



Violations of the Human Right to Effective Protection Before the Law: Access to Justice for Immigrant Survivors of Gender-Based Violence in the U.S.

Joint Submission to the United Nations Universal Periodic Review of the United States of America

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I. Introduction

Across the United States, 11 states have implemented anti-immigrant laws in recent years that force local law enforcement officials to engage in immigration enforcement and prohibit so-called “sanctuary policies” by municipalities to protect immigrants.¹ These laws have a devastating effect at the community level, and have an especially harmful impact on immigrant survivors of domestic abuse, sexual assault, and human trafficking (collectively, “gender-based violence,” or “GBV”). This report will focus specifically on SB168, a Florida law that took effect on October 1, 2019.² SB168 requires every Florida county and municipality to expend maximum local resources to enforce federal immigration laws by cooperating with federal Immigration and Customs Enforcement (ICE) officials. The bill forces state and local law enforcement, and potentially other state actors, to arrest, detain, and transport individuals who are suspected of being illegal immigrants—actions over which the federal government has exclusive jurisdiction under the U.S. Constitution and the Immigration and Nationality Act.³ It comes into force in the midst of virulent anti-immigrant rhetoric from the Trump Administration,⁴ and will likely result in the deportation of unprecedented numbers of immigrants from our state.

SB 168 will harm immigrant GBV survivors in Florida in several ways. It will place immigrant survivors of domestic violence, sexual assault, and human trafficking in vulnerable positions that will place them at a greater risk of abuse, and it will undermine public safety. Immigrant survivors may not contact the police and other state agents out of fear that they or their loved ones will be turned over to ICE for immigration violations. Similarly, immigrant survivors may stay with their abusers out of fear of being reported to ICE themselves. Additionally, SB 168 could exacerbate survivors’ trauma by increasing their negative interactions with law enforcement and potentially exposing them to inhumane conditions in detention centers, including inadequate mental health treatment options and the all-too-common risk of sexual abuse by personnel. Lastly, the legislation will likely lead to family separation, which can be particularly traumatic for immigrant survivors and their children, who could be left with the abusive parent or in the foster care system.

SB168 violates international human rights law, to which the United States is bound. The Human Rights Council should request information from the United States about SB 168 and other anti-immigrant state laws in the course of the Universal Periodic Review. The Council should recommend that these laws be repealed and that the United States adopt laws and policies at the federal, state, and local levels that protect the human rights of immigrant survivors of gender-based violence.

II. International Human Rights Legal Framework

Gender-based violence (GBV) is one of the most prevalent human rights violations in the world. It has been defined by the international community as “violence that is directed against a woman because she is a woman or that affects women disproportionately.”⁵ GBV includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty but does not require actual violence.⁶ GBV is deeply rooted in gender

inequality and is “a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”⁷ International human rights bodies have increasingly examined the effects of GBV on marginalized groups of women, including immigrant women, and have repeatedly found GBV to be a violation of the rights to equality and non-discrimination, liberty and security of person, freedom from torture and inhuman or degrading treatment or punishment, and other human rights guarantees.

Under international law, governments have a clear obligation to prevent gender-based violence (including domestic violence, sexual assault, and human trafficking), as well as to protect, support, and ensure access to justice and services for all victims, regardless of their immigration status. This applies whether the perpetrator is a state or non-state actor, and whether an act is committed in an official or private capacity. SB 168 and other anti-immigrant state laws violate U.S. obligations under international human rights law to immigrant survivors of gender-based violence under the international human rights treaties to which it is a party: the International Covenant on Civil and Political Rights (ICCPR),⁸ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”),⁹ and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).¹⁰

Importantly, survivors of gender-based violence from vulnerable, underserved, or marginalized communities may experience discrimination that stems from multiple and intersecting forms of oppression.¹¹ Many of CEDAW’s General Recommendations acknowledge how certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of other discrimination.¹² CEDAW General Recommendation 33 states that “discrimination against women is compounded by intersecting factors,”¹³ such as ethnicity or race, indigenous or minority status, socioeconomic status, language, and religion, all of which may make it more difficult for women from those groups to access justice.¹⁴ General Recommendation 33 highlights how structural barriers and historical factors make it more difficult for a GBV survivor experiencing multiple and intersecting forms of discrimination to report and get relief for GBV crimes:

