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The Women's Legal Defense  
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INSTITUTE OF JUSTICE

# Building Law Enforcement Capacity to Serve Immigrant Victims

**The National Immigrant Victims' Access to Justice Partnership**

**New Orleans, LA  
September 21, 2012**

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# Overview of Training Folder

- ▶ Pre-Training Assessment
- ▶ Agenda
- ▶ PowerPoint Presentation
- ▶ Faculty Biographies
- ▶ Participant List
- ▶ Technical Assistance Information
- ▶ Glossary
- ▶ U visa Toolkit (contains Quick Reference Guide, Frequently Asked Questions, Sample Designee Letter)

# Training Overview

- ▶ **Introductions, Goals, Expectations**
- ▶ **Overview of the U visa (Crime Victim Visa)**

# Introductions, Goals and Expectations





# Training Goals

- ▶ To understand the U visa certification and application processes
- ▶ To identify and understand barriers that prevent immigrant and refugee victims from cooperating with the criminal justice system
- ▶ Anticipate and overcome the challenges to signing U visa certifications



# Overview of the U visa

- ▶ Purpose: Why does it exist?
- ▶ Requirements: Who can receive it?
- ▶ Application Process: How does one get it?
- ▶ Quick Facts



## Purpose

**Congress enacted the U visa in 2000 to:**

- ▶ Improve community policing and community relationships
- ▶ Increase prosecution of perpetrators of crimes against immigrant victims
- ▶ Allow victims to report crimes without fear of deportation
- ▶ Enhance victim safety
- ▶ Keep communities safe



## U visa Requirements

- ▶ Victim of a qualifying criminal activity
- ▶ Has been, is being, or is likely to be helpful in
  - Detection, investigation, prosecution, conviction or sentencing
- ▶ Suffered substantial physical or mental abuse as a result of the victimization
- ▶ Possesses information about the crime
- ▶ Crime occurred in the U.S. or violated U.S. law



## U visa Application Process

- ▶ **Law Enforcement Certification– must have one**
- ▶ Complete and submit application, which includes biometrics, additional documentation and fees (or waiver request)
- ▶ Decision from USCIS within about 6 months



## Quick U Visa Facts

- ▶ Only 10,000 U visas can be granted annually
- ▶ The U visa grants a temporary 4 year stay
- ▶ Only some U visa holders will qualify for lawful permanent residency- no guarantee
- ▶ U.S. citizenship can only be attained after legal permanent residency for 5 years + proof of good moral character

# How does the U visa help law enforcement?



# Dynamics of Crime Victimization Experienced By Immigrants and Refugees

## Demographics: Immigrant Communities in Louisiana

- ▶ 3.8% of **Louisiana's** population foreign born
  - 38.7% naturalized citizens
  - 31.8%% lawful permanent residents
  - 29.5% temporary legal status or undocumented
- ▶ 49.2% rise in immigrant pop 2000–2010
- ▶ High proportion of new immigrants
  - 20.3% entered in the 1990s
  - 45.2% entered 2000 or after
- ▶ 5.4% of **Louisiana's** children have 1 or more immigrant parents
- ▶ 86.4% of children with immigrant parents in **Louisiana** are U.S. citizens by birth



## Barriers for Immigrants

- ▶ Language access
- ▶ Lack of understanding of U.S. Laws
- ▶ Abuser's power and control over victim's immigration status
  - Domestic violence
  - Sexual assault in the workplace or at university
  - Refugees

## The Effect of Immigrant Status on Crime Reporting

Undocumented immigrant crime victims are often:

### Less likely to

- ▶ Report a crime
- ▶ Provide information to police & prosecutors
- ▶ Believe police & prosecutors want to help them
- ▶ Testify

### More likely to

- ▶ Be susceptible to perpetrator's abuse, coercion, control, and threats;
- ▶ particularly immigration related abuse and threats



# Prevalence of Domestic Violence in Immigrant Communities

- ▶ Domestic Violence in U.S. in general: 22.1% (NIJ)
- ▶ Domestic Violence among Immigrant women: 30–50%
- ▶ Research has found that immigrant victims
  - Stay longer with their abusers
  - Have fewer resources
  - Sustain more severe physical and emotional consequences of abuse

