the relationship.¹²⁷ Even when a survivor chooses to leave, they may be forced to “come out” repeatedly to social service organizations. For example, when a survivor calls a shelter, they may be asked the identity of their partner. For a lesbian, she would now be outing herself and her partner almost immediately, which she may not feel comfortable doing.¹²⁸ Shelters may also have group counseling sessions, but “women who wish to remain closeted about same-sex relationships cannot do so without lying.”¹²⁹ For survivors who do not want to be “out,” this constant process of coming out may be enough for some survivors to choose to stay in a relationship or not seek services from social service providers.

123. VanNatta, *supra* note 99, at 428.

124. JOEY MOGUL, ANDREA RITCHIE, AND KAY WHITLOCK, *QUEER (IN)JUSTICE: THE CRIMINALIZATION OF LGBT PEOPLE IN THE UNITED STATES* 134 (2011).

125. Laura Badenes-Ribera et al., *The Relationship Between Internalized Homophobia and Intimate Partner Violence in Same-Sex Relationships: A Meta-Analysis*, *TRAUMA, VIOLENCE & ABUSE* 2 (2017).

126. *Id.*

127. See Julie M. Woulfe, *LGBTQ Survivors of Identity Abuse: Heterosexist and Gender Oppressive Abuse Tactics and Their Relationship to Mental Health Among LGBTQ Survivors* 9 (2016) (unpublished Ph.D. dissertation, Boston College) (on file with the institutional repository of Boston College, eScholarship@BC).

128. VanNatta, *supra* note 99, at 421.

129. *Id.* at 428.

4. Factors Common Among Immigrant Survivors

Including the previously discussed barriers, immigrant survivors may face additional barriers that complicate their ability to leave an abusive relationship, including lack of English proficiency and social isolation. Other factors, such as a lack of understanding of the U.S. legal system and immigration status also play a role in why a survivor may not call the police, and so will be discussed *infra*.

Language barriers hurt a survivor's ability to leave an abusive relationship in multiple ways. For example, because of language barriers, many survivors "may not know that domestic violence is a crime or that anti-domestic violence services exist, since much of the literature and services which exist target the English-speaking population."¹³⁰ Additionally, the language barrier impacts a survivor's ability to take other civil remedies that they may need. A national survey of 158 courts conducted by the National Center for State Courts found that courts "had inadequate resources" to support survivors who are Limited English Proficient (LEP) in their protective order petition process.¹³¹ Courts did not have enough interpreters, but also "had sparse informational or instructional material on protection orders in languages other than English and rarely posted signs informing the public of the availability of interpreter services."¹³² Importantly, while many courts in the survey provided interpreters for the hearings, they did not provide interpreters for the application process.¹³³ This means that survivors may not know what they need to assert in the petition, or understand the petition process, before they arrive at court for their hearing. Importantly, while 60 percent of courts in urban areas had a language assistance plan, only 26 percent of courts in rural areas had any such plan. This means that immigrant survivors who live in smaller, rural communities may face more significant barriers to getting the assistance that they need.¹³⁴ Moreover, not all police departments are equipped to help survivors who are not proficient in English. This issue will be discussed at length *infra*.

An immigrant survivor's family, friends, and community can all play a role in helping a survivor leave, but can also hinder their efforts as well. For example, pressures to put family first and endure abuse have been documented in Asian immigrant communities.¹³⁵ In a survey of African immigrants, survivors reported

130. Karin Wang, *Battered Asian American Women: Community Responses from the Battered Women's Movement and the Asian American Community*, 3 *ASIAN AM. L.J.* 151, 163 (1996) (specifically discussing how the language barriers impact Asian women).

131. BRENDA K. UEKERT ET AL., *SERVING LIMITED ENGLISH PROFICIENT (LEP) BATTERED WOMEN: A NATIONAL SURVEY OF THE COURTS' CAPACITY TO PROVIDE PROTECTION ORDERS 1* (2006), <https://www.ncjrs.gov/pdffiles1/nij/grants/216072.pdf>.

132. *Id.*

133. *Id.* at 3.

134. *Id.* at 4.

135. Nimish R. Ganatra, Note, *The Cultural Dynamic in Domestic Violence: Understanding the Additional Burdens Battered Immigrant Women of Color Face in the United States*, 2 *J.L. SOC'Y* 109, 118–21 (2001). For a more in-depth look about the stereotypes that affect Asian women's reporting of violence, see Brian Pacheco, *Asian*

that divorced and single women were not invited to be part of community events and social activities, meaning leaving a relationship could isolate them from their social network in the United States.¹³⁶ “Oftentimes, partners’ rigid rules and controlling tactics instilled not only a deep sense of fear, but depleted women’s confidence in themselves and reinforced their cultural belief that women are second-class citizens and that being a good wife means obeying their husband.”¹³⁷

B. Factors that Impact a Survivor’s Ability or Willingness to Call the Police

Working with law enforcement may not seem possible or helpful for many survivors of domestic violence. The National Crime Victim Survey data showed “that about 46% of [intimate partner violence] victimizations are not reported to police.”¹³⁸ This could be because of factors that are widely seen in cases of domestic violence, factors that have a high prevalence among survivors of color, factors common among LGBTQ+ survivors, or factors unique to immigrant survivors.

