



Family Justice Center Alliance Webinar

Building Collaborations to Help Immigrant Survivors of Domestic Violence & Sexual Assault

Presented by Gail Pendleton, JD

February 19, 2013

Congress created the U visa to help both noncitizen victims of crime and law enforcement working with this vulnerable community. Domestic violence, sexual assault and other crime victim advocates, mental health professionals and lawyers all have a role in making the U visa work. In this webinar, Gail Pendleton of ASISTA Immigration Assistance will describe how the U visa works and the role that FJC staff can play in ensuring it's a useful tool for law enforcement and a safe route to status for noncitizens. ASISTA provides technical assistance and training for Office on Violence Against Women grantees, serves as the primary liaison with the Department of Homeland Security on U visas and helped work with Congress to create the U visa in 2000.

Continuing Education

This session is approved for 1 California Minimum Continuing Education (CEU) credit and 1 Minimum Continuing Legal Education (MCLE) credit. The Family Justice Center Alliance is a California approved provider of CEU for MFT, LCSW, LEP, LPCC (Provider # PCE 5095) and MCLE for attorneys (Provider #15493). Professionals in states outside of California should check with their own state board to determine whether these credits are approved in their jurisdiction. Information on how to obtain credit will be provided during the webinar and within the course materials.

Welcome!

While waiting for the presentation to begin, please read the following reminders:

- The presentation will begin promptly at 10:00 a.m. Pacific Time
- If you are experiencing technical difficulties, email Natalia@nfjca.org
- To LISTEN to the presentation on your phone, dial **+1 (702) 489-0003** Access Code: **564-860-319** or **listen on your computer speakers**
- Attendees will be muted throughout the presentation
- To send questions to the presenter during presentation:
 - Click on “Questions” in the toolbar (top right corner)
 - Type your comments & send to presenter
- There will be a Q & A session at the end of the presentation.
- The presentation will be recorded & posted on www.familyjusticecenter.org
- Please complete the evaluation at the end of the presentation. We value your input.



Your host today:



Gael Strack, J.D.
CEO

Family Justice Center Alliance





Thank You to Our Sponsor

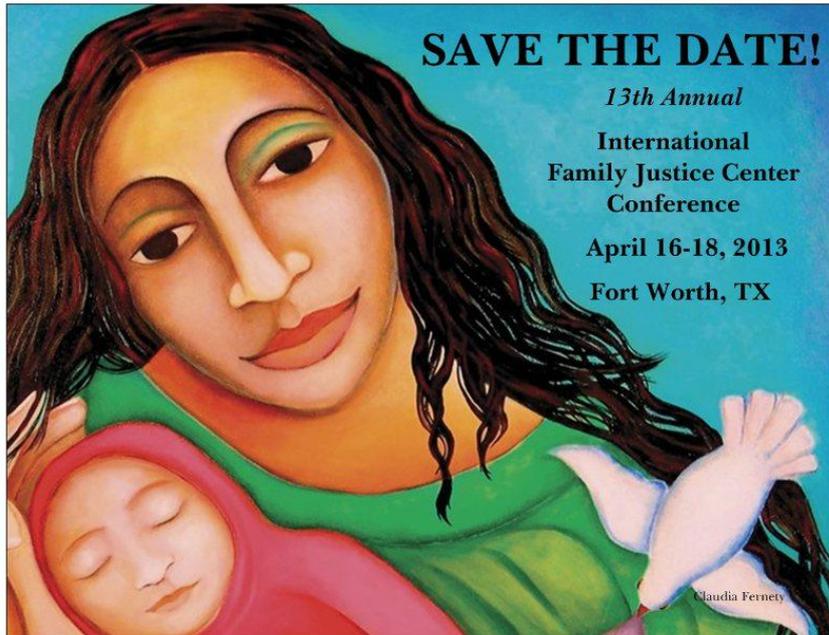
Thank you to the US Department of Justice,
Office on Violence Against Women
for making this training possible!

This project is supported all or in part by Grant No. 2007-TA-AX-K032 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.



2013 International Family Justice Center Conference

April 16-18, 2013 in Fort Worth, TX



www.familyjusticecenter.org

The three-day conference will include discussions on issues related to the handling of domestic violence, child abuse, sexual assault, and elder abuse cases in the context of the Family Justice Center model.