# Prevalence of Sexual Assault In Immigrant Communities

- ▶ Immigrant women experience sexual assault at higher rates than other women, particularly during the first two years after arrival in the U.S.
- ▶ Victimization of immigrant children also high including child sexual abuse
- ▶ Multiple immigrant populations studied

## Immigrant Victims Concerns Surrounding Abuse and Deportation

- ▶ Immigration related abuse from perpetrator – fear of deportation
- ▶ Economic survival
- ▶ Pressures from Family/children
- ▶ Fear of losing custody/access to children
- ▶ Power and control over victim's immigration status
- ▶ Victim believes that if he gets deported she has to go with him
- ▶ Danger to victim in the home country (retaliation)
- ▶ Fear of being ostracized by home country community
- ▶ Fear of abandoning the home
- ▶ Fear of police/experience in home country
- ▶ Religious Factors
- ▶ Political instability in home country
- ▶ Gender barriers in home country
- ▶ Fear of unknown

## Group Exercise

- ▶ How does the victim benefit from U visa certification?
- ▶ What could happen if a victim does not receive a U visa certification?

# Other Immigration Relief for Immigrant Victims

## Applications filed to DHS

- VAWA self petition
- Battered spouse waivers (spouses of USC's with conditional permanent residency)
- T visa (victims of trafficking)
- Asylum (persecution based on protected classes)

## Forms of relief from removal– granted by Immigration Judge

- VAWA cancellation of removal
- VAWA suspension of deportation

# Law Enforcement Certification Form I-918 Supplement B

Department of Homeland Security  
U.S. Citizenship and Immigration Services

OMB No. 1615-0104 Expires 08/31/2010  
**I-918 Supplement B,  
U Nonimmigrant Status Certification**

**START HERE - Please type or print in black ink.**

Part 1. Victim information.			For USCIS Use Only	
Family Name	Given Name	Middle Name	Returned	Receipt
Other Names Used (Include maiden name/nickname)			Date	
Date of Birth (mm/dd/yyyy)	Gender		Resubmitted	
	<input type="checkbox"/> Male <input type="checkbox"/> Female		Date	
Part 2. Agency information.			Date	
Name of Certifying Agency	Name of Certifying Official		Reloc Rec'd	
Name of Head of Certifying Agency			Date	
Agency Address - Street Number and Name			Date	
City	State/Province	Zip/Postal Code	Remarks	
Daytime Phone # (with area code and/or extension)	Fax # (with area code)			
Agency Type	<input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Local			
Case Status	<input type="checkbox"/> On-going <input type="checkbox"/> Completed <input type="checkbox"/> Other			
Certifying Agency Category	<input type="checkbox"/> Judge <input type="checkbox"/> Law Enforcement <input type="checkbox"/> Prosecutor <input type="checkbox"/> Other			
Case Number	FBI # or SID # (if applicable)			

