

Serving Immigrant Survivors of Sexual Violence

In order to achieve our mission of eliminating sexual violence and providing high quality services and access to justice for survivors, it is critical that we engage with and ensure our services are accessible to all segments of society, including Pennsylvania's growing immigrant communities.

Pennsylvania is home to a large and diverse immigrant population of more than 800,000 foreign born residents¹ from all corners of the globe, with the largest number emigrating from Asia (39%), followed by Latin America (30%), Europe (21.5%), and Africa (7%) (*U.S. Census Bureau, 2015b*).

Immigration status plays a large role in how immigrants experience life in the United States.

Foreign-born residents are far from a homogenous group with different cultural backgrounds, language capacities, socio-economic statuses, levels of education, and immigration statuses. 2015 U.S. Census Data indicates that Pennsylvania's foreign-born population is divided evenly between U.S. citizens and non-citizens (legal permanent residents,

temporary visa holders, and undocumented residents)², however the undocumented population is likely undercounted. In 2014, undocumented or unauthorized immigrants accounted for 22% of the immigrant population in Pennsylvania with an estimated 180,000 total (*Pew Research Center, 2016*).

Immigration status plays a large role in how immigrants experience life in the United States and may impact how survivors experience sexual violence and respond to it. While each survivor's experience is unique and should be treated as such, the guide below is designed to highlight some common barriers experienced by immigrant survivors and forms of victimization that may be more prevalent within immigrant communities. Lastly, the "Practice Points for Serving Immigrant Survivors" offers tips for ensuring culturally and linguistically accessible and appropriate services.

Sexual Violence

While immigrant survivors experience intimate partner sexual violence, acquaintance and stranger assault, incest, and child sexual abuse at rates similar to U.S. born survivors, there are a number of sexual violence scenarios that immigrant women and girls may be more likely to experience than their U.S.

born counterparts. Familiarity with the circumstances and forms of sexual violence outlined below may help advocates to better understand a survivor's experience and provide more effective services and support.

Sexual Violence in the Home Country

Immigrants in the United States may have a history of sexual violence from their home country that continues to impact them here. Each year tens of thousands of people, primarily women and girls, are raped or sexually assaulted in conflict zones. Despite being a war crime according to international law, many armies and military groups continue to use rape as a tactic of war without consequence. Gangs and cartel groups employ similar tactics to terrorize local communities with impunity. There are many places throughout the world in which protection from law enforcement and support services for survivors are woefully inadequate or simply do not exist.

Sexual Violence During Migration

Although many migrants come to the United States fleeing regions plagued with sexual violence, the journey to the United States can be perilous and many female migrants experience rape and sexual assault along the way. Although exact numbers are difficult to ascertain, some researchers have found that as many as 80% of women and girls entering the U.S. by way of the US-Mexico border are raped on the journey (*Bonello, 2014*). Migrant women and girls are vulnerable to attack by fellow migrants, gang and cartel members, smugglers, and local immigration and law enforcement authorities. Perpetrators are very rarely held accountable. Rape and sexual assault perpetrated against migrants has become so commonplace that many women and girls take contraceptives before beginning the journey to avoid pregnancy.

Workplace Sexual Violence and Harassment

Many low-wage immigrant workers, especially undocumented workers, are vulnerable to workplace exploitation. Owners, supervisors, and co-workers may pressure the worker into unwanted sexual encounters by means of threats to have

As many as 80% of women and girls entering the U.S. by way of the U.S.-Mexico border are raped on the journey.

an undocumented worker fired or reported to immigration authorities. Certain industries, such as agriculture, can be particularly dangerous for female immigrant workers due to the severe imbalance of power between workers and management, remoteness of work sites, and reliance on supervisor and male co-workers for transportation, among other things.

Shared Housing Situations

Though certainly not always the case, many immigrant families choose to live with extended family or with co-workers and other community members out of economic necessity and to maximize the money they can send to family in their home country. Shared housing situations can make immigrants and their children more vulnerable to sexual abuse when perpetrators live in close proximity and may have more access to potential victims.

Sexual Violence in Detention

Immigrant men, women, and children detained while in deportation proceedings can also be vulnerable to sexual violence. A California-based non-profit, Community Initiatives for Visiting Immigrants in Confinement (CIVIC), found that the Department of Homeland Security Office of the Inspector General received over 33,000 complaints of sexual and physical abuse by its agencies from 2010 until 2016. The organization also found that less than one percent of the complaints were investigated (*Civic, n.d.*). Immigrants are held at a number of state and county facilities throughout Pennsylvania, including the Berks Family Residential Center, one of the nation's three family detention centers housing men, women, and children.