The conference faculty includes nationally and internationally recognized subject matter experts, advocates, and survivors. During the conference participants will have the opportunity to meet with survivors and professionals who currently work in Family Justice Centers in the United States and internationally.

Early Bird ends March 1st!!!



The FJC Alliance Team



Casey Gwinn, JD



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Jennifer Anderson



Lori Gillam, CPA



Melissa Mack



Pam O'Leary,
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Jena Valles



Rachel Whiteside

Webinar Download Reminders

This webinar presentation is being recorded and will be posted on our website by close of business. We would like to remind you that you no longer need Membership in order to download webinar files and other materials from our Resource Library.

If you would like to access our new Resource Library, please visit our website at www.FamilyJusticeCenter.org and click on “**Resources**” tab → “**Resource Library**”.



California Continuing Education

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Professionals in states outside of California should check with their own state board/bar to determine whether these credits are approved in their jurisdiction.

- A checklist detailing how to obtain the credit will be included in the course materials and available for download.
- The checklist will also be emailed after the webinar training.

Today's Presenter:



Gail Pendleton, JD
Co-Director
ASISTA Immigration Assistance



Building Collaborations to Help Immigrant Survivors of Domestic Violence, Sexual Assault & Trafficking

Gail Pendleton, ASISTA



Building Collaborations to Help Immigrant Survivors of Domestic Violence & Sexual Assault

Goals

- Identify who you can help
- Identify what you can do
- Identify who you will work with
(or need to work with)



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A Few Immigration Concepts

- Immigrants & non-immigrants
- Immigrating family members
- “Non-citizens”
- Who is Undocumented?



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History of Special Routes

- Conditional Residence Waiver
 - If already got “green card” but has “conditions”
- Self-petitioning
 - Spouse/parent = US citizen or lawful permanent resident
- U & T Visas
- Work authorization for nonimmigrant spouses
 - USCIS issued proposed guidance



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U Visa Purpose

- Strengthen investigation and prosecution
- Protect victims of crimes



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U Visa Crimes

- Rape
 - Torture
 - Trafficking
 - Incest
 - Domestic violence
 - Sexual assault
 - Abusive sexual contact
 - Prostitution
 - Sexual exploitation
 - Female genital mutilation
 - Being held hostage
 - Peonage
 - Involuntary servitude
 - Slave trade
 - Kidnapping
 - Abduction
 - Unlawful criminal restraint
 - False imprisonment
 - Blackmail
 - Extortion
 - Manslaughter
 - Murder
 - Felonious assault
 - Witness tampering
 - Obstruction of justice
 - Perjury
- (Or attempt, conspiracy, or solicitation, to commit any of the above mentioned crimes)



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Overview of Eligibility

- Helpfulness, victim of crime and information possession = certification + other support
- Substantial abuse/harm from crime
 - Victim advocate or similar “expert”
- Admissible or in national/public interest
 - Everything but being a Nazi, genocide perp, extra-judicial killer

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What US Get

- Work authorization
- Four years of visa
- Can apply for green card after 3 years

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Who Can Certify?

- Police officers
- Prosecutor
- Judge
- DHS officers
- State or federal agency employees



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Certification Does Not Mean

- Issuing a U-Visa
 - USCIS does this
- NOT determining “substantial abuse”
 - USCIS does this
- **This is only one small part of a larger application.**



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What Certification Says: One of Three

- Whether a person has been a victim of qualifying criminal activity
 - Victims can be direct (proximately harmed by the activity)
 - Victims can be “indirect” (e.g. can be spouse, children under 21)



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What Certification Says: Two of Three

- Whether the victim possesses information about the qualifying criminal activity
- Knowledge of facts or details concerning the criminal activity that would assist in the investigation or prosecution of that activity



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What Certification Says: Three of Three

- Whether the victim has been, is being or is likely to be helpful to the investigation and/or prosecution of the qualifying criminal activity



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What is Helpfulness?

