

CLS's Specialized Immigrant Services Unit: Strengthening Families, Strengthening Communities

by Allison Pofit Altaras

The Legal Aid Foundation of Colorado kicks off its annual Associates Campaign for Justice on March 1. Now in its 12th year, the Associates Campaign has become a spring tradition at law firms around the state—and for good reason. The Associates Campaign provides an important funding source for Colorado Legal Services (CLS), the only agency in Colorado that offers free civil legal services to indigent clients and underserved populations in every single Colorado county. The Associates Campaign is also an opportunity for younger and newer attorneys to step up and assume a leadership role in supporting CLS and its 100-plus person staff, who are dedicated to serving the nearly 900,000 Coloradans who are income-eligible for CLS's services.

This article highlights the important work of CLS's Specialized Immigrant Services unit, as generously shared by CLS attorneys Karina Arreola and Patricia Medige. Arreola and Medige's clients are among the most vulnerable and least visible victims of crime, violence, and exploitation in our communities. And yet they play an essential role in local, state, and national law enforcement efforts. Without competent representation by CLS attorneys like Arreola and Medige, individuals and businesses that prey on the powerless will escape prosecution and their victims will never see justice.

By combating human trafficking and aiding noncitizen crime victims in obtaining legal status and testifying against their perpetrators, CLS helps strengthen Colorado communities, making them safer and more secure. You can support CLS through participation in the 2016 Associates Campaign by visiting legalaidfoundation.org and selecting "Donate Now."

What Is Human Trafficking?

"A lot of people are generally aware that human trafficking is a problem, but don't know exactly what it is," explains Medige, who oversees CLS's anti-trafficking project. "The definition is broader than most people think—human trafficking is defined as obtaining labor or services through fraud, force, or coercion." All forced or

coerced labor counts—not just the forced prostitution that may immediately come to mind and garners the most media attention—farm labor, construction work, restaurant work, even office labor. The victims of human trafficking that CLS represents may be American citizens or nationals of other countries who are effectively held hostage by those who would take advantage of their legal status.

In 1996, Congress restricted the ability of legal aid organizations that receive federal funding to represent undocumented immigrants unless domestic violence was involved.¹ The restrictions were gradually relaxed so that by 2006, CLS was also able to represent victims of human trafficking and certain other crime victims, regardless of immigration status. Since then, CLS has partnered with numerous local and national agencies, including the federal Innocence Lost Task Force, a multi-agency, interstate effort aimed at addressing the growing problem of domestic sex trafficking of children in the United States. CLS also serves on the steering committee of the statewide service provider network—the Colorado Network to End Human Trafficking (CoNEHT)—and partners with local law enforcement agencies, victim and immigrant advocacy groups, and nonprofit organizations, accepting referrals and triaging its cases.

CLS assists victims of human trafficking to report the crime and apply for temporary or long-term immigration relief. CLS also provides information and legal assistance to individuals wishing to pursue their traffickers for lost wages and damages suffered as a result of trafficking. In recognition of CLS's experience in serving trafficked persons, Governor Hickenlooper in 2014 appointed Medige to the state Human Trafficking Council.²

Hidden in Plain Sight

A recent Colorado trafficking case that garnered local and national attention involved immigrant Thai workers at several restaurants in Boulder, Broomfield, and Louisville. The owner of the restaurants induced the foreign workers to pay him thousands



About the Author

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of dollars in exchange for sponsoring specialty visas, which he then confiscated upon their arrival in the United States.³

The owner forced the Thai workers to sign contracts requiring them to have a personal guarantor in Thailand to secure payment of their debt. He also sponsored several of the workers' spouses on visas that did not allow them to work, though he employed them at his restaurants as well.⁴ The Thai workers often worked in excess of 15 hours per day with no overtime pay and had their tips taken from them. Faced with the ever-present threat of deportation for themselves and their spouses, and the threat of financial ruin for friends and family back in Thailand, the workers were powerless to demand fair wages and working and living conditions. Another restaurant employee, concerned that the Thai workers never seemed to go home, contacted authorities.

The owner was eventually indicted on numerous federal and state charges, including tax evasion, immigration violations, and harboring illegal aliens.⁵ CLS helped the Thai workers seek restitution, assisting with the preparation of detailed victim impact statements that were submitted during the sentencing phase of the proceedings. For many of the workers, it was the first time they were able to tell their full stories without fear of threats, intimidation, and deportation. Under certain temporary worker visas, employees cannot switch employers without losing their visa status. This can be used as a tool by traffickers to keep victims trapped in what amounts to indentured servitude. CLS was ultimately successful in obtaining monetary restitution for 60 workers.