The Committee has documented many examples of the negative impact of intersecting forms of discrimination on access to justice, including ineffective remedies, for specific groups of women. Women belonging to such groups often do not report violations of their rights to the authorities for fear that they will be humiliated, stigmatized, arrested, deported, tortured or have other forms of violence inflicted upon them, including by law enforcement officials. The Committee has also noted that, when women from those groups lodge complaints, the authorities frequently fail to act with due diligence to investigate, prosecute and punish perpetrators and/or provide remedies.¹⁵

CEDAW General Recommendation 35 also addresses gender-based violence, and “it unequivocally calls for the repeal of all laws and policies that directly and indirectly excuse, condone and facilitate violence.”¹⁶ In response to this, General Recommendation 35 exhorts policymakers to recognize that “women [who] experience varying and intersecting forms of discrimination, which have an aggravating negative impact” require particular legal and policy responses.¹⁷ The frequent failures of authorities to act with due diligence to investigate, prosecute

and punish perpetrators can stem from a plethora of reasons, ranging from institutionalized discriminatory practices, to political and societal condonation of such discriminatory practices.

Anti-immigrant laws such as SB 168 violate the following international human rights provisions, in the case of immigrant survivors of gender-based violence:

- The right to life
 - ICCPR Article 6 (non-derogable)
- The right to equality and non-discrimination on any ground, including sex, race, color, language, national or social origin, political or other opinion, and other status
 - ICCPR Article 26
 - ICERD Article 5
- The right to liberty and security of person
 - ICCPR Article 9
 - ICERD Article 5(b)
- The right to freedom from torture and inhuman or degrading treatment
 - ICCPR Article 7 (non-derogable)
 - CAT General Comment 2¹⁸
- The rights of children to special protections
 - ICCPR Article 24
- The right to an effective remedy
 - ICCPR Article 2(3)
- The obligation of non-refoulement
 - CAT Article 3
- The right to the highest standard attainable of physical and mental health¹⁹
 - ICERD Article 5(e)(iv)
- The rights of persons deprived of liberty to be treated with humanity and respect
 - ICCPR Article 10(1)

III. SB 168 Harms Immigrants and Their Communities

As numerous experts, advocates and journalists have documented, human traffickers, perpetrators of sexual assault (including sexual abuse in the workplace), and domestic abusers prey on vulnerable immigrants, threatening to turn victims over to immigration officials and filing frivolous complaints that may result in serious consequences for victims.²⁰

As documented in a recent national survey, immigrant victims of domestic violence, sexual assault, and trafficking are increasingly afraid to contact police, pursue civil or criminal cases, or go to court for any reason.²¹ This traps victims in a Catch-22 situation: Ask for help and risk deportation, retaliation by an abuser, and separation from one's children; or stay with a violent partner and risk one's life.

SB 168 reinforces and legitimates these fears for victims of domestic abuse, sexual assault, and human trafficking in Florida. This law will place victims at greater risk and undermine public safety.

A. SB 168 endangers survivors of gender-based violence by chilling the reporting of abuse

Immigrant women and LGBTQ individuals face increased vulnerability to gender-based violence.²² They often face obstacles in seeking protection from abuse that other survivors do not, such as language barriers and lack of familiarity with social services and law-enforcement systems.²³ Immigrant survivors may already harbor fear of the police based on past experiences with abusive or hostile law enforcement in their countries of origin.²⁴ Furthermore, it is commonplace for an abuser to specifically use a survivor's immigration status as a tool for abuse, by threatening to report the survivor to immigration authorities if she calls the police, or threatening to withdraw an immigration benefits application.²⁵ Accordingly, as the United States Congress has recognized, many immigrant survivors of gender-based violence are reluctant to contact the police or local authorities to report abuse, because they fear that doing so will place them or a family member at risk of deportation.²⁶

By forcing local and state actors to enforce federal immigration policies, SB 168 amplifies this problem. Victims of domestic violence, sexual assault and trafficking will be reluctant to come forward to report crimes because they will face removal from the country and separation from their families. For some mothers, deportation can mean loss of custody of a U.S. citizen child—even to an abuser. Others may unknowingly be eligible for immigration relief but have been conditioned by their abusers to believe that they are not.