1. Factors Common Across Domestic Violence Cases

There are several reasons that survivors of domestic violence of all backgrounds may not call the police. The American Civil Liberties Union (ACLU) conducted a survey of “advocates, service providers, attorneys, and people working in membership-based organizations” to learn about their experiences and recommendations on police, domestic violence, and sexual assault.¹³⁹ This survey found that the “overwhelming majority of the survey respondents (88%) reported that police ‘sometimes’ or ‘often’ do not believe survivors or blame[] survivors for the violence. . . . Respondents described examples where law enforcement increased the risk of a batterer’s retaliation by, for example, taking no action or by dismissing the claims.”¹⁴⁰ Another reason is “fear of reprisal or getting the offender in trouble.”¹⁴¹

Survivors of Domestic Violence Face Unique Barriers To Help, HUFFINGTON POST (June 11, 2018), https://www.huffingtonpost.com/entry/opinion-pacheco-asian-domestic-violence-help_us_5b1d20dde4b0adfb826a7ef7.

136. Laura Ting & Subadra Panchanadeswaran, *Barriers to Help-Seeking Among Immigrant African Women Survivors of Partner Abuse: Listening to Women’s Own Voices*, 18 J. AGGRESSION, MALTREATMENT & TRAUMA 817, 822 (2009).

137. *Id.* at 825.

138. AMERICAN CIVIL LIBERTIES UNION, *RESPONSES FROM THE FIELD: SEXUAL ASSAULT, DOMESTIC VIOLENCE, AND POLICING* 8 (2015), https://www.aclu.org/sites/default/files/field_document/2015.10.20_report_-_responses_from_the_field.pdf.

139. *Id.* at 1.

140. *Id.*

141. *Id.* at 7.

2. Factors Common to Survivors of Color

Assuming that calling the police is an adequate solution ignores the problematic relationships between police and communities of color.¹⁴² “Women of color, and particularly immigrant women, face domestic violence with problems that do not burden white women.”¹⁴³ In the ACLU’s survey, “[a] majority (55%) of respondents said that police bias against particular groups of people or with regard to domestic violence and sexual assault was a problem in their communities. Over 80% believed that police-community relations with marginalized communities influenced survivors’ willingness to call the police.”¹⁴⁴ Moreover, a majority of respondents “reported that police are biased against immigrants ‘sometimes’ or ‘often.’”¹⁴⁵

3. Factors Common to LGBTQ+ Survivors

In addition to, and in part because of, the reasons discussed *supra*, LGBTQ+ survivors are often reluctant to report the violence they have experienced to law enforcement. All too often, police do not help LGBTQ+ survivors, and even commit more violence or indignities against them.¹⁴⁶ A gay man from Richmond, Virginia related the story of when he called the police: “During a beating I had to call 911 and have the police come and save my life. When the cops arrived they laughed at me. I was bloody, bruised, crying, and my clothes had been cut and ripped. . . It was by far the worst and most humiliating experience of my life. I will never trust the police again.”¹⁴⁷

The transgender community has a difficult relationship with law enforcement. Research has shown that “transgender people, and transwomen in particular, were more likely than other LGBT and HIV-affected individuals to experience police violence, discrimination, threats, and intimidation.”¹⁴⁸ Transgender women report that police “frequently presume that they are likely engaged in sex work, regardless of the activities that they are actually observed engaging in. Law enforcement officers regularly stop, harass, and demand identification from transgender women, regularly subject them to commands to disperse, and regularly arrest them for low-

142. For more on black women’s struggle against police violence, see Michelle S. Jacobs, *The Violent State: Black Women’s Invisible Struggle Against Police Violence*, 24 WM. & MARY J. WOMEN & L. 39 (2017).

143. DeCasas, *supra* note 120, at 68.

144. AMERICAN CIVIL LIBERTIES UNION, *supra* note 138, at 1.

145. *Id.*

146. MOGUL, *supra* note 124, at 134.

147. *Id.* at 135.

148. Lisa Langenderfer-Magruder, et al., *Experiences of Intimate Partner Violence and Subsequent Police Reporting Among Lesbian, Gay, Bisexual, Transgender, and Queer Adults in Colorado: Comparing Rates of Cisgender and Transgender Victimization*, 31 J. INTERPERSONAL VIOLENCE 855, 858 (2016).

level offenses tied to suspicions of prostitution.”¹⁴⁹ Transgender people also experience significant issues with law enforcement when they try to call in cases of domestic violence. Responding officers often do not believe the survivor, arrest the survivor, or physically hurt the survivor.¹⁵⁰ Transgender survivors may also fear what may happen to their partner at the hands of police, especially if their partner is also transgender or non-binary. Transgender women “face violence, sexual assault, and nearly impossible conditions inside correctional facilities.”¹⁵¹ With these experiences as a backdrop, many transgender survivors may fear for their safety or their partner’s safety upon calling the police.

4. Factors Common to Immigrant Survivors

Finally, there are reasons that immigrants in particular may not call the police. These reasons include fears of deportation and language barriers when communicating with police.

Abusers often exploit survivors’ fears of deportation, including threats “to report an immigrant partner to [ICE], or provide false information to ICE, and have her deported.”¹⁵² For many immigrant survivors, fears of deportation exist in part because of the structure of immigration law. When someone receives status through marriage to a U.S. citizen or lawful permanent resident (LPR, or green card holder), their status as a LPR is conditional for two years on the couple staying together.¹⁵³ After an immigrant and their spouse apply to remove the conditions and USCIS approves, the conditions are removed from the immigrant’s status and the immigrant becomes a lawful permanent resident.¹⁵⁴ For undocumented survivors, they may fear deportation because their partner has threatened to report them to ICE. Because of increased immigration enforcement efforts under the Trump administration, as discussed *infra*, these threats carry significant weight, and may keep survivors from reporting violence or seeking other assistance.

Moreover, language barriers impact a survivor’s ability to communicate with police, but also to know that help exists.¹⁵⁵ Assuming that a survivor knows that domestic violence is a crime and that resources exist to help them, there is no guarantee that the police will be able to communicate with them when they arrive.

