

In The Best Interests of Children: Immigration Issues in CHIPS Cases

Judge Ramona Gonzalez (Ret.) and Leslye E. Orloff,

CIP Webinar
Wisconsin Courts
February 10, 2026

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

1

Presenters



Ramona Gonzalez
Retired Judge
La Crosse County
Circuit Court,
La Crosse, Wisconsin,
Past President NCJFCJ



Leslye E. Orloff
Adjunct Professor and
Director NIWAP,
American University
Washington College of
Law

NIWAP

National Judicial Network &
NIWAP American University
Washington College of Law

Thank You to SJI

This project was supported by Grant No. SJI-24-T-046 from the State Justice Institute. The opinions, findings, conclusions, and recommendations expressed by program faculty and in program materials are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

3

Join the National Judicial Network (NJJN)

- Forum on Human Trafficking and Immigration in State Courts
- What is the NJN (490 judges – 44 states & territories)
 - Opportunity to engage in discussions with other judges
 - Receive latest information
 - Peer-to-Peer training opportunities
 - Get your questions answered
 - Receive the information you need through
 - Webinars, trainings, and technical assistance
 - Bench cards, tools and training materials

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

4

Learning Objectives

By the end of this training you will be better able to:

- Know how accurate immigration law information results in just and fair outcomes for children and families.
- Recognize facts that indicate a child qualifies for Special Immigrant Juvenile Status and the role Congress created for state court judges.
- Understand how children's best interests are best served when judges and child welfare workers identify which benefits and services immigrant survivors, children, and parents are eligible to receive.
- Know how to use the CPS Toolkit best serve immigrant children and families.

The logo for NIWAP, featuring the letters "NIWAP" in a bold, white, serif font against a dark red background.

National Judicial Network and NIWAP, American
University Washington College of Law

5

Why Congress Included Legal Immigration Relief in the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA)

The logo for NIWAP, featuring the letters "NIWAP" in a bold, white, serif font against a dark red background.

NIWAP American University Washington College of Law

6

Purpose Crime Victim Based Immigration Relief

Congress enacted VAWA self-petitioning (1994), the U and T visas (2000, 2005, 2008) & Special Immigrant Juvenile Status (SIJS) (1990,2008) to:

- Enhance victim safety
- Allow victims to report crimes and seek help from police, prosecutors, and courts without fear of deportation
- Improve access to justice in family/criminal/civil courts for immigrant victims of
 - Domestic & sexual violence, stalking, human trafficking and child/elder abuse
- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Keep communities safe

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

7

Department of Homeland Security



- DHS Video

NIWAP

NIWAP American University Washington College of Law

8

U.S. Immigration Benefits for NONCITIZEN CRIME VICTIMS™

Immigration Protections for Noncitizen Victims of Crime and Abuse

T VISA
For victims of human trafficking
To apply: USCIS Form I-914

VAWA
For victims of domestic violence and abuse
To apply: USCIS Form I-918

SIJ
Special Immigrant Juvenile for child victims under 21 years of age
To apply: USCIS Form I-360

U VISA
For victims of domestic violence, sexual assault, felonious assault, human trafficking, and other qualifying crimes
To apply: USCIS Form I-918

ASYLUM
For victims of persecution
To apply: USCIS Form I-589

SIJ
Special Immigrant Juvenile for child victims under 21 years of age
To apply: USCIS Form I-360

ASYLUM CONSIDERATIONS

- Must fear persecution on account of race, religion, nationality, political opinion, or membership in a particular social group
- If in removal proceedings, may need to file Form I-589 with the Immigration Judge

T VISA CONSIDERATIONS

- Must be in the U.S. on account of human trafficking
- Law enforcement declaration is encouraged but not required

VAWA CONSIDERATIONS

- Have suffered battery or extreme cruelty perpetrated by your U.S. citizen or lawful permanent resident spouse or parent or your U.S. citizen adult son or daughter
- Perpetrators and perpetrators may be of any sex or gender

SIJ CONSIDERATIONS

- Must be a victim of child abuse, neglect, or a similar form of abuse under state law by one or both parents
- Must have a juvenile court order with the required determinations

U VISA CONSIDERATIONS

- Qualifying crimes must have occurred in the U.S. or victim in U.S. law
- May apply from the U.S. or under arrest
- Must have law enforcement certification

ASYLUM CONSIDERATIONS

- Asylum status
- Work authorization
- Access to federal and state benefits and services
- Ability to apply for permanent residency
- Ability for spouse and children to receive asylum, even if not already in the U.S.