Studies show that when local law enforcement and federal immigration enforcement are commingled, immigrants are deterred from contacting local officials—be it in an emergency room or by dialing 911—out of fear that doing so will result in detention or deportation. For example, one 2015 study found that in North Carolina localities where the police participated in immigration enforcement, Hispanic/Latina mothers sought prenatal care later than non-Hispanic/Latina mothers and “participants reported profound mistrust of health services, avoiding health services, and sacrificing their health and the health of their family members.”²⁷ Another study of similar North Carolina policies found that “the majority of Hispanic interviewees stated that they would hesitate before reporting crime to the authorities out of fear that a friend, neighbor, or family member might be placed in danger of deportation.”²⁸ Survey results confirm these findings. In a 2013 survey of 2,000 Latinos in Houston, Los Angeles, and Phoenix, 45 percent of respondents reported that as a result of increased cooperation between the police and immigration authorities, they were less likely to contact law enforcement if they were victims of a crime.²⁹ Likewise, in a 2015 survey of 800 Latinos and Latinas nationwide, 41 percent of respondents cited fear of deportation as the number-one barrier preventing Latino and Latina survivors of domestic violence from seeking help.³⁰

In Texas, related immigration enforcement efforts have had a chilling effect on the reporting of gender-based violence in Texas. In February 2017, advocates in Texas and nationwide reported that immigrant survivors were expressing reluctance about seeking help from the police and the courts in the wake of a highly publicized incident in which U.S. Immigration and Customs Enforcement (“ICE”) agents arrested a woman inside the El Paso courthouse where she had gone to seek an order of protection.³¹ In April 2017, a non-profit organization in Austin that assists survivors of rape reported that fewer survivors were coming

forward and that more clients were expressing fear of contacting law enforcement to report abuse.³² Houston police chief Art Acevedo reported that during the first three months of 2017, Houston saw a 43 percent drop in the number of Hispanics reporting rape and sexual assault, which Acevedo attributed to the passage of similar legislation in Texas (SB 4) and related immigration enforcement measures.³³

In June 2019, seven national organizations working with immigrant GBV survivors released the results of a nationwide survey of advocates and attorneys on the fears and concerns of immigrant survivors in reporting domestic violence and sexual assault. A total of 575 victim advocates and attorneys completed the survey and reported how changing immigration policies affect the concerns of service providers and the fears of immigrant survivors of domestic violence and sexual assault. The survey findings showed that 59% of respondents observed an increase in the number of immigration-related questions that their agencies were receiving from immigrant survivors. The survey revealed that 52% of advocates have worked with immigrant survivors who decided to drop civil or criminal cases because they were fearful to continue with their cases. This demonstrates an increase compared to a previous survey conducted in 2017. Additionally, three out of four service providers responding to the survey reported that immigrant survivors had concerns about going to court for a matter related to the abuser/offender. Finally, 76% of advocates reported that immigrant survivors have shared concerns about contacting police. As the authors of the report emphasized, anti-immigrant laws and sentiments “undermine victim safety as well as public safety and [are] contrary to our nation’s commitment to affording protections for all survivors of domestic violence and sexual assault.”³⁴

In 2018, the National Immigrant Women’s Advocacy Project and the ACLU released a survey of law enforcement, judges, prosecutors, survivor advocates and legal services providers inquiring about the effects of the increasingly-common practice of immigration officers conducting arrests in courthouses under the Trump administration. The accompanying report revealed a deep fear of deportation that is stopping immigrants from reporting crimes and participating in court proceedings. The survey found that:

- approximately 22% of police officers reported that immigrants were less likely in 2017—compared to 2016—to make police reports;
- 69% of domestic violence crimes were harder to investigate, directly impacting public safety; and
- offices representing survivors of crimes experienced a 40% decline in their case intakes in 2017.³⁵