149. Leonore F. Carpenter & R. Barrett Marshall, *Walking While Trans: Profiling of Transgender Women by Law Enforcement, and the Problem of Proof*, 24 WM. & MARY J. WOMEN & L. 5, 6 (2017).

150. *Id.* at 9.

151. *Id.* at 9–10.

152. Settlege, *supra* note 2, at 1757–58.

153. *Remove Conditions Based on Permanent Residence Based on Marriage*, U.S. CITIZENSHIP & IMMIGR. SERVICES, DEP’T OF HOMELAND SECURITY, <https://www.uscis.gov/green-card/after-green-card-granted/conditional-permanent-residence/remove-conditions-permanent-residence-based-marriage>.

154. *Id.*

155. DeCasas, *supra* note 120, at 69. See Wang, *supra* note 130.

“One study found that in 31% of cases, Spanish-speaking women reported police officers never spoke to the woman who reported the abuse and in almost one-tenth of cases officers spoke only to the abusers.”¹⁵⁶ “When police respond to calls, they often do not speak Spanish and thus cannot communicate with the victim and often end up talking to the abuser, as he is more likely to speak English.”¹⁵⁷ This inability to communicate greatly impacts survivors. In a case in Chicago, a Latina lesbian was arrested and sentenced to batterers’ counseling because she was unable to communicate to the police that she had been abused over the course of several years.¹⁵⁸

While it may be rare, especially in some rural areas, for officers or shelter workers to speak Spanish, it is also rare that they speak other languages.¹⁵⁹ “Even if a battered Asian American woman knows that she could seek assistance, the inability to speak fluent or often any English hinders a battered immigrant woman’s attempt to seek assistance from the police, an attorney, a shelter, or a service agency.”¹⁶⁰ This has a major impact on survivors, as “[n]early 64% of service providers surveyed reported that lack of language access affected the willingness of immigrant survivors of family violence to report crimes ‘very often’ or ‘almost always.’”¹⁶¹

All of these factors, individually or collectively, and intersecting with the other identities discussed, may make an immigrant survivor of violence feel as though they cannot call the police. Even if a particular police department in one part of Virginia or another would be willing to help a survivor, the community perception could be enough to keep a survivor from ever calling the police.

C. Exposure to Immigration Enforcement

Because simply calling the police may make survivors and their families vulnerable to immigration enforcement, many survivors may avoid seeking assistance from police. This perception has become a reality under the Trump Administration, through increased enforcement at sensitive locations and through the closer connections between local law enforcement and Immigration and Customs Enforcement (ICE).

1. The Impact (so far) of Donald Trump’s Administration

Since the election of Donald Trump, there has been an increased interest in and

156. AMERICAN CIVIL LIBERTIES UNION, *supra* note 138, at 9.

157. Emily Sellers, Comment, *Traumatic Brain Injury and the Law: Access to Justice for Undocumented Immigrant Victims of Domestic Violence*, 84 UMKC L. REV. 543, 560 (2015).

158. Mogul, *supra* note 124, at 137.

159. See Wang, *supra* note 130, at 164.

160. *Id.* at 163.

161. AMERICAN CIVIL LIBERTIES UNION, *supra* note 138, at 9.

emphasis on police working with Immigration and Customs Enforcement (ICE).¹⁶² Trump’s Executive Order on interior enforcement makes everyone a priority for removal, meaning that not having a criminal record does not protect an individual from removal.¹⁶³ This is a shift from Obama-era policies where individuals without criminal records were not priorities, and those with criminal convictions were the most likely to face removal.¹⁶⁴ Additionally, where Obama-era policies required someone to have a criminal *conviction* to be a priority for removal, now only criminal *charges* are sufficient to bring someone to the government’s attention.¹⁶⁵ Moreover, the administration has “all but eliminated discretionary authority that previous administrations used to delay deportations.”¹⁶⁶ Whereas prior administrations—Republican and Democrat alike—respected and issued policies of prosecutorial discretion, the Trump administration is rescinding such policies at every opportunity.¹⁶⁷

The Trump administration is making good on its promise of widespread, indiscriminate immigration enforcement. Data shows that “ICE is pursuing enforcement against more people who have no criminal background,”¹⁶⁸ apprehending “more than double the number of non-criminals from the previous year.”¹⁶⁹ To accomplish this goal, ICE is conducting enforcement actions in sensitive locations, including courts.¹⁷⁰ ICE is showing up to courts across the country to deport people seeking custody of their children or going to Human Trafficking Intervention Courts in New York City.¹⁷¹ In El Paso, a woman was arrested by ICE when she went to court for a protective order.¹⁷² Atlanta’s ICE office had a “nearly

162. See Amanda Sakuma, *Donald Trump’s Plan to Outsource Immigration Enforcement to Local Cops*, THE ATLANTIC (Feb. 18, 2017), <https://www.theatlantic.com/politics/archive/2017/02/trump-immigration-enforcement/517071>.

163. Enhancing Public Safety in the Interior of the United States, Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017).

164. See Jennifer Medina, *Trump’s Immigration Order Expands the Definition of ‘Criminal’*, N.Y. TIMES (Jan. 26, 2017), <https://www.nytimes.com/2017/01/26/us/trump-immigration-deportation.html>.

165. See *id.* This could potentially impact an immigrant survivor’s decision to press charges or to move forward with charges.

166. AMERICAN IMMIGRATION LAWYERS ASS’N, COGS IN THE DEPORTATION MACHINE 6 (2018), <http://www.aila.org/infonet/aila-report-cogs-in-the-deportation-machine>.

167. *Id.*

168. *Id.* at 7.

169. *Id.*

170. *Id.* at 9. See also George Bach, *Federalism and the State Police Power: Why Immigration and Customs Enforcement Must Stay Away from State Courthouses*, 54 WILLAMETTE L. REV. 323 (2018).