Female Genital Mutilation (FGM)

FGM is a ritual practiced primarily in Africa, the Middle East, and parts of Asia that involves the cutting or removal of part or all of the female genitalia. An estimated 200 million women and girls alive today have been subjected to FGM and millions more are at risk. This includes women and girls in the United States where FGM is sometimes practiced within immigrant and refugee communities (UNICEF, 2016).

Human Trafficking

Human trafficking is a form of modern day slavery with more than 20 million victims worldwide. Traffickers use force, fraud, and/or coercion to compel victims to perform labor or engage in commercial sexual exploitation (Polaris, 2017).

Barriers Faced by Immigrant Survivors

In addition to considering forms of sexual violence that may be unique to or particularly prevalent among immigrant survivors, it is important to note the potential concerns and challenges that may impact immigrant survivors' willingness to seek help and report sexual violence. Being cognizant of these potential barriers will better equip advocates to help survivors address and overcome them when possible. In addition to the barriers U.S.-born survivors face, immigrants may also experience additional obstacles.

Language

More than 10% of Pennsylvanians speak a language other than English in the home (U.S. Census Bureau, 2015a), however, immigrant survivors are often not offered qualified interpreters and written materials in their first language

Fear of Detention & Deportation

Many survivors without legal immigration status are hesitant to become involved with the police, courts, and even service providers for fear they will be asked about their immigration status and end up in detention and removal proceedings.

Desire to Protect One's Community

Some immigrant survivors may feel pressure not to disclose sexual violence in order to avoid bringing negative attention on their community. They may also worry that disclosure would result in isolation from their support network—particularly in small, tightknit immigrant communities.

Lack of Information About U.S. Laws and Systems

Due to potential lack of familiarity with U.S. laws, which may differ significantly from laws in their home country, some immigrant survivors may not be aware that certain forms of sexual violence, like marital and statutory rape are in fact criminal offenses in the United States.

Distrust in Law Enforcement

Survivors may distrust law enforcement, for reasons including: law enforcement in their home country failing to hold perpetrators accountable, general negative perceptions of police in the U.S., and perceived or actual collaboration between local law enforcement and federal immigration authorities

Fear of Immigration Consequences for Perpetrator & Others

In addition to fearing that seeking help or making a report could lead to immigration enforcement actions against themselves, survivors may be hesitant to bring attention to other undocumented family members or to the perpetrator. Survivors may rely on the perpetrator for financial support or fear that the perpetrator, if deported, would harm family in the home country in retaliation for the survivor's cooperation with law enforcement here.

Economic Repercussions

Finding employment can be difficult for unauthorized workers, making it more daunting to speak out against sexual violence in the workplace. Survivors of sexual assaults that occur outside of the workplace may not be able to take time off in order to access services or participate in criminal or civil proceedings. Additionally, many immigrant survivors do not qualify for public benefits that could help ease this burden.

Practice Points for Serving Immigrant Survivors

There are a number of steps individual advocates and program directors can take to reduce or eliminate the barriers above. Word travels fast within communities and one survivor's experience with a program, positive or negative, can impact the likelihood that others will reach out for services and develop trust in the agency.

① Use qualified interpreters

Always make an effort to arrange for a trained, competent in-person interpreter or ensure that services are provided in the survivor's first language by a bilingual advocate. If that is not possible, utilize a professional telephonic interpretation service. Do not rely on the survivor's friends, family members, or children. Interpretation involves more than the ability to speak and understand two languages and the average person is not equipped to do it well without training. Also consider the potential confidentiality ramifications for using community volunteers or informal interpreters supplied by the survivor.

② Make "warm" referrals

When you make a referral, be aware of that agency's language capacity and any immigration status eligibility requirements. Consider taking a few extra minutes to contact referral agencies with your client to ensure that the client is able to make use of your referral.

③ Thoroughly explain your role and your confidentiality and mandated reporting requirements

Building trust is essential. Immigrants coming from countries without victim services may be confused about your role. Be clear and upfront about what your role in the process is as well as your confidentiality and mandated reporting policies to avoid any confusion.

④ Practice cultural humility

While learning about cultures different from your own is a worthwhile endeavor, we can never be "competent" in any particular culture. Keep in mind that each person experiences their culture differently and we should avoid making assumptions or sweeping generalizations. Be aware of your own values and biases. Be respectful and rely on the survivor to be the expert.

⑤ Screen for immigration concerns and refer to competent immigration legal services providers

Be clear that survivors are eligible for your services regardless of their immigration status, but you are inquiring because they or others they know may be eligible for relief. Refer to non-profit immigration legal providers that specialize in working with survivors or to experienced pro bono immigration attorneys who are familiar with relief commonly available to survivors. Consider arranging for an in-person or web-based training for program staff on the legal protections available to survivors.