An example of this well-founded fear comes from an NBC News report of an undocumented domestic violence survivor from Colombia who spoke limited English but nevertheless contacted the police in North Carolina for assistance. When she appeared in court for a hearing related to the incident, both she and her 15-year-old son were arrested by federal immigration agents, leaving her toddler in daycare and allowing her abuser, a U.S. citizen, to walk away without consequences.³⁶

In short, anti-immigrant laws like SB 168 are causing widespread fear among survivors. These laws also allow abusers to exert additional control over immigrant women by exploiting the perception that seeking local authorities' help could jeopardize survivors' immigration status. As one survivor aptly stated in the wake of Texas SB 4's passage, "This is exactly what my abuser has been waiting for."³⁷

B. SB 168 makes Florida communities less safe by chilling the reporting of abuse

By chilling the reporting of domestic violence and other crimes, SB 168 also jeopardizes the safety of Florida communities more generally. Fostering trust between the police and immigrants is essential to ensuring community safety. Indeed, one study found that there are, on average, 35.5 *fewer* crimes committed per 10,000 people in counties that limit local participation in immigration enforcement compared to counties that do not.³⁸

For these reasons, national and state policing groups have opposed measures that penalize jurisdictions that restrict local participation in immigration enforcement.³⁹ In an April *Dallas Morning News* editorial, for example, the Dallas, Houston, Austin, Arlington, Fort Worth, and San Antonio chiefs of police, along with the executive director of the Texas Police Chiefs Association, opined that the anti-immigrant law, Texas SB4, would "further strain the relationship between local law enforcement and ... diverse communities," and that "[s]uch a divide between the local police and immigrant groups will result in increased crime against immigrants and in the broader community, create a class of silent victims, and eliminate the potential for assistance from immigrants in solving crimes or preventing crime."⁴⁰ While police groups have expressed concerns about the chilling effect of anti-immigrant laws on all victims of crime, the effect of these laws is especially troubling in the context of domestic violence, given that immigrant women and LGBTQ individuals face increased vulnerability to gender-based violence and that intimate-partner violence often escalates over time.⁴¹ As Chuck Wexler, executive director of the Police Executive Research Forum, recently explained, "[t]he reason police chiefs are so concerned [about anti-immigrant laws] is that an unreported domestic violence case can become a reported homicide if police are not alerted."⁴²

When domestic violence goes unreported, entire communities are put at risk. Studies show that the rates of recidivism for domestic-violence offenders may be higher than for other crimes, and that perpetrators of sexual violence may go on to commit other violent acts.⁴³ By deterring immigrant women and others from reporting gender-based violence, therefore, SB 168 has especially troubling implications for local community safety: It hinders local law-enforcement efforts to apprehend perpetrators and prevent future crimes.

C. Anti-immigrant laws make it more likely that GBV survivors will be detained and separated from their families, exacerbating their trauma

i. Immigrant detention centers can be particularly traumatic to GBV survivors because of a lack of medical and mental health treatment and exposure to abuse by government officials

Due to the trauma from the abuse they have faced, GBV survivors are at an increased risk for mental health diagnoses.⁴⁴ Partner violence has been associated with many mental health conditions, such as depression and PTSD.⁴⁵

Immigrant GBV survivors who are picked up by law enforcement and transferred to ICE custody will likely be placed in detention centers while they wait to have their case heard, or wait to be deported from the country. This will exacerbate the trauma they have already experienced. Medical treatment in immigrant detention facilities—which can take the form of federal immigrant detention centers, county jails, or private detention facilities—is often delayed or denied, and some detainees are held in isolation without receiving any medical attention.⁴⁶ Several reports have focused on these abuses in facilities in Florida⁴⁷, the state where SB 168 has become law—though it is important to note that many immigrants arrested in Florida will be transferred by ICE to facilities in Georgia (which have notoriously poor medical care and safety problems) and other states. Abuses in immigrant detention were a subject of the 2015 Universal Periodic Review of the U.S., where Sweden recommended that the U.S. “halt the detention of immigrant families and children, seek alternatives to detention and end use of detention for reason of deterrence.”⁴⁸ At that time, the United States reported that it “actively utilize[s] alternatives to detention where appropriate, and are working to shorten detention families may face while their immigration proceedings are resolved.”⁴⁹ Since 2015, U.S. policies have shifted and there is far less use of such alternatives to detention. SB 168 is an example of that shift, as it could result in prolonged detention.