171. Steve Coll, *When a Day in Court is a Trap for Immigrants*, NEW YORKER (Nov. 8, 2017), <https://www.newyorker.com/news/daily-comment/when-a-day-in-court-is-a-trap-for-immigrants>.

172. Press Release, Nat’l Network to End Domestic Violence, NNEDV condemns ICE detention of immigrant victim of domestic violence (Feb. 16, 2017), https://nnedv.org/latest_update/nnedv-condemns-ice-detention-immigrant-victim-domestic-violence.

80 percent” increase in arrests over the past year.¹⁷³ “‘If you’re in this country illegally, you should be scared,’ said Sean Gallagher, the Atlanta [ICE] field office director. ‘We’re probably going to come knocking at some point.’”¹⁷⁴ Atlanta’s increase is because “[l]ocal sheriffs and the police have been working with federal agents to identify and detain immigrants, a model of cooperation that the Trump administration is rapidly trying to expand throughout the country.”¹⁷⁵ These stories confirm the fears of undocumented survivors. In one survey, 75 percent of immigration advocates reported that “victims are afraid of going to court; and 43 percent report[ed] that immigrant victims are choosing not to move forward with criminal charges or obtaining protective orders” because of a fear of immigration enforcement.¹⁷⁶

Concrete data is beginning to show the impact of these tactics on survivors of violence. According to a report by the ACLU, law enforcement “reported the most dramatic drop in outreach from and cooperation with immigrant and limited English proficiency (LEP) communities over the past year.”¹⁷⁷ This lack of trust in law enforcement is directly impacting law enforcement’s and the courts’ ability to protect survivors of domestic violence. “[O]fficials reported that many crimes have become more difficult to investigate: 69 percent said domestic violence was harder to investigate, 64 percent said this applied to human trafficking, and 59 percent said this was true about sexual assault.”¹⁷⁸ This impact has also been documented by the chief justices of three state supreme courts, including California, New Jersey, and Washington.¹⁷⁹

173. Vivian Yee, *‘Please, God, Don’t Let Me Get Stopped’: Around Atlanta, No Sanctuary for Immigrants*, N.Y. TIMES (Nov. 25, 2017), <https://www.nytimes.com/2017/11/25/us/atlanta-immigration-arrests.html>.

174. *Id.*

175. *Id.*

176. AMERICAN IMMIGRATION LAWYERS ASS’N, *supra* note 166, at 10.

177. AMERICAN CIVIL LIBERTIES UNION, FREEZING OUT JUSTICE: HOW IMMIGRATION ARRESTS AT COURTHOUSES ARE UNDERMINING THE JUSTICE SYSTEM 1 (2018), *available at* <https://www.aclu.org/report/freezing-out-justice>.

178. *Id.*

179. *See* Letter from Tani G. Cantil-Sakauye, Chief Justice of the Supreme Court of California, to Jeff Sessions, Att’y Gen. of the U.S., and John F. Kelly, Sec’y of Dep’t of Homeland Sec. (Mar. 16, 2017), *available at* <http://newsroom.courts.ca.gov/news/chief-justice-cantil-sakauye-objects-to-immigration-enforcement-tactics-at-california-courthouses>; Letter from Mary E. Fairhurst, Chief Justice of the Supreme Court of Washington, to John F. Kelly, Sec’y of Dep’t of Homeland Sec. (Mar. 22, 2017), *available at* <https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/KellyJohnDHSICE032217.pdf>; Letter from Stuart Rabner, Chief Justice of the Supreme Court of New Jersey, to John F. Kelly, Sec’y of Dep’t of Homeland Sec. (Apr. 19, 2017), *available at* <https://www.documentcloud.org/documents/3673664-Letter-from-Chief-Justice-Rabner-toHomeland.html#document/p1>.

2. How Local Law Enforcement and ICE Work Together

There are several different ways that local law enforcement and ICE work together. 287(g)¹⁸⁰ agreements “allow a state or local law enforcement entity to enter into a partnership with ICE, under a joint Memorandum of Agreement, in order to receive delegated authority for immigration enforcement within their jurisdictions.”¹⁸¹ These agreements are in force around the country, including in Virginia.¹⁸² Prince William County entered into a 287(g) agreement with ICE in 2008.¹⁸³ “Prince William’s policy, as originally implemented in March 2008, required police to inquire about the immigration status of anyone officers encountered who they suspected to be in the country illegally, including people stopped for traffic tickets, for instance.”¹⁸⁴ Prince William County came to the front page of national news with the debate and rhetoric surrounding its 287(g) agreement because of the racial and xenophobic statements being made by local officials.¹⁸⁵ One proponent of Prince William County’s 287(g) agreement, Corey Stewart ran against Tim Kaine for his U.S. Senate seat in 2018.¹⁸⁶ Stewart’s rhetoric¹⁸⁷ and his relationship with the National Republican Party¹⁸⁸ may have been enough to keep

180. 287(g) agreements are named after the section of the Immigration and Nationality Act (INA) that permits local law enforcement and ICE collaboration. See INA § 287(g), 8 U.S.C. § 1357(g).

181. *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, U.S. IMMIGRATION & CUSTOMS ENF’T (Oct. 3, 2017), <https://www.ice.gov/287g>.

182. *Id.*

183. Josh Siegel, *One County Saw a 27% Drop in Assaults After It Helped Enforce Immigration Law. Here’s the Rest of the Story*, THE DAILY SIGNAL (Feb. 27, 2017), <http://daily.signal.com/2017/02/27/one-county-saw-a-27-drop-in-assaults-after-it-helped-enforce-immigration-law-heres-the-rest-of-the-story>.