Labor trafficking can be even more prevalent in rural communities, due to the demand for seasonal farm labor. CLS attorneys rep-

resent migrants in Northeast, Northwest, and Southeast Colorado; in the San Luis Valley; and on the Western Slope. Approximately 70% of all migrant farm workers in the United States are foreign-born, undocumented, and non-English speaking.⁶ Most live in employer-provided housing. Employers often charge recruitment fees for laborers, to be collected from their wages. Their wages may be so low that laborers will never be able to pay their employers back. Farm laborers frequently have their immigration documents confiscated and are left isolated and totally dependent on their employers for food, water, and shelter. Farm workers are particularly vulnerable to labor trafficking because they live and work in rural areas far from the resources available in cities and towns.

In another high-profile case, CLS obtained monetary damages for victims of human trafficking and exploitation who worked for a large community-supported agricultural business located in Larimer County.⁷ A Weld County farm labor contractor had supplied crews to the farm for work and was paid lump sums of money intended to cover wages, insurance, and taxes for the workers. The labor contractor imposed debts and various fees on the workers, such as for rides to work, rent, and tools, and told them they could not leave until they paid off their debts. This resulted in a wage of just \$2.60 per hour. He threatened the workers verbally and brandished weapons when they complained. The labor contractor was indicted on charges of harboring and transporting illegal immigrants for farm work and was eventually convicted. CLS helped the workers obtain temporary visas for their cooperation in the prosecution and monetary damages for the living and working conditions they had suffered at the hands of the labor contractor.

Awareness Is Key

Medige reflects that these cases can teach us several important lessons. First, if something feels or seems “off,” it very well may be. Victims of human trafficking are often hidden in plain sight. Community members should not hesitate to report suspicions of human trafficking to local law enforcement, which is the single most frequent source of referrals of victims to CLS. There is also a human trafficking hotline (run by CoNEHT, (866) 455-5075) that refers victims of human trafficking to resources like CLS.

Medige explains that the extremely low costs of some goods and services we consume can be reflective of hidden exploitation somewhere in the system. “I wish people would pay greater attention to how their goods and services are produced so as to provide less of an opportunity for unscrupulous employers to take advantage of vulnerable workers.” What is the single easiest thing you can do to combat wage trafficking on a daily basis? Be aware of the red flags for human trafficking, including highly anxious workers, the withholding of documents and pay, workers who live in the workplace or otherwise are not free to come and go, and workers who never get days off or treatment for their injuries. Tipping in cash can help ensure workers at least receive tips, although those can be confiscated too.

U-Visas, Our Benefit

Arreola’s clients face a different yet equally challenging set of issues. She represents clients who are noncitizen victims of crime in the United States in obtaining temporary and permanent status. Arreola, a first-generation Mexican American and 2008 graduate of the University of Denver Sturm College of Law, says advocacy for noncitizens who are eligible for help from CLS is very near to her heart because of the special vulnerabilities of immigrant populations.

A U-Visa allows victims of crime to live and work temporarily in the United States for four years, after which they may be able to apply for “green cards” or permanent resident status. Individuals may be eligible for a U-Visa if (1) they have information about a criminal activity; (2) the criminal activity occurred within the United States or violated U.S. laws; (3) they are willing to assist law enforcement in the investigation of the crime; and (4) they have suffered substantial physical or mental abuse as a result of the crime.⁸

There are over 30 crimes that qualify, but the most common crimes Arreola sees are domestic violence and sexual assault. These particular U-Visa crimes are tragically prevalent and often impact entire families. In certain circumstances, a non-offending spouse and children of a noncitizen can be included in the U-Visa application or, in the case of a child victim, the victim’s parents and siblings. CLS also assists clients with the Violence Against Women Act (VAWA) Self-Petition process, which by federal law allows a noncitizen victim of domestic violence who is married to or recently divorced from an American citizen or lawful permanent resident, and their children under the age of 21, as well as certain other survivors of family abuse, to become eligible for adjustment to permanent resident status.

The U-Visa requires victim cooperation with law enforcement. This is to encourage victims to come forward and report crimes and “to serve as a tool for law enforcement to know about crimes that are going on and to help make the community safer,” Arreola says. Many noncitizen victims have been living in the United States

for years, have been in abusive relationships for a very long time, and have American-born children. They may be hesitant to report their abusers out of fear of deportation. “But then, one day, they have finally had enough,” Arreola says. “And the fact that we are helping them with their immigration status is the only thing that will get them out of that relationship permanently because now they are no longer dependent on the abuser.”

One of CLS’s recent clients was the noncitizen husband of an American citizen. One day, his wife was struck by a motorist while crossing the street. She died of injuries soon thereafter. The Western Slope couple had two American-born children who would have been left without a caregiver if the father had been deported. Although the resulting charge, “leaving the scene of an accident involving death,” is not one of the enumerated U-Visa crimes, CLS successfully argued that it was a “similar activity” (a legal term of art) to a number of U-Visa crimes, including “manslaughter,” and the family was able to stay together.

CLS also handled a VAWA case in Colorado Springs in which removal proceedings were initiated against a noncitizen victim of domestic violence because she failed to stop at a stoplight and was pulled over. It turned out that the woman was only driving because her abusive husband had a history of DUI convictions and forced her to drive him everywhere he went. The couple had American-born children who would have been left alone with the abuser had the removal proceedings gone forward.