It is critical that GBV survivors have access to adequate mental health treatment because of their past trauma. UN Women has stated that mental health services are one of the six essential categories of services for addressing the needs of survivors.⁵⁰ Moreover, UN Women emphasizes, providers must be adequately trained in interacting with survivors to ensure that they can face their trauma and “have a chance to rewrite their stories.”⁵¹ Immigrant detention centers in the U.S. notoriously lack adequate mental health services.⁵² To make the problem worse, the centers use practices such as solitary confinement, sometimes without any cause.⁵³ Detention itself is detrimental to survivors’ mental health,⁵⁴ but these practices only make the experience worse. ICE has specifically been identified as failing to respond appropriately to detained individuals with severe mental illnesses.⁵⁵ Psychologists are not readily available or may have contact with detainees for too short a time period to have a significant impact.⁵⁶

Abuse of GBV survivors in immigrant detention centers is also a grave concern. Human Rights Watch has documented rampant abuse and sexual harassment of detainees in immigrant detention facilities.⁵⁷ A recent ACLU report documents abuse committed in these centers by government officers.⁵⁸ Specifically, in Florida, a report detailed several instances of abuse by personnel.⁵⁹ While we believe that many instances of sexual abuse and harassment go unreported out of

victims' fear, the following instance sheds a light on the abuse that is happening within these facilities.

- “A female detainee was being transported between two Florida detention facilities when the ICE agent transporting her took her to his home and raped her. “I was scared for my life,” the woman said in an interview with *The Miami Herald*. “He had a gun. He's a big man, and I was in his custody. I expected him to protect me, not to take advantage of me.”⁶⁰

More immigrants will be detained within and outside of Florida as a result of SB 168, and more immigrants will experience sexual abuse and harassment as a result. Subjecting GBV survivors to environments where they are likely to be abused again violates the human rights of survivors, many of whom meet the definition of torture survivors. Notably, in the 2015 UPR of the U.S., Denmark recommended that the U.S. “ensure that all victims of torture and ill-treatment—whether still in United States custody or not—obtain redress and have an enforceable right to fair and adequate compensation and as full rehabilitation as possible, including medical and psychological assistance.”⁶¹ Immigrant GBV survivors placed in immigrant detention, far from receiving rehabilitation, will be re-traumatized and potentially abused.

ii. SB 168 will separate families and directly traumatize GBV survivors whose children will be left with their abusers or placed in the foster care system

SB168 may lead to family separation when deportation or detention occurs. Immigrant GBV survivors are more likely to be arrested under this new regime, because of poor handling or poor translation by law enforcement. In this scenario, the children of GBV survivors may be left in the hands of the GBV survivors' abusers, who are statistically more likely to be abusive to their children.⁶² Moreover, even children watching their parents be abusive is detrimental.⁶³ Leaving these children in the hands of an abuser or the child welfare system could lead to severe trauma for GBV survivors.

Besides the risks associated with leaving their children with their abusers, GBV survivors may have legitimate fears that their children themselves will be detained or deported through collateral arrests⁶⁴. This could lead to their children and them being sent back to the place that they fled because of previous, non-associated abuse or other dangers. A deportation that places an individual in direct danger of another abusive individual violates Article 3 of the Convention Against Torture, which specifically says that a state shall not return a person to another State where there are substantial grounds for believing that he would be in danger.⁶⁵ This is further emphasized in the United Nations Special Rapporteur Report on Torture, which states that “under no circumstances should States expel persons to places where there are substantial grounds for believing that they would be in danger of domestic violence amounting to torture or cruel, inhuman or degrading treatment or punishment.”⁶⁶

Additionally, immigrant GBV survivors risk leaving their U.S. citizen children behind if they are deported or detained and have no adult to watch over the children. For children who may have also experienced trauma or seen it happen with their parent (usually the mother), being placed in foster care could be particularly harmful.⁶⁷ This harm is not easily reversible, and could leave a

lasting impact on these families. Supporting families after separation is a multi-faceted approach that requires a significant amount of time and skilled professionals.⁶⁸