184. *Id.*

185. See Ian Urbina & Maria Newman, *Virginia County Votes to Deny Services to Illegal Immigrants*, N.Y. TIMES (Oct. 17, 2007), <http://www.nytimes.com/2007/10/17/us/17prison-cnd.html>. The entire saga of Prince William County’s debate over entering into the 287(g) agreement was documented in the documentary 9500 LIBERTY. See *Synopsis*, 9500 LIBERTY, <http://www.9500liberty.com/synopsis.html>.

186. See also COREY STEWART U.S. SENATE, <http://www.coreystewart.com/about>. For more about Corey Stewart’s role in the Prince William County 287(g) agreement, see Ian Urbina and Maria Newman, *Virginia County Votes to Deny Services to Illegal Immigrants*, N.Y. TIMES (Oct. 17, 2007), <http://www.nytimes.com/2007/10/17/us/17prison-cnd.html>.

187. For a small sense of Stewart’s rhetoric, see Corey Stewart (@CoreyStewartVA), TWITTER (May 18, 2018, 8:56 AM), <https://twitter.com/CoreyStewartVA/status/997506214438334465> (“Every single criminal illegal alien should be deported and their spot in prison filled with any politician who implements sanctuary city policies endangering Americans.”).

188. The day after Mr. Stewart’s primary victory, Politico reported that many Republicans are not getting involved in and refuse to pledge support for Corey Stewart’s campaign. Even “the Senate GOP’s campaign arm hasn’t endorsed Stewart And its chairman said that the committee has ‘no plans’ to spend any money on Stewart in his race against Democratic Sen. Tim Kaine (D-Va.)” Burgess Everett, *Senate GOPs shuns Stewart in Virginia*, POLITICO (June 13, 2018 02:18 PM EST), <https://www.politico.com/story/2018/>

him from winning in November 2018, but his nomination shows that his views are certainly not a minority in Virginia.

287(g) agreements are extreme, but they are also rare. Since early October 2017, only 60 cities and counties across the entire country have entered into 287(g) agreements or still have them in force, and Prince William County is the only one in Virginia.¹⁸⁹ Despite the low number of counties that currently have 287(g) agreements in force, localities are looking to join the program. The Culpeper County¹⁹⁰ Sheriff's Office officially joined the 287(g) program in April 2018¹⁹¹ after the move was opposed by local residents and local civil rights organizations including the ACLU and Legal Aid Justice Center.¹⁹² Despite similar backlash in communities across the country,¹⁹³ the Trump Administration hopes to increase the number of 287(g) agreements nationwide.¹⁹⁴

Local compliance with ICE detainers is more common. "ICE places detainers on aliens who have been arrested on local criminal charges and for whom ICE possesses probable cause to believe that they are removable from the United States, so that ICE can take custody of the alien when he or she is released from local custody."¹⁹⁵ "The Trump administration has increased the number of detainers

06/13/corey-stewart-virginia-republican-response-643587. How the relationship between Corey Stewart and the GOP at large develops could signal to other Republicans—on a national and local scale alike—what will be successful in campaigns moving forward. If Corey Stewart wins despite lack of GOP support, it could embolden more Republicans like Stewart to run, win, and pass anti-immigrant laws, regulations, and ordinances. However, Corey Stewart could also doom many down-ballot Republicans. See Lena Felton, *Trumpism's Win May Be the GOP's Loss in Virginia*, THE ATLANTIC, <https://www.theatlantic.com/politics/archive/2018/06/corey-stewart-wins-virginia/562739>.

189. *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, *supra* note 181.

190. Culpeper County is located in Northern Virginia, about an hour and a half outside of Washington, D.C.

191. Jeff Say, *Culpeper sheriff signs ICE enforcement agreement*, CULPEPPER TIMES (Apr. 25, 2018), http://www.insidenova.com/culpeper/news/crime_and_courts/culpeper-sheriff-signs-ice-enforcement-agreement/article_a987fe46-4884-11e8-95ce-1ffb9d476345.html.

192. *Id.*

193. See, e.g., Hanaa' Tameez, *Group denounces Tarrant County sheriff's participation in immigration program*, STAR-TELEGRAM (Mar. 8, 2018 6:17 PM), <https://www.star-telegram.com/news/local/community/fort-worth/article203980224.html>; Tyler Whetstone, *Protesters greet ICE, Knox County Sheriff's Office in heated 287(g) immigration program meeting*, KNOX NEWS SENTINEL (July 11, 2018 4:43 PM), <https://www.knoxnews.com/story/news/local/2018/07/11/knox-sheriffs-office-ice-officials-hold-immigrant-program-meeting/764306002>; Glenn Counts, *Immigration advocates voice opposition over 287(g) program*, WSOCTV.com (Mar. 13, 2018, 6:14 PM), <https://www.wsocvtv.com/news/local/immigration-advocates-voice-opposition-over-287g-program/715408260>; Jim Riccioli, *National immigration demonstrations include Waukesha protest on 287g program*, JOURNAL SENTINEL (July 8, 2018, 11:40 PM), <https://www.jsonline.com/story/communities/waukesha/news/waukesha/2018/07/03/national-immigration-demonstrations-include-waukesha-protest-287-g/754592002>.

