

Wrongful Arrests and Convictions of Immigrant Victims of Domestic Violence

Stories from the Field

We asked a number of shelters and organizations that work with survivors of domestic and sexual violence to answer a survey. Among the questions, we asked whether service providers had encountered immigrant survivors who had been apprehended by the police and charged with a crime related to the abuse those victims of domestic and sexual violence suffered. We heard stories from all over the United States. Below, we provide a few of those responses and offer context where appropriate.

Issue: Lack of Language Access

Immigrant survivors who do not speak English often face a number of barriers to obtaining justice. While language access in life-saving situations is mandated by federal law, lack of proper interpretation is commonplace. As a result, many victims are convicted of domestic violence offenses.

“Due to lack of language access, survivors we have helped have sometimes been charged as DV perps [perpetrators] when they aren’t.”

“Yes. Many survivors are arrested in dual arrest situations because proper interpreters are not used and the perpetrator is used to interpret.”

Issue: Arrest of Victims to Further Abuse

Note: There are cases in which perpetrators hurt themselves to implicate victims. When victims are charged and convicted of crimes the repercussions can be truly devastating and extend into a number of areas, including the ability to get child support and custody of the children.

“I have a client whose husband accused her of trying to poison him after she has been enduring years of physical and emotional abuse by her husband. Her abuser always told her that she had no rights in this country and couldn’t call the police because she was undocumented. She was terrified when she got arrested and ended up pleading guilty even though she was the one who was abused.”

“My participant was set-up by her abusive ex-boyfriend. He hit himself in the head with his work tools and called the police claiming that my participant hit him. My participant was arrested and is being charged with a felony. Her abusive ex-boyfriend is now trying to use the charges against my participant to gain custody of their joint child in order to avoid paying child support and have more means of obtaining legal status through the child.”

“This is a common situation in this jurisdiction. Clients are routinely arrested on false allegations made by abusers to exercise power and control against them.”

“We regularly see clients who have been arrested on false allegations or in dual arrest scenarios and have convictions for the same.”

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Issue: Self Defense Misunderstood - Arrests When Victims Defend Themselves

We have seen and heard of cases in which victims of domestic and sexual violence have attempted to defend themselves and the perpetrator has the physical injuries of the struggle. In these instances the victim is often charged, prosecuted, and/or convicted of a domestic violence crime.

“While being strangled, a survivor scratched her abuser’s face. Abuser called the police, and because she did not have physical signs of violence, and abuser did, she was arrested.”

How DACA and DAPA Provide Relief

A number of reasons related to immigration status exist for victims to remain in abusive relationships. In the responses to the survey, service providers explained that for many victims, DACA and DAPA provide relief, including physical safety, a more secured and stable financial status, personal advancement through education, and the possibility of keeping their children.

“DACA or DAPA would enable my participants more opportunities to become financially independent from their abusive partners.”

“Oftentimes, a survivor does not qualify for a VAWA self-petition. Additionally, certain law enforcement will not sign certifications for a U visa if there has not been a conviction. So even if a victim has been helpful to law enforcement, they cannot obtain a U visa. Therefore, there have been no other viable immigration options. DAPA would allow survivors to not be separated from their children, to potentially get off of state-assisted funding, and to work legally without fear.”

“[DACA and DAPA] would give them a sense of relief and hope. Hope for a new future, hope for an education, hope for a better life, and relief from constantly looking over their back, and relief that their family won’t be separated.”

“So many of the Latina women I work with on a daily basis are mothers of U.S. citizens who would be greatly positively impacted by having another path to legal status in the U.S. One of the things I most value and admire about so many of my participants is their inspiring commitment to their children - time and again I hear that being a good parent is a motivating and sustaining force in the face of violence, economic instability and emotional pain. DAPA seems like a good first step in honoring those powerful intergenerational ties; appreciating the hard work and deep conviction of undocumented parents; and moving towards justice, peace and the opportunity to thrive for them and their children. Legal status has the potential to open so many doors in terms of economic self-sufficiency, stable housing, mobility and the ability to act on one’s own agency (to name a few) - as such, it can have transformative power in people’s lives, especially those who are currently marginalized under our existing immigration system.”

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"DAPA/ DACA eligibility is critical in order for survivors to create stability and safety for themselves and their children. They are often extremely frightened and disempowered after being abused and DAPA/ DACA relief gives them a sense of empowerment and security."

"Deferred action would provide my clients with peace of mind to live alongside their parents/ childhood arrivals without fear of deportation. Deferred action would also provide parents/ childhood arrivals with employment authorization, enabling domestic violence survivors to gain financial independence from their abusers and the means to leave."

"Work authorization and the removal of the fear of imminent deportation that DACA gives my many survivor clients gives them the freedom to seek safer relationships some immigrants survivors were too afraid to call the police and report violent incidents of domestic violence, so they do not qualify for VAWA, but will qualify for DAPA, and with it, be able to have a good paying job, be financially independent, and get their US children off public assistance."

"It would reduce fear of deportation and accessing services and police. Would allow them to work and increase income and have better options for work. they would avoid exploitation in the work place and be able to find better hours in order to be more present with kids or study."

"It would help to protect them from the vulnerability of being undocumented and/or deported and encourage them to get help."

Contact

Andrea Cárcamo-Cavazos

Assistant Director for Public Policy

Casa de Esperanza: National Latin@ Network

703.942.5582

acarcamo@casadeesperanza.org