T VISA CONSIDERATIONS

- If approved, benefit provides:
 - Up to four years of temporary nonimmigrant status
 - Work authorization
 - Access to federal and state benefits and services
 - Ability to apply for permanent residency
 - Ability for qualifying family members to receive derivative nonimmigrant status, even if not already in the U.S.

VAWA CONSIDERATIONS

- If approved, benefit provides:
 - Lower priority for removal
 - Work authorization
 - Access to federal and state benefits and services (possibly sooner than approval)
 - Ability to apply for permanent residency
 - Ability for children of self-perpetrating spouse or children to receive permanent residency, even if not already in the U.S.

SIJ CONSIDERATIONS

- If approved, benefit provides:
 - Ability to apply for permanent residency

U VISA CONSIDERATIONS

- If approved, benefit provides:
 - Up to four years of temporary nonimmigrant status
 - Work authorization
 - Ability to apply for permanent residency
 - Ability for qualifying family members to receive derivative nonimmigrant status, even if not already in the U.S.

ASYLUM CONSIDERATIONS

- If approved, benefit provides:
 - Asylum status
 - Work authorization
 - Access to federal and state benefits and services
 - Ability to apply for permanent residency
 - Ability for spouse and children to receive asylum, even if not already in the U.S.

BLUE CAMPAIGN **Center for Countering Human Trafficking**

NIWAP National Judicial Network and NIWAP, American University Washington College of Law

Immigration Relief Available for Immigrant Victims of ---

- Domestic violence
 - Child abuse
 - Elder abuse
- Sexual assault
- Rape
- Incest
- Prostitution
- Torture
- Felonious assault
- Manslaughter
- Murder
- Female genital mutilation
- Kidnapping
- Abduction
- Trafficking
- Involuntary servitude
- Slave trade
- Being held hostage
- Fraud Foreign Labor Contracting
- Peonage
- False Imprisonment
- Blackmail
- Extortion
- Witness tampering
- Obstruction of justice
- Perjury
- Stalking
- Hate Crimes
- Video voyeurism
- Parent perpetrated**
 - Child abuse
 - Child neglect
 - Child abandonment

Attempt, conspiracy or solicitation to commit any of these crimes or any similar activity

NIWAP National Judicial Network and NIWAP, American University Washington College of Law

Who Qualifies

- Helps both documented and undocumented immigrant children and/or immigrant parents
- Helps parents whose child has been abused or neglected
 - “battered or subjected to extreme cruelty”
 - Child maltreated may be a U.S. citizen
- Victim need only provide information about the criminal activity to a government official
 - Can be CPS/APS, judge, law enforcement, prosecutor, EEOC
 - No police report required

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

11

Evidence Based Research Has Found Increased Access to Justice

- Courts that issue U/T visa certifications and SIJS judicial determinations
 - See greater numbers of immigrant victims seeking protection orders & custody, and participating in criminal, civil, and family cases
 - Even in times of increased anti-immigrant sentiment and immigration enforcement

Rodrigues, Orloff, Couture-Carron, and Ammar, Promoting Access to Justice for Immigrant Crime Victims and Children: Findings of a National Judicial Survey and Recommendations, **National Center for State Courts, Trends in State Courts** (2018)

<https://niwaplibrary.wcl.american.edu/pubs/trends-in-state-courts-survey-findings/>

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

12

Child Welfare Cases and Termination of Parental Rights

In re Interest of Angelica L., 277 Neb. 984 (2009)

- Parents have a Constitutional right to custody (absent unfitness)
- Applies to all families without regard to:
 - Undocumented immigration status
 - Immigration detention
 - Deportation
- Overriding presumption that:
 - Parent-child relationship is constitutionally protected
 - In children's best interest to stay with/be reunited with their parent(s)
- Child's best interests is most important
 - A comparison of natural vs. adoptive parent's cultures, countries or financial means is not to be made

NIWAP

National Immigrant Women's Advocacy Project at the
American University Washington College of Law

13

What Happens If A U Visa Victim Leaves The U.S.?