194. See *Enhancing Public Safety in the Interior of the United States*, *supra* note 162.

195. *Detainer Policy*, U.S. IMMIGR. & CUSTOMS ENF'T (Mar. 29, 2017) <https://www>.

issued by ICE [nationwide] by 65 percent from 86,026 in FY 2016 to 142,356 in FY 2017.”¹⁹⁶ Between September 2006 and April 2018, facilities across Virginia have sent a total of 43,092 detainees.¹⁹⁷ The larger metropolitan areas of Fairfax County, Arlington County, Manassas City, and Chesterfield County (near Richmond) account for the highest numbers of those detainees, but smaller cities such as Roanoke, Williamsburg, Staunton, and Danville have also participated.¹⁹⁸

Rhetoric about detainees is powerful. In June 2017, Representative Goodlatte of Virginia’s 6th District introduced a bill in Congress to expand the role of local law enforcement in immigration.¹⁹⁹ However, the data shows that local law enforcement compliance with ICE does not result in deportations.²⁰⁰ However, this data is not widely known or reported in the media. The rhetoric around these programs from both sides makes it seem as though they are effective, which leads the public, including undocumented individuals, to believe that these programs do result in deportations. This may encourage politicians to push for these ineffective programs and dissuade undocumented survivors from calling the police.

3. Summary

Working with law enforcement can be a calculated risk for someone who is undocumented. Even if their county does not have a 287(g) agreement in place, most cities and counties in Virginia have complied with ICE detainees. This means that survivors could be exposing themselves and their families to immigration enforcement by calling the police. The increased enforcement nationally and the heightened rhetoric surrounding immigration is enough to instill fear of deportation. If the potential protection of a U Visa is unavailable, calling the police may be a risk survivors are not willing to take.

D. A Certification is Ultimately Not Guaranteed

With all of the barriers already facing immigrant survivors, it is not surprising that so few report violence. For those who do, and for those who work with law enforcement, a certification is never guaranteed. The decision to sign a law enforcement certification is entirely discretionary, and is a decision often made by those in positions of power in organizations, not necessarily those with whom a survivor has worked.²⁰¹ A survivor may never come into contact with the leaders/

ice.gov/detainer-policy.

196. AMERICAN IMMIGRATION LAWYERS ASS’N, *supra* note 166, at 8.

197. *Tracking Immigration and Customs Enforcement Detainers*, TRAC IMMIGR. (Mar. 2017), <http://trac.syr.edu/phptools/immigration/detain>.

198. *Id.*

199. *See generally* No Sanctuary for Criminals Act, H.R. 3003, 115th Cong. (2017).

200. *Relatively Few Deportations Result from ICE Detainers*, TRAC (Feb. 1, 2017), <http://trac.syr.edu/whatsnew/email.170201.html>.

201. Jamie R. Abrams, *The Future of Immigration Law and the New Administration*:

managers/commanders of the certifying agency, and therefore a certifying officer may not be intimately familiar with the details of the case.²⁰² Moreover, the rates of certification across the country vary widely, meaning that it is extremely difficult for a survivor to know if their locality is likely to certify, or what the local law enforcement agency or prosecutor might require in order to do so. This lack of a guarantee is another reason why survivors are hesitant to call the police.

The hurdles described above are the combined failures of several systems. These failures are reflected in the lack of funding within state and local governments for translation services, the failure of law enforcement agencies to bridge the gap between themselves and communities of color, and the misinformed rhetoric of politicians and the media. While many of these hurdles seem insurmountable, especially with state-level legislation, the Commonwealth of Virginia can pass legislation that opens the door to more trust and communication between undocumented immigrant survivors of crime and local law enforcement.

III. How to Overcome the Problems with the Law Enforcement Certification Locally: Presume Helpfulness

Virginia's General Assembly should join several other states across the country in passing legislation to support undocumented survivors of violence. This legislation should (1) make federal definitions found in the Code of Federal Regulations regarding U Visas and law enforcement certification part of Virginia law, (2) include a presumption of helpfulness for the purposes of Law Enforcement Certifications, (3) explicitly state that helpfulness does not require the conviction of the perpetrator or testifying at trial, (4) ensure that education on U Visas is part of police training, and (5) include a data collection mechanism on U Visa certifications. Each of these individual provisions will create a more holistic system that supports undocumented survivors of domestic violence and makes it possible for local governments and law enforcement to be more responsive to domestic violence and support those most vulnerable in our communities.

A. What Other States Have Done

Several other states across the country have recently passed legislation in relation to U Visas and T Visas²⁰³ including Arkansas, California, Connecticut, Delaware, Louisiana, Montana, and North Dakota.²⁰⁴ Several of these states have

The Dual Purposes of the U Visa Thwarted in a Legislative Duel, 29 ST. LOUIS PUB. L. REV. 373, 394 (2010).

202. *Id.* at 392–395.

203. A T Visa is substantially similar to a U Visa but is only available for survivors of human trafficking. *See generally* INA § 101(a)(15)(T)(i), 8 U.S.C. § 1101(a)(15)(T)(i).

204. SALLY KINOSHITA & ALISON KAMHI, A GUIDE TO OBTAINING U VISA CERTIFICATIONS 4–5 (2017), https://www.ilrc.org/sites/default/files/resources/u_visa_certification_advisory_ab.ak_.pdf.

limited the scope of their policies to focus on human trafficking, capitalizing on the momentum around the anti-trafficking movement in the past several years.²⁰⁵ For example, Arkansas requires “law enforcement agencies to adopt a policy for completing and signing T and U nonimmigrant status certification requests *for human trafficking victims*.”²⁰⁶ This limited focus is problematic because it is too narrow and neglects the other crimes, such as domestic violence, that were also at the forefront of the creation of the U Visa.²⁰⁷