D. U.S. legislation, jurisprudence, and public policy on gender-based violence and access to justice

Legislation

Recognizing these immense challenges, and the fact that abusers will often exploit a victim's lack of immigration status, Congress established important protections for immigrant survivors of domestic violence, sexual assault, and human trafficking in the Violence Against Women Act (VAWA) and Trafficking Victims Protection Act (TVPA).⁶⁹ In 1994, VAWA created important safeguards to assist undocumented immigrants married to abusive spouses who are U.S. citizens or lawful permanent residents by allowing the victims to self-petition for immigration status. Each subsequent reauthorization of VAWA has strengthened protections and support for immigrant victims. VAWA 2000, in conjunction with the TVPA, created a new T-visa to help victims trafficked into the U.S. and created the U-visa to help immigrant victims of certain designated crimes while in the U.S. (including domestic violence, trafficking, and sexual assault) who are willing to assist law enforcement in the investigation or prosecution of criminal activity.⁷⁰ The visas are available so long as the victim cooperates with law enforcement and obtains their signature.⁷¹ However, these signatures can be hard to obtain and the visas have a long waiting period⁷² due to high demand. Additionally, in recent months, the Trump administration has quietly changed the rules on U visas, allowing people to be deported even while they are awaiting their visas.⁷³

Jurisprudence

U.S. Supreme Court jurisprudence has repeatedly closed the door to constitutional claims that would challenge to the detrimental impact of anti-immigrant laws such as SB 168 on immigrant survivors of gender-based violence. Consider the following landmark U.S. Supreme Court cases:

- *Town of Castle Rock v. Jessica Gonzales* (2005), finding that the police had no constitutional duty under the U.S. Constitution to enforce a domestic violence victim's restraining order and seek to arrest her husband, who had violated the order.
- *DeShaney v. Winnebago County* (1989), which held that the government generally has no constitutional duty to protect individuals from private acts of violence under the Constitution's Due Process Clause.⁷⁴
- *United States v. Morrison* (2000), which struck down as unconstitutional a private right of action for victims of gender-motivated crimes, such as domestic and sexual violence, against their abusers.⁷⁵
- *Washington v. Davis* (1976), which held that a plaintiff must prove discriminatory motive/intent on the state actor's part to prevail on a Constitutional equal protection claim (i.e. disparate impact/effect is not sufficient).⁷⁶

Moreover, many state governmental immunity laws effectively prevent plaintiffs from bringing actions in tort against state officials unless they can prove those officials engaged in

willful or wanton misconduct (which essentially amounts to intent, a nearly impossible standard to meet in most cases).⁷⁷

Public Policy

In 2015, the U.S. Department of Justice (DOJ) released guidance to the 18,000 police departments across the United States entitled *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence*.⁷⁸ It advances trauma-informed and victim-centered approaches in police response to domestic violence and sexual assault, highlighting eight key principles for law enforcement agencies to integrate into trainings, protocols, and practices, to reduce potential gender bias in policing and develop more effective responses, including: recognizing and addressing biases, assumptions and stereotypes about victims; treating all victims with respect; investigating sexual assault and domestic violence complaints thoroughly and effectively; and referring victims to appropriate services.⁷⁹ The guidance specifically references immigrant victims and instructs law enforcement agencies to develop policies and procedures about U visas.⁸⁰ Laws such as SB 168 run precisely counter to the good practices outlined in the DOJ guidance, and instead will further traumatize GBV survivors.

V. Recommendations

- 1. Messaging from federal and state agencies must be improved to ensure that immigrant GBV survivors feel safe accessing the services that they need.** Information should be provided on how to seek a restraining order or seek other legal protections, how to access information in the survivor's preferred language, how to access mental health treatment, and how to connect with different support groups in the community. Survivors—especially non-fluent English speakers—should be provided a victims' advocate during a criminal investigation to serve as an intermediary between the victim, the police, and other relevant state and non-state actors.
- 2. Law enforcement agencies should employ the trauma-informed practices set forth in the 2015 DOJ Guidance on Gender Bias in Policing, to ensure survivors' safety and well-being.** Important principles from the guidance include recognizing and addressing biases, assumptions and stereotypes about victims, treating all victims with respect, and employing trauma-informed interviewing tactics.
- 3. Law enforcement should take special care to communicate with limited-English proficient (LEP) GBV survivors.** As the DOJ Guidance on Gender Bias in Policing emphasizes, "Absent exigent circumstances, law enforcement agencies should always use an independent interpreter for interviews, such as someone who works for the agency or a language services interpreter. To ensure independence and accuracy in law enforcement investigations, law enforcement agencies should not use victims' family members and friends as interpreters. Moreover, it is critical that children never be used as interpreters: this undermines effective language access for victims, can traumatize children exposed to these situations and may inhibit a victim from fully revealing important details about the assault."⁸¹ Law enforcement should ensure that LEP individuals have the right to certified