- A U visa victim can file from abroad if the any part of the victimization occurred in the U.S.
- A T visa victim must be in the U.S. to file.
- For victims with pending or approved applications for VAWA, T visa, U visa or SIJS leaving the U.S. without a Green Card could leave them stranded abroad.

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

14

What are some example of
children whom you encounter in
your work who are eligible to
self-petition?

Child Self-Petition Scenarios

- Abuser is a citizen or lawful permanent resident parent or step-parent
 - Abused child and non abusive parent both undocumented
 - Child is citizen or lawful permanent resident with undocumented non-abusive parent
 - If parent filing to be more able to participate to protect a child
 - If marriage = parent can VAWA self-petition
 - If no marriage = parent eligible for VAWA cancellation

What are best practices for child welfare agencies working with immigrant children that judges should be aware of?

NIWAP

NIWAP American University Washington College of Law

17

Child Welfare Agency Role - VAWAs

- Screen early
 - Screen for immigration relief eligibility based on maltreatment
 - Children and Parents
 - Including for human trafficking
 - OTIP Requests for Assistance
- Refer to lawyers with expertise on immigrant victim's legal rights – immigration and family
 - NIWAP Directory <https://niwaplibrary.wcl.american.edu/home/directory-programs-serving-immigrant-victims/>
- Help with documentation of maltreatment
 - For victim's immigration case; and
 - By seeking court orders containing findings

NIWAP

NIWAP American University Washington College of Law

18

Child Welfare Agency Role - U Visas

- Screen early
 - Screen for immigration relief eligibility based on maltreatment both children and parents
 - Including for human trafficking and OTIP referrals
- Do not disqualify children based on living arrangements
 - Can be living with non-abusive parent
- CPS signs U visa certifications early
- Refers to lawyers with expertise on immigrant victim's legal rights – immigration and family
 - NIWAP Directory <https://niwaplibrary.wcl.american.edu/home/directory-programs-serving-immigrant-victims/>
- Help with documentation of maltreatment
 - For victim's immigration case and seek findings from state courts

NIWAP

NIWAP American University Washington College of Law

19

What Certifications Are Required on the U Visa Certification Form

- Certifier believes that
 - The applicant or their child is a victim
 - Of one or more criminal activities covered by the U visa - check all that apply
 - Is being, or has been, or is likely to be helpful
 - To a government agency – can be the certifying agency
 - In detection OR investigation OR prosecution OR conviction OR sentencing related to the criminal activity
 - No degree of helpfulness (or timing) required
- USCIS considers the totality of the evidence in its adjudications

NIWAP

National Judicial Network and NIWAP, American University Washington College of Law

20

Child Welfare Agency Role - T Visas

- Screen early for immigration relief eligibility based on maltreatment and trafficking - both children and parents
 - Do not disqualify children living with non-abusive parent
- CPS:
 - Signs T visa declarations early
 - Completes OTIP requests for assistance
 - Develops relationships with federal agencies who can request continued presence
- Refers to lawyers with expertise on immigrant victim's legal rights – immigration and family
 - NIWAP Directory <https://niwaplibrary.wcl.american.edu/home/directory-programs-serving-immigrant-victims/>



NIWAP American University Washington College of Law

21

Special Immigrant Juvenile Status (SIJS)

- Humanitarian immigration relief for under 21 year old unmarried children who cannot be reunified with one or both parents who...
 - Abused, abandoned or neglected the child
- **State court judicial determination is a required SIJS filing prerequisite**
- Provide evidence for child's immigration case
- The state court order reflects judge's expertise on children's best interests
- State court order does **not** grant immigration status



National Judicial Network and NIWAP, American University Washington College of Law

22

Special Immigrant Juvenile Status (SIJS)

- **State court judicial determination is a required SIJS filing prerequisite**
 - Provides evidence for child's immigration case
 - The state court order reflects judge's expertise on children's best interests
 - State court order does **not** grant immigration status

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

23

SIJS Judicial Determinations Can Be Issued When a Juvenile or Family Court Judge Awards Custody or Placement Of a Child

- Child is dependent on a juvenile court or **legally committed to or placed under the custody of** an agency or department of State, or **an individual** or entity appointed by a State court.
- **Child's best interest** would not be served by being returned to his or her country of origin.
- **Reunification** with one or both parents **is not viable due to** abuse, neglect, abandonment, or a similar basis under state law (through adjudication by USCIS)

8 U.S.C. § 1101(a)(27)(J)

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

24

Special Immigrant Juvenile Status Poll Question

Have you have worked on a case
where a judge issued SIJS judicial
determinations for an immigrant
child?



NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

25

How does USCIS in its 2022 SIJS regulations define “Juvenile Court”

- “A court located in the United States that has jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles.”
 - 8 C.F.R. § 204.11(a)
 - USCIS Policy Manual – Special Immigrant Juveniles
 - <https://www.uscis.gov/policy-manual/volume-6-part-j>
- In Wisconsin includes CHIP cases

NIWAP

National Judicial Network and NIWAP American
University Washington College of Law

26

“Judicial Determination” -Defined

- A “judicial determination” is a conclusion of law made by a juvenile or family court. 8 C.F.R. § 204.11(a)
 - Based on findings of fact
 - Court order states “the factual basis for the court’s determinations” 8 C.F.R. 204.11(d)(5)(i) & (ii)
- Note: Terms “*SIJS finding*” or “*predicate order*” no longer legally accurate

Under federal law and regulations, in what types of proceedings are state court judges authorized to issue SIJS judicial determinations?



- CHIPS
- Delinquency
- Chapter 767 Family Actions
- Protection orders
- Adoption
- Chapter 48 Guardianships
- All of the above

In What Types of Case Scenarios Could A Child Obtain SIJS Court Orders?

- Care, Custody, and/or placement by a judge
 - Dependency/Delinquency cases
 - Civil protection order cases
 - Custody cases
 - Divorce cases
 - Paternity and child support cases
 - Adoption cases
 - Includes all state court cases in which CPS appears
- DHS states: All are of the above = *Juvenile courts*
 - Juveniles = all children
- SIJS Bench Book has chapters on each case type
<https://niwaplibrary.wcl.american.edu/sijs-manual-table-of-contents>

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

29

Return to Home country not in child's best interests

- Identify each potential custodian state law requires the court to consider in U.S. and home country
- Apply state best interests factors to each placement
- Court order states the factual findings that support chosen placement
- Make findings that illustrate why under state best interest factors, court is not choosing placements in child's home country
- Compare the supports, help, services child needs U.S vs. home country
- Then, if relevant, address other country conditions
 - Gangs, other harmful factors

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

30

Reunification Not Viable

- Reunification with 1 parent is not viable due to abuse, neglect, abandonment, or similar state law basis
- Does not require termination of parental rights
- Viability of reunification does not necessitate no contact with parent – Visitation can occur
- Means granting the abusive parent custody is not envisioned by the court as a viable option
 - Duration: through adjudication of SIJS application
- Changes in circumstances can occur
 - But not granting legal/physical custody to abusive parent which revokes SIJS for the child

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

31

Case Scenario

- What if a child was abused in the U.S.
 - Child is in foster care
- Mom is in Venezuela
 - CPS is in contact with mom
- Father has had no contact with the child
 - Father cannot be located
- Does the child qualify for SIJS?
- Can the mom apply or benefit from the child getting SIJS?

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

32

Duration of Non-Viability Determination (2022 Regulations)

- Court's conclusions of law regarding non-viability expected to be in effect
 - When the court order is issued
 - When the child files for SIJS and
 - When the SIJS application is adjudicated
 - 180-day adjudication timeframe
 - 8 C.F.R. § 204.11(c)(3)(ii) and (g)(1)
- Approved SIJS applications automatically revoked when:
 - Issuance of a court order reunifying the child with the parent who perpetrated the abuse, abandonment, neglect or similar harm, or
 - Judicial proceedings determine that it is in the child's best interested to be returned to the child's or their parent's home country
 - 8 C.F.R. § 204.11(j)(1)

NIWAP

National Judicial Network and NIWAP American
University Washington College of Law

33

Apply Same Jurisdiction and Procedural Rules as All Other Cases

- Include a statement of the court's jurisdiction citing the state law under which the court is exercising jurisdiction.
- Follow your state court procedures and note that you do so to demonstrate that the court made an informed decision.
- Jurisdiction and services of process resource:
 - <https://niwaplibrary.wcl.american.edu/all-state-family-law-jurisdiction-and-service-of-process-charts>