California’s policy best enhances the goals of Congress in the creation of the U Visa and supports undocumented survivors of all crimes. California’s bill was passed unanimously by both parties to support immigrant survivors of violence.²⁰⁸ The author of the bill, Senator De León, was specifically looking to make the certification process around the state of California more equitable.²⁰⁹ He said, “There are other law enforcement agencies—the Kern County Sheriff, for example—that systematically deny certifications on the basis of political views on immigration matters. . . . Whether you are a victim of a crime in Kern County or Alameda County should not matter in terms of whether you obtain a U-Visa.”²¹⁰ This law has several different components. First, California has adopted the federal definitions found in the Code of Federal Regulations regarding U Visas and law enforcement certification.²¹¹ California also created a rebuttable presumption of helpfulness for the purposes of the certification.²¹² Moreover, the statute clearly states that “[a] current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the [law enforcement certification] from a certifying official.”²¹³ Finally, it also creates a data collection mechanism, requiring that certifying entities report how many requests for law enforcement certifications were received, approved, and denied.²¹⁴

205. See generally Kate Price and Keith Gunnar Bentele, *Voting to End Vulnerability: Understanding the Recent Proliferation of State-Level Child Sex Trafficking Legislation*, 23 WM. & MARY J. WOMEN & L. 1 (2016).

206. KINOSHITA & KAMHI, *supra* note 204, at 4 (emphasis added).

207. See Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386 § 1513, 114 Stat. 1464, 1533 (2000).

208. See *SB-674 Victims of crime: nonimmigrant status*, CAL. LEGIS. INFO., https://leginfo.legislature.ca.gov/faces/billVotesClient.xhtml?bill_id=201520160SB674.

209. Immigrant Victims of Crime Equity Act: Cal. Assembly Floor Analysis: Hearing on S.B. 674 Before the Assembly Floor, 4 (2015), https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160SB674, (follow “Bill Analysis” hyperlink; then click “8/28/15–Assembly Floor Analysis”).

210. *Id.*

211. Cal. Pen. Code §§ 679.10(a)–(c) (West 2017).

212. *Id.* at § 679.10(f) (West 2017).

213. *Id.* at § 679.10(i) (West 2017).

214. *Id.* at § 679.10(l) (West 2017).

B. A Proposal for Virginia's Policy

1. Inclusion of Federal Definitions

The inclusion of federal definitions, while basic, is crucial. This ensures that local entities will follow federal regulations with respect to law enforcement certifications and will not require more “helpfulness” than required under federal law. It also helps combat later legal or policy challenges regarding jurisdiction and powers of individuals, such as judges, because the jurisdiction given under this policy mirrors federal policy.

The mirroring of terms is particularly important in Virginia because state jurisdiction over immigration-related judicial findings was recently at the center of debate.²¹⁵ Another form of protection, Special Immigrant Juvenile (SIJ) Status (also abbreviated SIJS), requires that children applying, first receive factual findings from a juvenile court.²¹⁶ These findings must say, among other things, that “it would not be in the [immigrant child’s] best interest to be returned to the [child’s] . . . previous country of nationality or country of last habitual residence.”²¹⁷ The Virginia Court of Appeals held that Juvenile and Domestic Relations (J&DR) courts “‘ha[ve] no authority to answer’ the specific question of whether ‘it would not be in the alien’s best interest to be returned’ to his country of origin, where such a finding would add to or alter ‘the responsibilities of Virginia courts in adjudicating custody or other matters.’”²¹⁸ This holding caused confusion in Virginia courts, with judges believing that this decision limits their authority entirely to make SIJ findings.²¹⁹ While this debate does not map specifically onto Law Enforcement Certifications, it shows that there is substantial hesitation, if not complete rejection by some,²²⁰ that Commonwealth actors have the authority to make affirmative decisions that have anything to do with immigration.

This proposed policy, especially with the codification of federal definitions in Virginia law, would preempt similar challenges and create confusion. Codifying federal definitions would ensure that local actors in Virginia would be acting consistent with Congressional across the Commonwealth. Moreover, this

215. See *Canales v. Torres Orellana*, 67 Va. App. 759, 773 (2017).

216. Kids in Need of Defense, *Chapter 4: Special Immigrant Juvenile Status (SIJS)*, in AN INTRODUCTION TO REPRESENTING UNACCOMPANIED CHILDREN IN IMMIGRATION MATTERS 1–2, available at <https://supportkind.org/wp-content/uploads/2015/04/Chapter-4-Special-Immigrant-Juvenile-Status-SIJS.pdf>.

217. 8 U.S.C. § 1101(a)(27)(J)(ii).

218. LEGAL AID JUSTICE CENTER ET AL., STRATEGIES FOR OBTAINING SIJ PREDICATE ORDERS IN VIRGINIA POST-*CANALES V. TORRES* 1 (2017), <https://www.justice4all.org/wp-content/uploads/2017/07/LAJC-Ayuda-Poarch-SIJ-Practice-Advisory-Post-Canales-07-14-2017.pdf>.

219. *Id.* at 1–2.

220. See *SB 1592 Juvenile & domestic relations court; jurisdiction over juveniles not present in U.S.*, VIRGINIA’S LEGISLATIVE INFORMATION SYSTEM, <http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB1592>.

codification would avoid the confusion presented in *Canales*. The Virginia Court of Appeals made it clear in *Canales* that they believe that the jurisdiction regarding “a juvenile immigrant seeking SIJ status is only that jurisdiction and authority to render judgments as granted to the courts by the General Assembly.”²²¹ This proposed policy would avoid these problems because the General Assembly would codify the federal regulations and federal requirements for U Visa Law Enforcement Certifications, meaning it would satisfy this piece of *Canales*. Therefore, adopting the federal definitions is critical to avoid the same kinds of confusion and litigation that has arisen in other circumstances where local officials interact with immigration law.

2. Presumption of Helpfulness

Virginia should also include a presumption of helpfulness identical to California’s presumption.²²² This presumption addresses the problems with law enforcement certifications because it recognizes that there are reasons why a survivor may not want to testify or may be hesitant to work with the police.