interpretation when interacting with the law enforcement agency, and officers should carry cell phones assigned to the law enforcement agency with direct language access.

4. **The U.S. government and states should take steps to ensure that abusers are prosecuted or otherwise held accountable under the law, regardless of the survivor's immigration status.** Making sure that abusers are held accountable will lead to safer cities and ensure that GBV survivors have redress for the abuse they suffered.
5. **Law enforcement agencies should build alliances with the community-serving agencies and organizations to ensure GBV survivors feel protected.** All law enforcement agencies should be easily accessible to all community members and publicize that they are ready and able to listen to concerns and offer assistance to resolve issues.
6. **The federal government should push to repeal extreme, anti-immigrant state laws that have a chilling effect on the ability of immigrant domestic violence, sexual assault, and trafficking survivors to seek safety and justice.** The United States should work in partnership with cities, states, nonprofits and law enforcement to build trust and push for states to repeal the laws that chill the reporting of domestic violence incidents and threaten public safety.
7. **The federal government should increase visas for domestic violence survivors.** Under the Trump Administration, there are unacceptable processing delays for adjudicating applications for VAWA self-petitions, U-visas, and T-visas that are undermining access to safety for victims. The U.S. should end these delays and give victims the security and certainty they need. The current cap of 10,000 on U-visas should also be significantly raised; the current cap is insufficient to meet the dire needs of victims and their children and hinders our public safety.

¹ Catherine Shoichet, *Florida just banned sanctuary cities. At least 11 other states have, too*, CNN (June 14, 2019), available at <https://www.cnn.com/2019/05/09/politics/sanctuary-city-bans-states/index.html>.

² *SB 168: Federal Immigration Enforcement*, The Florida Senate, available at <https://www.flsenate.gov/Session/Bill/2019/168/BillText/er/PDF>.

³ *SB 168: Federal Immigration Enforcement*, The Florida Senate, available at <https://www.flsenate.gov/Session/Bill/2019/168/BillText/er/PDF>; *See also SPLC Sues Florida over Law Requiring Local Law Enforcement to Act as ICE Agents*, SPLC (July 16, 2019), available at <https://www.splcenter.org/news/2019/07/16/splc-sues-florida-officials-over-law-requiring-police-act-ice-agents>.

⁴ Manar Waheed, *Trump Announces Plan to Admit Fewer Refugees Than Any Other President*, ACLU (Sept. 27, 2019), available at <https://www.aclu.org/blog/immigrants-rights/trump-announces-plan-admit-fewer-refugees-any-previous-president>; *See also* Kathryn Finley, *Access to Justice in a Climate of Fear: New Hurdles and Barriers for Survivors of Human Trafficking and Domestic Violence* (2018), <https://cmsny.org/publications/finley-climate-of-fear/>.

⁵ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 16 December 1979, United Nations Treaty Series vol. 1249, p. 13 available at <https://www.refworld.org/docid/3ae6b3970.html> [accessed 3 October 2019].

United Nations Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW”) March 1, 1980, 1249 UNTS 13 (Entered into force 03 September 1981); see also Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence art. 3(d), *opened for signature* May 11, 2011, C.E.T.S. No. 210.

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⁸ International Covenant on Civil and Political Rights, art. 2(1), Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), ratified by the U.S. Sept. 8, 1992.

⁹ *Id.*, art. 7; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. Res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by the United States on October 21, 1994.

¹⁰ International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969, ratified by the United States on November 20, 1994.

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