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

34

Best Practices to Address in SIJS Orders

- CPS provide evidence and ask judges to make findings as to --
 - The age of the child and the evidence relied upon
 - The child's parentage, naming each parent specifically
 - That the parent's identity is unknown (e.g., rape)
 - Abuse, abandonment, neglect suffered & impact on child
 - Address each occurring abroad and/or in the U.S.
 - Details of who the court awarded custody to and why
 - Include & explain no-contact & other protective provisions
- Cite and apply only state law as to:
 - Definitions of abuse, abandonment, neglect, similar basis
 - Best interest & Jurisdiction

NIWAP

National Judicial Network and NIWAP, American University
Washington College of Law

35

Q and A on SIJS

- Can SIJS findings be done in federal court?
 - Or only state/circuit court?
- For the SIJS judicial determination does custody refer to physical or legal custody?
- Could SIJS orders be entered post-TPR or while birth parents' appeal is pending?
- If a child is waived into adult court can the child get SIJS orders?

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

36

SIJS Scenarios A and B

- A. Does placement with the maltreating parent with in-home CHIPS give the child or either parent access to immigration relief?
- B. CHIPS case filed, finding of child abuse by mom
 - A. Child is placed with undocumented aunt
 - B. Mom is threatening to call ICE on aunt
 - C. Does the aunt have any protections?

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

37

SIJS – Scenario C

- Mom is living in WI with two children
 - CPS case under informal consent agreement
 - Mom is a crime victim with a pending U visa case that includes her children
- Dad has had no contact with the children and cannot be located by CPS
- Can the children qualify for SIJS?
 - What kind of case would need to be filed in court to get the children's SIJS judicial determinations?

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

38

Child Welfare Agency Role - SIJS

- Screen early for immigration relief eligibility based on parent perpetrated abuse, abandonment, neglect or similar maltreatment – so that the child does not age out
 - Do not disqualify children living with non-abusive parent
- CPS should:
 - Request judicial determinations from state courts for SIJS eligible children in all cases that involve CPS staff or attorneys
 - Ask court to appoint immigration counsel for the child
 - NIWAP Directory – includes list of pro bono attorneys
<https://niwaplibrary.wcl.american.edu/home/directory-programs-serving-immigrant-victims/>
 - Complete OTIP requests for assistance
 - Create policies for CPS seeking SIJS judicial determinations

Special Immigrant Juvenile Status: Immigration Relief Child Victims of Abuse, Abandonment or Neglect

Quick Reference Guide

Special Immigrant Juvenile Status (SIJS) provides immigration status, protection from deportation, and lawful permanent residence to immigrant children who are abused, abandoned, or neglected by at least one of their parents. The maltreatment by the immigrant child's parent may have occurred in the United States or been perpetrated abroad, anywhere in the world.

Who is eligible

- Immigrant children under the age of 21 who are unmarried and who were abused, abandoned, or neglected (as defined by state law) by one of their parents.

Who else can be included in the petition: Child's family members cannot be included in the application.

Eligibility Requirements

- Be under the age of 21 at the time the application is filed
- Be unmarried at the time of filing through the time of adjudication
- Be physically present in the United States
- Have received an **SIJS judicial determination** by a state court that has jurisdiction under state law to make judicial determinations about dependency and/or custody and care of juveniles

Age requirements for SIJS: There are two important age requirements to consider for SIJS

- **Age at judicial determination:** The child must be under the age of majority set by state law when the child receives state court orders containing SIJS judicial determinations
- **Age at filing:** The child must file their petition for SIJS before they turn 21

Judicial Determination Required: Yes. SIJS applicants must obtain an SIJS judicial determination from a state juvenile or family court that has jurisdiction over the child. These court orders do not award SIJS and are not determinative; only DHS has the authority to adjudicate SIJS and provide legal immigration status.

Judicial Determination Requirements: Petitioners must submit an order from a state juvenile or family court that contains three best interest and child welfare related judicial determinations (findings and fact and conclusions of law). The federal SIJS statute relies on state court judges to make these determinations because state court judges have particularized expertise in the care and custody of children.