Be clear that survivors are eligible for your services regardless of their immigration status.



Immigration Enforcement Today and What it Means for Survivors

In recent months, the administration has signed a number of executive orders that have resulted in increased immigration enforcement and increased fear among non-citizens, including many survivors of sexual violence. More aggressive tactics on the part of Immigration and Customs Enforcement (ICE) and proposed increased cooperation between local law enforcement and federal immigration authorities has left survivors fearful of engaging in everyday tasks like going to work and taking children to school, and has made reporting victimization and seeking help even more frightening. Some jurisdictions have reported a more than 40% decrease in reports of rape by Latin@ residents since this year when compared to the same period last year (*National Alliance to End Sexual Violence, 2017*).

It is more important than ever that advocates are equipped to provide the information and support that immigrant survivors need in order to seek safety, justice, and autonomy. The sections below are designed to provide advocates with an overview of some of the most pressing issues faced by immigrant survivors and the legal protections that survivors may qualify for. This information is subject to change. Please consult with an immigration legal service provider for updates.

Constitutional Rights of Immigrants

Everyone in the United States, regardless of immigration status, enjoys the same fundamental civil liberties provided for in the constitution. This means that undocumented immigrants also have the right to equal protection of the law, due process, and access to the criminal justice system. The resources below are designed to give immigrants an overview of their rights in various scenarios including if ICE comes to their home, approaches them on the street or while driving, or while at their place of employment.

[Know Your Rights \(English\)](#)

<https://www.immigrantdefenseproject.org/wp-content/uploads/2016/12/IDP-ICE-Raids-Flyer-ENG-Jan-27-2017.pdf>

[Know Your Rights \(Spanish\)](#)

<https://www.immigrantdefenseproject.org/wp-content/uploads/2016/11/ICE-Redadas-Flyer-ESP-Jan-30-2017.pdf>

Family Preparedness

Perhaps the most pressing concern survivors bring to service providers are questions about what will happen to their children if they are detained or deported from the United States. While the best practices for developing family safety plans in Pennsylvania continue to evolve, the resource below is a helpful place to start.

[Family Preparedness Plan \(English\)](#)

https://www.ilrc.org/sites/default/files/resources/family_preparedness_plan_v3-20170323.pdf

[Family Preparedness Plan \(Spanish\)](#)

https://www.ilrc.org/sites/default/files/resources/plan_de_preparacion_familiar.v3.pdf

Screening for Immigration Relief

Despite recent changes to immigration enforcement priorities, protections and paths to legal immigration status are still in place and remain available to survivors.

One of the most important things advocates can do to assist immigrant survivors of sexual violence is make them aware of the laws in place to help survivors obtain legal immigration status and connect them to qualified legal service providers.

The following material is intended for general information purposes only and does not constitute legal advice. Survivors should consult with an experienced immigration legal service provider before taking any action.

U Non-Immigrant Status (“The U Visa”)

- Available to victims of rape, sexual assault, stalking, domestic violence, felonious assault, and other serious crimes that occurred in the United States.
- Victim must have cooperated, be cooperating, or be likely to cooperate in the investigation and/or prosecution of the crime. A certification form signed by the police, prosecutor, child protective service agency, judge, or other appropriate official verifying the victim’s cooperation must be submitted. Cooperation can range from making a single police report to testifying at trial. It is not necessary that charges be filed or that the perpetrator be convicted.
- Parents of U.S. citizen and immigrant children may qualify as indirect victims.
- If approved, applicants receive four years of temporary legal status, work authorization, and will have the opportunity to apply for permanent residency. Applicants may also be able to petition for non-offending spouses, children (living in the U.S. and abroad), and siblings in some cases.

T Non-Immigrant Status (“The T Visa”)

- Available to victims of a severe form of trafficking in persons (includes both sex and labor trafficking).
- Victims must be physically present in the United States on account of the trafficking.
- Victim must cooperate with authorities in the investigation and/or prosecution and submit a signed certification form or demonstrate that

a certification form was requested. Victims under the age of 18 may be exempt from the cooperation requirement.

- Victims must demonstrate that they would endure extreme hardship involving unusual and severe harm if removed from the United States.
- If approved, applicants receive four years of temporary legal status, work authorization, and have the opportunity to apply for permanent residency. Applicants can petition for family members and may be eligible for certain public benefits after being granted T Non-Immigrant Status.

VAWA Self-Petition

- Available to victims of abusive Citizen or Legal Permanent Resident spouses, parents, or adult children.
- Victims must demonstrate (1) a valid qualifying family relationship to abuser (if spousal, they must show that they married in good faith) and (2) that they (or a child they share in common with the abuser) have been the victim of battery or extreme cruelty by the abusive spouse or parent.
- Victims must also demonstrate that they have good moral character.
- If approved, applicants receive deferred action (protection from removal), work authorization, and can apply for permanent residency without relying on their abusive family member.