Families tend to be at the heart of many of Arreola’s cases, such as an ongoing child pornography case in which a young child had been sexually assaulted. CLS is helping the mother of the crime victim remain in the United States as an “indirect victim” who was a key witness in the investigation. If the mother were not allowed to stay and testify, the prosecution would not succeed. “It harms the community as a whole when we are not able to prosecute these crimes because of the legal status of the victim or a victim witness,” Arreola says.

Aside from legal status, language is another major barrier to assisting noncitizen victims and witnesses of crimes. Personal statements must be prepared in connection with the U-Visa and VAWA processes, which requires first earning the victim or witness’s trust, and then handling translation and interpretation of their statements. While CLS is able to handle Spanish-language cases internally, clients from such diverse countries as Lithuania, Finland, Ivory Coast, Kenya, Morocco, Vietnam, Ukraine, Russia, Thailand, and the Philippines have also been assisted. Translation services present an enormous expense for CLS, but, to receive federal funding, CLS services must be accessible to all potential clients, regardless of their native language.

Because there is such great need for CLS’s services in this area, there is a continuous waiting list for new clients, which averages around 15 people and a several months’ wait. The Trafficking Project has four temporary staff members who are funded by grants and fellowships that will expire in 2016 or 2017. CLS prioritizes new cases based on the location of the victims or witnesses (areas outside of Denver tend to have fewer victim resources), whether there are children involved in the case, and how far along in the system a victim’s case is. Some police departments will not sign a necessary certification for the visa process if the case is too far along, so time is always of the essence.

Despite the challenges of dealing with a heavy caseload, Arreola reflects that “there is tremendous satisfaction in doing this type of

work; it is so personally satisfying to me to see former clients succeed and build happy lives.” One former client is working on a college degree in petroleum engineering. Another has recently become a homeowner for the first time. A third started her own bakery business. Medige says that Arreola “is so good at earning peoples’ trust and it is such an honor to have people place their trust in you. People from other countries often have a deeply ingrained distrust of law enforcement, so we can serve as an intermediary.” CLS’s work with these U-Visa and VAWA applicants helps to build confidence in the criminal justice system in immigrant communities across Colorado. That in turn helps to keep victims involved in their cases, when language barriers or fear of the system might otherwise prevent their continued participation.

Medige and Arreola both recognize that immigration can be a politically divisive issue, but maintain that it is best for everyone in the community—not just immigrants—that these processes exist and that victims of crime have access to them. Says Medige: “It’s easy to think of immigrants as ‘the other,’ but these are members of our community, their kids are in school with our kids, we see them every day. They are not just some ‘other’ tucked away somewhere. Every ‘immigrant’ family is mixed, so to speak, meaning there often are citizens in the same household as people lacking status or with temporary status. It’s rarely good for a community to have families pulled apart. We need to recognize that these laws strengthen our communities, make us safer, encourage victims of crime to report crime, not remain hidden and silent, and help keep families intact.”

Conclusion

These are just a few of the many vital services that CLS offers to vulnerable populations in our state. Despite the growing need for free legal assistance in low-income communities, CLS’s funding streams are increasingly strained. COLTAF used to be CLS’s second-largest funding source, but, because of the recent extended

period of near-zero interest rates, CLS’s COLTAF grant has decreased by nearly 80% since 2008. There is also a census adjustment slated for this year, which will reflect a decline in Colorado’s share of the national poverty population and thus decrease CLS’s share of the federal-level legal services appropriation.

Associate attorneys are encouraged to take a leadership role in supporting CLS by participating in their firm’s Associates Campaign or establishing a 2016 Associates Campaign in their firm or office. To sign up, contact Kelly Bossley, associate director of the Legal Aid Foundation, at (303) 863-9544 or kelly@legalaidfoundation.org.

Notes

1. See generally Pub. Law 104-134, 110 Stat. 1321-50-59 (Apr. 26, 1996).

2. HB 14-1273 established the Colorado Human Trafficking Council, whose purpose is to bring together leadership across various levels of government and the community to create a collaborative coalition to combat human trafficking. See <https://sites.google.com/a/state.co.us/cdps-prod/home/human-trafficking-council/whowere> for additional information.

3. Miller, “Former Boulder Siamese Plate owner gets year in prison, ordered to leave U.S.,” *Boulder Daily Camera* (Feb. 11, 2011); Nicholson, “Boulder restaurateur going to prison for exploiting illegal workers,” *The Denver Post* (Feb. 11, 2011).

4. Miller, “Boulder owner of Siamese Plate indicted on immigration violations,” *Boulder Daily Camera* (Feb. 12, 2010).

5. *Id.*

6. <https://traffickingresourcecenter.org/sites/default/files/Farm-Workers-and-Trafficking-in-Colorado%20-%20CLS.pdf>.

7. Cardona and Vaughan, “Lawsuit stunned organic farm owner,” *The Denver Post* (May 17, 2009).

8. For information on the U-Visa process, visit <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>. ■