- The child has been declared dependent on a juvenile or family court or the child has been "legally committed to or placed under the custody of an agency, or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States."
- The child's reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law
- It would not be in the child's best interest to be returned to their or their parent's previous country of nationality or last habitual residence

One or Both Parents Requirement: CPS should *continue screening* children for SIJS even if they are living with one parent. Federal law permits a child who suffered parental maltreatment perpetrated by one parent to be living or reunified with the child's non-abusive parent and still qualify for SIJS.

True or False?

In Wisconsin SIJS
Judicial
Determinations must
be issued while the
child is under age 18?



True



False

NIWAP

National Judicial Network and NIWAP American University
Washington College of Law

41

Timing of SIJS Judicial Determinations and Effect of Adoption or Marriage

- Age of child - under age 18
 - Judicial determinations must issue before child turns 18 - Wis. State Law §§ 4802(2) (child); 54.01(20)(minor)
- To file SIJS immigration application child must
 - Be unmarried and under age 21
- No impact on child's SIJS eligibility
 - Marriage after SIJS adjudication by USCIS
 - Wisconsin court jurisdiction ended because child
 - Turned age 18
 - “was adopted, placed in a permanent guardianship, or another child welfare permanency goal was reached, other than reunification with a parent.” 8 C.F.R. § 204.11(c)(3)(ii)

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

42

How do judges benefit from being able to look up which immigrant children and parents qualify for which benefits and services in Wisconsin?

NIWAP

National Judicial Network & NIWAP American
University Washington College of Law

43

Benefits For Judges In Their Work To

- Promote best interests of children
- Protect safety and promote economic stability of victims and their children
- Hold offenders accountable
- Reunification plans have legally correct information
- The judge knowing who qualifies for what
 - Helps ensure that children, parents, and victims who are immigrants apply for, receive, and are not turned away from benefits they qualify to receive
 - Courts do not want to inadvertently encourage immigrants to seek public benefits for which they do not qualify

NIWAP

National Judicial Network & NIWAP American University
Washington College of Law

44

Only Government Officials With Mandate to Report to DHS

- Government officials administering state and federal public benefits when an immigrant known to be removable applies to receive a public benefit for themselves that they do not qualify to receive
- 287(g) law enforcement officers

The logo for the National Judicial Network & NIWAP American University Washington College of Law, featuring the acronym NIWAP in a stylized white font on a red background.

National Judicial Network & NIWAP American
University Washington College of Law

45

Understanding Immigrant Benefits Eligibility – Clara and Eduardo Hypothetical Case

The logo for the National Judicial Network & NIWAP American University Washington College of Law, featuring the acronym NIWAP in a stylized white font on a red background.

National Judicial Network & NIWAP American
University Washington College of Law

46

Clara and Eduardo Case Scenario

Clara met Eduardo a lawful permanent resident when he came back to his hometown to visit his family in El Salvador. Eduardo started dating Clara who was raising her 9-year-old son Miguel. After Clara became pregnant and gave birth to a baby girl Lupe, Eduardo decided to bring Clara, Miguel and Lupe to the U.S. to live with him. When they arrived in the U.S. Eduardo took Clara, Miguel and Lupe's passports and became physically and sexually abusive of Clara and abusive of Miguel who tried to protect his mother from Eduardo's abuse. Eduardo also physically beat Lupe when he said she "misbehaved". Within a year following their arrival in the U.S. Eduardo forced both Clara and Miguel to work for his family's business and never paid them for their labor. One night when Miguel was 13 and Lupe was 5, Eduardo's rage led to severe beatings with a belt of Miguel and of Lupe. When Clara intervened to protect the children, Eduardo strangled her until she passed out. The neighbors call the police for help, Clara talked to police when they arrived. The police arrested Eduardo for attempted murder and child abuse, took Clara to the hospital and placed the children in the care of the state.

NIWAP

National Judicial Network & NIWAP American
University Washington College of Law

47

What help is available to Clara,
Miguel and Lupe meet basic
needs?