- Cooperation can be defined many ways.
 - A phone call?
 - Providing pictures?
 - Enough to write a report?
 - Enough to make a case?
- Case does not need to be filed, charged or prosecuted



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Certification Practice Pointers

- If not enumerated crime, LEO must explain on form or attachment why cited crime fits an enumerated category based on the facts
- If LEO investigated many crimes, should cite qualifying crime and explain why charged something else
- Parents of abuse children = “indirect” victims

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The Regs Say...

- Must be head of certifying agency, or supervisory person, or specially designated by head of certifying agency (call them the “U supervisor”)
- Other agencies that many certify:
 - Child Protective Services
 - Equal Employment Opportunity Commission
 - Department of Labor

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More Training/Advocacy/Tools

- CIS does training for LEOs (local and webinar)
- Also willing to answer LEO questions by email or phone (but will not discuss individual cases)
- Tools for LEOs by DHS
- <http://www.dhs.gov/files/resources/u-visa-law-enforcement-guide.shtm>
- <http://www.uscis.gov/humantrafficking>

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Advocate & Attorney Roles

- “Substantial physical or mental abuse” from criminal activity
- Applicant’s statement
- Form for applicant (Form I-918)
- Identifying “inadmissibility”
- Waiver for inadmissibility
- Help with family members = “derivatives”
 - Including those abroad
 - Form for family members – Form I-918A

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Substantial Abuse

- Impairment of emotional or psychological soundness
- Substantial factors include:
 - The nature of the injury;
 - Severity of perpetrator's conduct;
 - Severity of harm suffered;
 - Duration of infliction of harm;
 - Permanent or serious harm to appearance;
 - Health, physical or mental soundness.
 - Aggravation of a victim's pre-existing conditions

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Identifying Inadmissibility & Requesting Waiver

- Many grounds, including several related to undocumented presence and immigration violations
- Waiver = “national or public interest” for almost everything (not Nazis)
- Important practice pointers on how to deal with inadmissibility, best done by attorney or advocate trained on this issue



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Including Family Members

- If victim applying = unmarried & under 21 (immigration def of “child”)
 - Parents, spouses, children, siblings under 18
- If victim applying = over 21
 - Spouses and children



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Hot Topics

- “Aged out” derivatives denied status or on hold
 - USCIS memorandum fixes some but many still waiting regulations
 - Special webinar and materials on what to do
 - Deferred Action for Childhood Arrivals (DACA)
- Processing people abroad
 - Often delays, big problem for kids
 - Working with DOS to fix



Building Collaborations to Help Immigrant Survivors of Domestic Violence & Sexual Assault

Your Questions?



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Resources

■ Gail Pendleton

■ Gailpendleton@comcast.net

■ Immigration TA

■ (ASISTA Project) www.asistahelp.org

■ www.asistahelp.org

■ questions@asistahelp.org



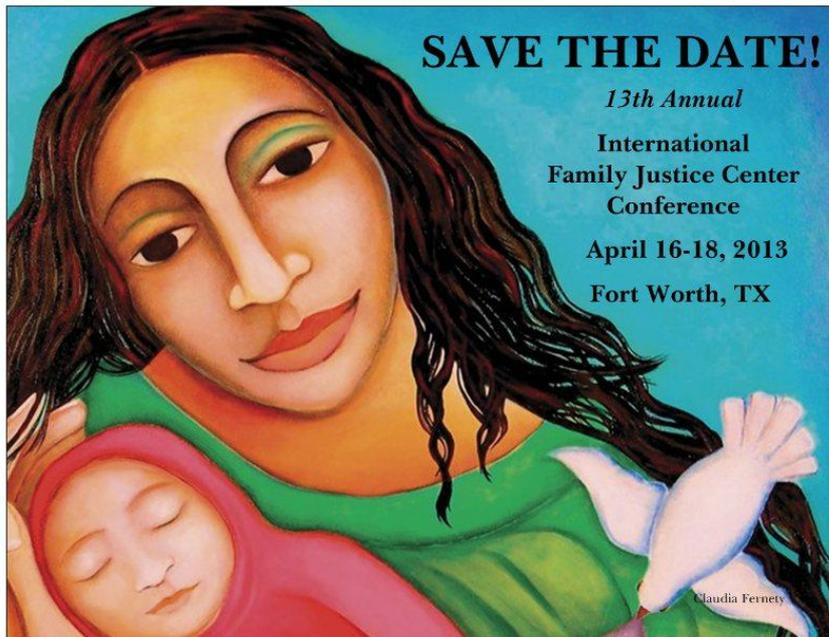
Questions?

