

Immigrant Women Program

**REMEMBERING THE RISKS OF A RUSH TO ENFORCEMENT:
IMMIGRANT CRIME VICTIMS AND WORKPLACE IMMIGRATION RAIDS**

In May of 2008 in the rural town of Postville, Iowa Department of Homeland Security (DHS) agents raided Agriprocessors slaughterhouse and meatpacking plant. DHS arrested and detained nearly 400 immigrant workers, *including women and children under 18 and crime victims eligible for immigration relief*. In the aftermath of the Postville raid, the overwhelming majority of arrested workers were rushed through the criminal justice and immigration systems, often coerced to give up their legal rights under threat of long prison sentences and often in ignorance or denial of specific legal protections for which some workers were eligible. The rush to sidestep available legal protections and to criminally charge and/or deport the approximately 50 individuals who were victims of violence, brings into sharp relief the ever-present hazards of a hasty effort to enforce immigration laws without due process or consideration of humanitarian circumstances.

Victims of certain qualifying crimes, including labor trafficking, exploitation, domestic violence, and sexual assault are eligible for immigration remedies allowing them to remain in the U.S., provided these victims cooperate with law enforcement agencies in reporting and investigating crime perpetrators. These remedies, known as T and U Visas, allow crime victims to work legally, reunite with family members, and remain lawfully and permanently in the U.S. Congress enacted these protections as part of an immigration safety net for undocumented victims who would otherwise be too fearful to come forward and report crimes perpetrated against them, understanding that offering the protections afforded by legal immigration status is essential to helping keep our communities safe from crime. Unfortunately, in Postville and countless other DHS raids, many of the immigrants arrested are crime victims eligible for T or U Visa protections. However, the Department of Homeland Security's failure to screen immigrants for crime victimization before bringing cases against them in the immigration or criminal justice systems is resulting in removal from the United States of immigrants who would be entitled to crime victim immigration relief.

DHS worksite enforcement protocols issued in May 2009 shift the focus of immigration enforcement to the prosecution of employers. Legal Momentum applauds this shift, however we remain concerned that the protocols continue to seek the arrest and removal of workers, many of who may be crime victims without assessing their eligibility for Violence Against Women Act, T or U visa protections. We commend the commitment of DHS to apply existing humanitarian guidelines in raids involving 25 or more workers; however, these guidelines should be used in all raids and enforcement actions. Currently, the guidelines direct DHS to screen immigrants who are care givers, require medical attention, and are pregnant or nursing. Under the existing guidelines, DHS is directed to screen and consider these factors in deciding whether or not to detain immigrants. These guidelines should be broadened to screen for immigrant crime victims. Furthermore, because of the vulnerabilities and urgent social service needs of crime victims, identified victims should be linked to non-governmental victim service providers. Immigrant crime victims should not be detained, constructively detained (e.g. with monitoring devices), or removed. Additionally, confidentiality provisions designed to protect immigrant victim safety should be maintained and followed by DHS personnel conducting raids and other enforcement actions.

Legal Momentum's Immigrant Women Program urges the following:

- Expand the humanitarian guidelines to include a screening process for all worksite enforcement actions (including action under 25 persons) to require that immigrants are screened for crime victimization immigration eligibility and protected from arrest, detention, constructive detention, and removal.
- Employ the humanitarian guidelines in all immigration enforcement actions.
- Train DHS personnel on victim identification, immigration relief, and the social services victims need.
- Protect immigrant victims' confidentiality under IIRIRA §384.

To track and support Legal Momentum's efforts to advocate for humane immigration detention policies that protect immigrant crime victims, join our mailing list at www.legalmomentum.org.