NIWAP

National Judicial Network and NIWAP, American University
Washington College of Law

48

Open to All Immigrant Victims of Crime/Abuse/Neglect Including Children

- Legal Services
- Family Court (Divorce, custody, economic relief, protection orders)
- Interpreters/Translators
- Police Assistance
- Perpetrators Can Be Criminally Prosecuted
- Public Benefits for Their Eligible Children
- SANE Exams
- VOCA
- Assistance for Crime Victims
- Shelter/Transitional Housing
- WIC/school lunch & breakfast
- Primary/Secondary education/GEDs
- Immunizations, testing, treatment communicable diseases
- Emergency medical care

NIWAP

National Judicial Network & NIWAP American University
Washington College of Law

49

In-Kind Services Necessary to Protect Life and Safety, Open to All Immigrants

- Child and adult protection services
- Crisis counseling and intervention
- Violence and abuse prevention
- Victim assistance
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Shelter & transitional housing assistance



8 U.S.C. Section
1611(b)(1)(D)

NIWAP

National Judicial Network & NIWAP American University
Washington College of Law

50

How might Clara's and the children's legal immigration options impact their housing economic security?

NIWAP

National Judicial Network and NIWAP, American University
Washington College of Law

51

T visa, OTIP and VAWA Clara and Children's Best Options

- Time to work authorization (Sept. 2025)
 - VAWA Abused spouses of citizens - 3 months
 - T visa bona fide - 6 months
 - U visas – 2.9 years
 - VAWA abused spouse of lawful permanent residents – 3.7 years
 - SIJS – 5.8 years
- Access to public or assisted housing
 - VAWAs immediately; T visas 6 months
 - SIJS 5.8 years; U visas 13.7 years

NIWAP

National Judicial Network & NIWAP American
University Washington College of Law

52

Benefits in Wisconsin- TANF, Child Care, Food

- Wisconsin Works - VAWAs, Continued Presence (CP), T visas, T bona fide, lawful permanent residents and those with work authorization – only children, custodial parents, unless pregnant
 - SIJS (0 mos) T visas/asylees (6 mos); VAWAs abused by citizens (3 mos); (U visas (2.4 yrs)
- Childcare - TANF same as above
 - Child Care Development Fund – no restrictions
- SNAP (Food stamps)
 - “Qualified Immigrants” who are lawful permanent residents and either children or adults who have met the 5-year bar
 - VAWA (4 years); T visas (8.5 years); SIJS (10.5 years); U visa (13.7 years)
- WIC – open to all no restrictions



National Judicial Network and NIWAP, American
University Washington College of Law

53

Miguel and Lupe need eye exams,
glasses, and regular health care
check ups and when Clara was at the
hospital she learned she was
pregnant what are they eligible for in
Wisconsin?



National Judicial Network and NIWAP, American
University Washington College of Law

54

Lawfully Present Immigrants Can Purchase on Exchange Under Federal Law

- Qualified immigrants
 - VAWAs, T visa bona fide, T visas, refugees, asylees, LPRs
- SIJS applicant children
- Visa holders who have not violated the terms of their visas
- Parolees, Temporary protected status
- Deferred action (Continued Presence, U visa bona fide; DACA)
- Immigrants with pending applications for lawful permanent residency
- Asylum/Convention Against Torture applicants with work authorization
- Full list: Health Care Access for Lawfully Present Immigrants – Definitions (May 27, 2024)
<https://niwaplibrary.wcl.american.edu/pubs/lawfully-present-healthcare/>

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

55

Benefits in Wisconsin - Health

- **CHIP:** Until 19 – lawfully present children eligible for medical assistance
 - SIJS applicants (0 mos); VAWAs (3 mos); T visas
 - T visa bona fides (6 mos), U visa bona fide (2.4 yrs)
- **Uninsured low-income pregnant persons –**
 - Prenatal care, full healthcare and 90 days post partum care
- **Adults Medicaid after 10/1/26:**
 - When granted lawful permanent residency & 5-year bar ends
 - T visa (5.5+ yrs) VAWAs (5.3 yrs); SIJS (10 yrs); U visa (18.7 yrs)
 - VAWAs and U visas if entered the US before 8/22/96 the wait to subsidized health care is 5 years less

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

56

What if Lupe and Miguel have special educational needs due to trauma or if Miguel wants to go to college?

NIWAP

National Judicial Network and NIWAP, American University
Washington College of Law

57

Education – Miguel, Lupe, and Clara

- Elementary and secondary education including Individualized Education Programs (IEPs)
 - Same rules apply for all children no restrictions
- Federal post-secondary educational grants and loans
 - Eligible – VAWAs (3 mos); Ts (6 mos), CP, OTIP, and lawful permanent residents (LPRs) (SIJS 5.8 yrs, U visa 13.7 years)
- In-state tuition Wisconsin
 - If student (or their parent) has lawful permanent residence + residence in Wisconsin for 12 months
 - T visas (5.5+ yrs); VAWAs (4 yrs); SIJS (5.8 yrs); U visas (13.7 yrs)

NIWAP

National Judicial Network & NIWAP American
University Washington College of Law

58

Where can judges look up what
benefits and services immigrant
children and their parents who are
before the court qualify to receive?