Submit questions via the webinar toolbar



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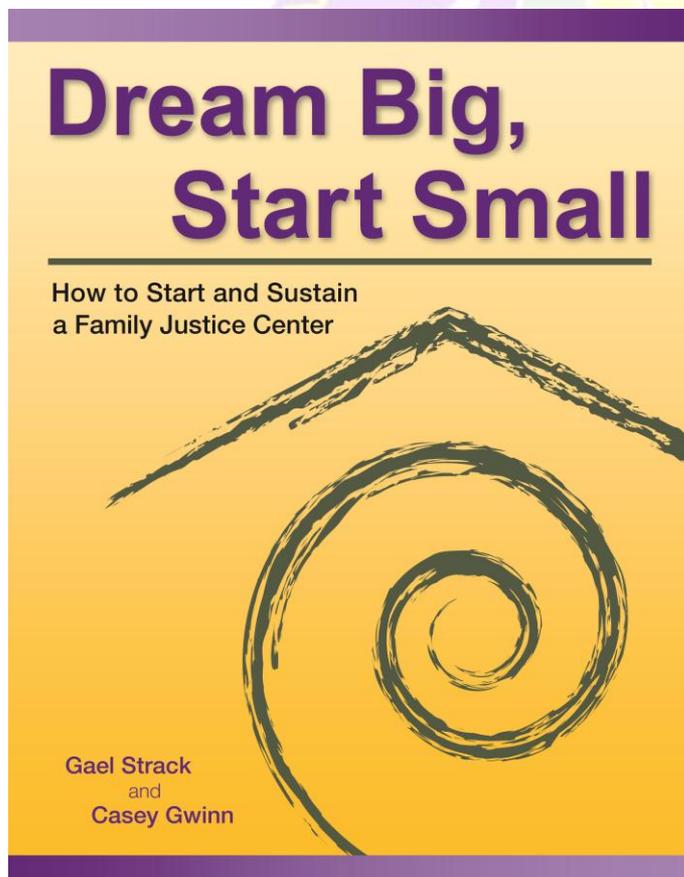
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Dream Big, Start Small: How to Start and Sustain a Family Justice Center



In *Dream Big, Start Small* the visionaries behind the Family Justice Center movement use the outcomes and lessons learned from a decade of starting Centers in the United States and around the world to show the road to a better way to help victims of violence and abuse- by bringing all the community services for family violence, elder abuse, stalking, and sexual assault under one roof. Any community can do it. *Dream Big, Start Small* will show you the way.

Go to the “Store” at www.familyjusticecenter.org to purchase *Dream Big, Start Small*



Thank You

Thank you for joining today's presentation

Family Justice Center Alliance

707 Broadway, Suite 700

San Diego, CA 92101

888-511-3522

www.familyjusticecenter.org

**Reminder: This presentation will be available for download on the Online Resource Library within one business day*





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Gail Pendleton is Co-Director of ASISTA, which provides national advocacy, training and technical assistance on rights and routes to status for immigrant survivors of domestic violence, sexual assault and related crimes and is funded by the federal Office on Violence Against Women. Formerly Associate Director of the National Immigration Project of the National Lawyers Guild, where she worked for twenty years, she received the American Immigration Lawyers Association's (AILA) Human Rights Award in 2001, received her J.D. in 1985 from NYU School of Law and her A.B. from Harvard/Radcliffe College in 1981.



National Family Justice Center Alliance
Webinar Training

**Building Collaborations to Help Immigrant Survivors of Domestic Violence
& Sexual Assault**

Presented by Gail Pendleton

February 19, 2013

Certificate of Attendance

1.5 Hours

Gael Strack, JD
Co-Founder and CEO
Family Justice Center Alliance

Natalia Aguirre
Director of Technical Assistance
Family Justice Center Alliance

Date of Issue: February 19, 2013

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