In California, this presumption is coupled with the requirement that an official from a certifying entity sign the law enforcement certification.²²³ Certainly a requirement for certifying officials to sign the law enforcement certification would bolster the protections for immigrant survivors in Virginia. However, because of the political climate in Virginia, especially surrounding the powers of local officials in immigration decisions, this may not be the most prudent policy. Instead, the presumption of helpfulness would eliminate a major barrier to survivors receiving the certification without overstepping a boundary that would make politicians and officials in Virginia uneasy.

3. Explicit Provision Regarding Conviction and Testimony

In addition to the presumption, Virginia should also adopt explicit language saying that a conviction or testifying at a hearing or trial are not mandatory for helpfulness under the certification. This provision is beneficial both to the survivors and to Commonwealth’s Attorneys. Commonwealth Attorneys may not want a survivor to testify because it is best for their case or the survivor. However, without this provision in the Virginia Code, they may feel as though they could not sign a certification without that testimony. This provision would clarify that they are able to make the best decision for their case and still sign the certification. This provision is also beneficial to survivors, who will not be coerced into testifying with the promise of a certification if they are fearful for their lives or safety. Through this

221. *Canales v. Torres Orellana*, 67 Va. App. at 786.

222. Cal. Pen. Code § 679.10(f) (West 2017).

223. *Id.* at § 679.10(e) (West 2017) (“Upon the request of the victim or victim’s family member, a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918 Supplement B certification . . .”)

policy, law enforcement and Commonwealth Attorneys would be given the most leniency to pursue their cases in the best way possible, while also giving survivors a level of autonomy and protection.

4. U Visa Education for Law Enforcement

Virginia should mandate education for law enforcement officers on specific challenges facing immigrant survivors of violence, mandate education regarding the protection provided by the U Visa, and define the role of law enforcement in the U Visa process. This training would show law enforcement that undocumented survivors are entitled to just as much protection as citizens and visa-holders. This training will also clarify the role of law enforcement when it comes to immigration because of the wealth of misinformation circulating.

5. Data Collection

Finally, data collection would be required on the number of requests for law enforcement certification, number of requests granted, and number of requests denied. This information would then be sent to a central office, potentially the Office of the Attorney General, to create annual reports. This data would accomplish several goals. First, it would reveal inconsistencies across the Commonwealth and identify jurisdictions that, despite the presumption of helpfulness, refuse to sign law enforcement certifications. This data would also help legislators, advocates, and academics to know where immigrant populations are experiencing violence and the scale on which this violence is occurring across Virginia. Moreover, this data would help advocates who seek government funding or grants to be able to justify the programming they do for immigrants, better tailor that programming, or even expand their programs to include outreach to immigrants. This data would also show whether the other new legislation has been successful and provide academics and lawmakers the information necessary to build upon these policies.

C. Envisioning the Future: What the U Visa Certification Process Will Look Like Under This Policy

After this legislation, survivors will have one fewer barrier to working with law enforcement in Virginia. When a survivor calls the police because of an incident of domestic violence, they will be interviewed by law enforcement and go through the same steps that would normally be taken with any other survivor in that jurisdiction.²²⁴ After they consult with an immigration attorney, or learn about U Visas from another avenue, they may ask someone to sign a LEC, either the local police, the prosecutor, or the judge in their protective order hearing. At the signature,

224. See VA. CODE ANN. § 9.1-1300 (requiring local law enforcement agencies to create arrest policies and incident reports, among other policies).

the certifier would presume that the survivor has been, is being, or is likely to be helpful. Without evidence to rebut that presumption, the certifier would sign the survivor's Law Enforcement Certification, and the survivor would independently go through the process of applying for a U Visa. The certifier would then be required to keep track of the number of requests for certification, and the number of approved and denied certifications, creating opportunities for better advocacy by attorneys and for stronger protections for survivors by policymakers in the future.

Conclusion

Domestic violence in any part of a community has repercussions for everyone. In an era when politicians and voters chant "Build the Wall!"²²⁵ it is important to recognize the unique plight of undocumented immigrant survivors of domestic violence. Domestic violence is not limited to any one demographic group; however, barriers to seeking help are consistently built and reinforced by racism, xenophobia, sexism, and homophobia. Undocumented survivors face several additional challenges, such as a lack of trust in police or language barriers.²²⁶ It is important that the Commonwealth of Virginia and other states recognize and take steps to ameliorate these barriers, especially when Congress has already created a mechanism to support undocumented survivors, and a path to lawful status for them.²²⁷ Virginia should pass legislation that (1) makes federal definitions of key terms in the U Visa regulations part of Virginia law, (2) includes a presumption of helpfulness for the purposes of Law Enforcement Certifications, (3) explicitly says that the conviction of the perpetrator or testifying at trial are unnecessary for helpfulness, (4) ensures that education on U and T Visas is part of police training, and (5) includes a data collection mechanism on U Visa certifications. By passing this legislation, Virginia will send a clear signal to survivors that they are supported by the local government and their community. This policy would be the first step toward creating an environment where all survivors of violence are believed, supported, and given the opportunity to rebuild their lives.

225. Philip Rucker & David A. Fahrenthold, *Donald Trump positions himself as the voice of 'the forgotten men and women'*, WASH. POST (July 22, 2016), https://www.washingtonpost.com/politics/in-speech-at-republican-national-convention-trump-to-paint-dire-picture-of-america/2016/07/21/418f9ae6-4fad-11e6-aa14-e0c1087f7583_story.html?utm_term=.3d30e1d8536c.

226. Orloff & Little, *supra* note 5 at 4.

227. *See* Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386 § 1513, 114 Stat. 1464, 1533 (2000).