Special Immigrant Juvenile (SIJ)

- Available to children (unmarried and under age 21) who cannot be reunited with one or both parents due to abuse, abandonment, or neglect.
- Victims must have an order issued by a state court declaring them a dependent of the court or legally placing the victim with a state agency, a private agency, or a private person.
- If approved, applicants will be granted legal permanent residency.

Deferred Action for Childhood Arrivals (DACA)

- DACA was an immigration option created by executive order in 2012 that allowed some individuals who entered the country without inspection as minors to receive a renewable two-year work authorization card and protection from deportation.

On September 5, 2017, President Trump directed the U.S. Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS) to phase out and eventually end DACA. Individuals with a current, unexpired grant of DACA will continue to hold DACA until it expires. This means that current DACA recipients maintain their protection from deportation and work permit until their current expiration date.

- USCIS will continue to process all pending initial and renewal applications accepted as of September 5, 2017. Initial applications received after September 5, 2017 will be rejected.
- USCIS continued to accept and process renewal applications until October 5, 2017 from applicants whose DACA expires between September 5, 2017 and March 5, 2018. DACA recipients whose DACA has already expired are no longer eligible to renew.

Asylum

- Available to those who fear persecution in their home country due to their race, religion, nationality, political opinion, or membership in a particular social group.

- Applicants can petition for certain family members.
- If granted, applicants will be eligible for legal permanent residency.

Where to Refer

To find an immigration legal service provider in your area, visit the [Immigrant Advocate Network's Legal Directory](#), [The American Immigration Lawyers Association Attorney Locator](#), or contact your local bar association.

Additional Resources

[Right to Interpreter Language Identification Poster](#)
[ICE Sensitive Locations Memo](#)
[Prosecutorial Discretion for Victims Memo](#)
[Immigration Protections for Survivors Infographic](#)

About the Author

Sarah Martin-Torres, MSW, is a Department of Justice Accredited Representative and Project Coordinator for the Immigrant Survivors Project, a project of the Pennsylvania Immigration Resource Center. The Immigrant Survivors Project provides training, technical assistance, and free immigration legal services to survivors of domestic violence, sexual assault, and human trafficking.

Located in York, Pennsylvania, the Pennsylvania Immigration Resource Center (PIRC) is a nonprofit organization founded in 1996 by the legal and community advocates of the Golden Venture refugees. PIRC serves its mission of equal access to justice by providing legal services to vulnerable immigrants in detention and in the community.

References

- Bonello, D., (2014, September 11). Fusion: Is rape the price to pay for migrant women chasing the American dream? [Video file]. Retrieved from <https://vimeo.com/106402440>.
- Civic. (n.d.). Sexual assault in immigration detention. Retrieved from <http://www.endisolation.org/sexual-assault>
- National Alliance to End Sexual Violence. (2017, May). Congress must protect immigrant survivors of sexual assault. Retrieved from <http://endsexualviolence.org/files/ImmigrantSurvivorsFinal.pdf>
- Pew Research Center. (2016). U.S. unauthorized immigration population estimates: Estimated unauthorized immigrant population, by state, 2014. Retrieved from <http://www.pewhispanic.org/interactives/unauthorized-immigrants/>
- Polaris. (2017). Human trafficking. Retrieved from <https://polarisproject.org/human-trafficking>
- UNICEF. (2016). Female genital mutilation/cutting: A global concern [Brochure]. Retrieved from https://www.unicef.org/media/files/FGMC_2016_brochure_final_UNICEF_SPREAD.pdf
- U.S. Census Bureau. (2015a). Language spoken at home: 2011-2015 American Community Survey 5-year estimates. Retrieved from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_5YR_S1601&prodType=table
- U.S. Census Bureau. (2015b). Place of birth by nativity and citizenship status – universe: total population: 2011-2015 American Community Survey selected population tables. Retrieved from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_SPT_B05002&prodType=table
- U.S. Census Bureau. (2015c). Selected characteristics of the native and foreign-born populations: 2011-2015 American Community Survey 5-year estimates. Retrieved from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_5YR_S0501&prodType=table



Pennsylvania Coalition Against Rape

2101 N Front St, Governor's Plaza North, Bldg #2, Harrisburg, PA 17110

Toll-free: 800-692-7445 • **Phone:** 717-728-9740 • **Fax:** 717-728-9781

www.pcar.org Help • Hope • Healing

This publication was printed under Grant no. 2015-SW-AX-0025 awarded by the Office of Violence Against Women, U.S. Department of Justice. The points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

© Pennsylvania Coalition Against Rape 2017. All rights reserved.