NIWAP

National Judicial Network and NIWAP, American University
Washington College of Law

59

Interactive Public Benefits Map

NIWAP Web Library About NIWAP Maps by Benefit Demographics

Legal Services

Maps by Benefit

These maps break down available public benefits based on immigrant's state and immigration status. We are still working on this site, so if you cannot click on your state, check back soon for completed maps.

- Cash Assistance (TANF)**
Temporary Assistance for Needy Families (TANF) provides cash assistance to low-income families with children.
[Go to Map](#)
- Child Care**
Child Care services may be provided through public benefits.
[Go to Map](#)
- Children's Health Insurance Program**
Medical assistance is available to children through the Children's Health Insurance Program (CHIP).
[Go to Map](#)
- Driver's License**
State-specific requirements to be issued a driver's license.
[Go to Map](#)
- Earned Income Tax Credit**
- Emergency Housing & Safety Programs**

<http://map.niwap.org/>

NIWAP National Judicial Network and NIWAP, American University Washington College of Law

60

Maps by Benefit

- Cash Assistance (TANF)
- Child Care
- Children's Health Insurance Program
- Driver's License
- Earned Income Tax Credit
- Emergency Housing & Safety Programs
- Emergency Medicaid
- Federal Education Benefits
- FEMA Assistance
- FEMA Restricted Programs
- Food Stamps
- Forensic Costs Coverage
- Income Tax Credits
- Legal Services
- Medicaid
- Post-Assault Healthcare
- Prenatal Care
- Purchasing Health Insurance on the Exchanges
- State Education Benefits
- Supplemental Security Income
- Weatherization & Energy Assistance
- WIC
- Unemployment (coming soon)

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

61

Court Findings That Help With Access to Benefits Access

- Existence of human trafficking (sex/labor)
 - Including perpetrated by spouses, intimate partners, parents, step-parents and other family members
 - Appoint - to notify OTIP of suspected child trafficking
- Issue SIJS judicial determinations and U/T certifications
Victimization: domestic violence, child abuse, sexual assault, human trafficking
- Connecting victims with attorneys/advocates
- Other helpful findings
 - Marriage, divorce, parent-child relationships including step-parent/step-child

NIWAP

National Judicial Network and NIWAP, American
University Washington College of Law

62

New Tools For Courts

- Sample letters from state courts that to ICE enforcement officials
 - That promote ICE compliance federal statutes and ICE policies
 - That deter courthouse enforcement against victims and in non-criminal cases
- Sample letters that law enforcement, prosecutors, victim advocates and attorneys can provide to victims



NIWAP

NIWAP American University Washington College of Law

63

Resources

- Resources on Civil Immigration Enforcement At Courthouses (March 31, 2025)
<https://niwaplibrary.wcl.american.edu/pubs/courthouse-enforcement-resources/>
- ICE Courthouse Enforcement Guidance 11072.3 Jan.2025, VAWA Confidentiality Statutes, and DHS Implementation Policies
<https://niwaplibrary.wcl.american.edu/pubs/attachments-a-d-ice-courthouse-handout/>
- ICE Field Offices:
<https://www.ice.gov/contact/field-offices>

NIWAP

National Immigrant Women's Advocacy Project
 American University Washington College of Law

64

Technical Assistance and Materials

- Power Point presentations and materials for this conference at
<http://niwaplibrary.wcl.american.edu/WIJudges2025>
 - **NIWAP Technical Assistance**
 - Call (202) 274-4457
 - E-mail info@niwap.org
- Web Library:
<https://niwaplibrary.wcl.american.edu/>
- National Judicial Network: Forum on Human Trafficking and Immigration in State Courts
 - <https://niwaplibrary.wcl.american.edu/national-judicial-network/>

The logo for NIWAP, featuring the letters "NIWAP" in a bold, white, serif font against a dark red background.

National Judicial Network and NIWAP, American
University Washington College of Law

65