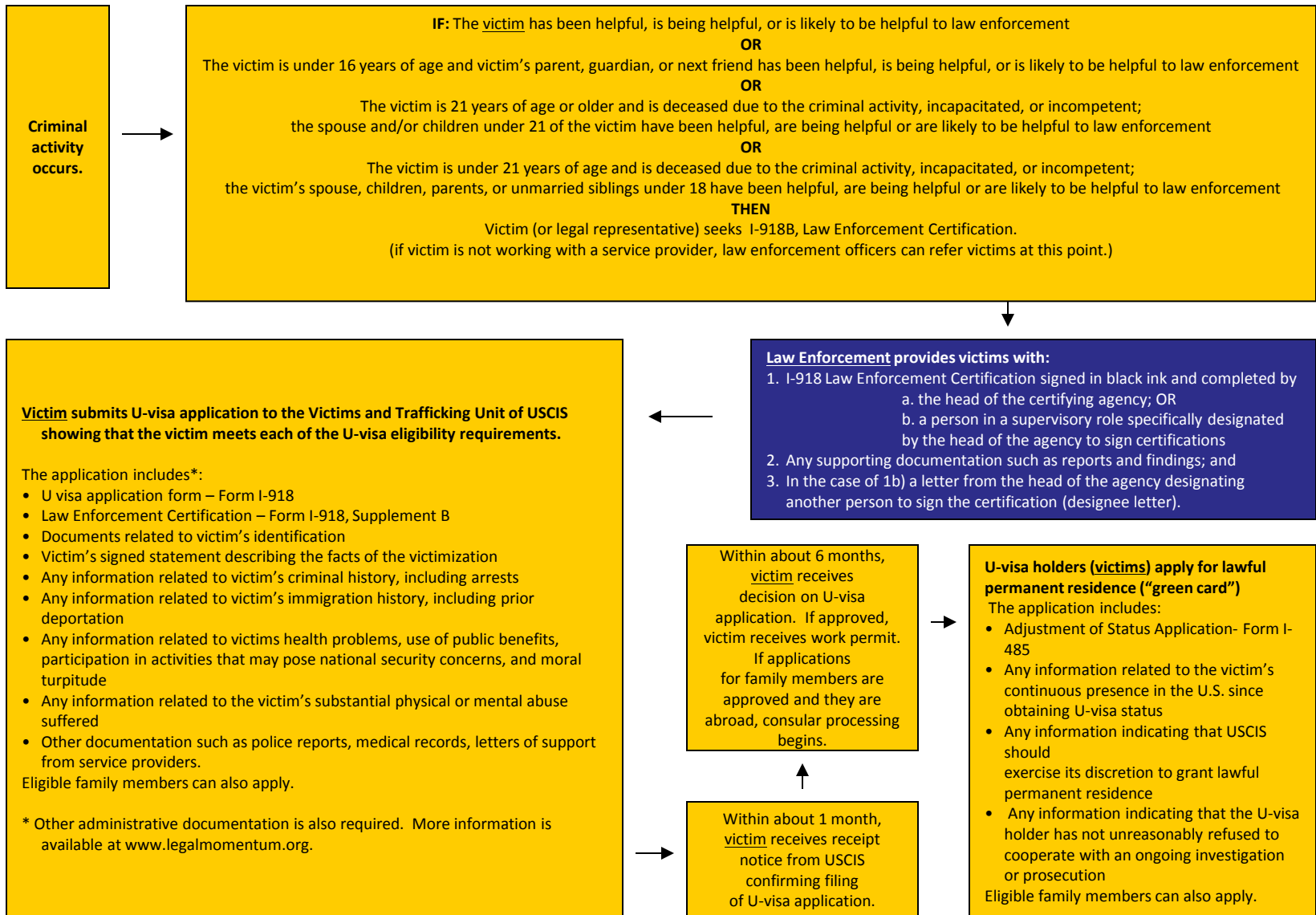
**Part 3. Criminal acts.**

1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. (Check all that apply.)

<input type="checkbox"/> Abduction	<input type="checkbox"/> Female Genital Mutilation	<input type="checkbox"/> Obstruction of Justice	<input type="checkbox"/> Slave Trade
<input type="checkbox"/> Abusive Sexual Contact	<input type="checkbox"/> Hostage	<input type="checkbox"/> Perjury	<input type="checkbox"/> Torture
<input type="checkbox"/> Blackmail	<input type="checkbox"/> Incest	<input type="checkbox"/> Prostitution	<input type="checkbox"/> Trafficking
<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Involuntary Servitude	<input type="checkbox"/> Rape	<input type="checkbox"/> Unlawful Criminal Restraint
<input type="checkbox"/> Extortion	<input type="checkbox"/> Kidnapping	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Witness Tampering
<input type="checkbox"/> False Imprisonment	<input type="checkbox"/> Manslaughter	<input type="checkbox"/> Sexual Exploitation	<input type="checkbox"/> Retained Consent
<input type="checkbox"/> Felonious Assault	<input type="checkbox"/> Murder	<input type="checkbox"/> Solicitation to commit any of the named crimes	<input type="checkbox"/> Other: (if more space needed, attach separate sheet of paper.)
<input type="checkbox"/> Attempt to commit any of the named crimes	<input type="checkbox"/> Conspiracy to commit any of the named crimes		

Form I-918 Supplement B (08/31/07)

# U visa Application Victim Flow Chart





# Filling the U visa Certification Form

*U-visa Toolkit, p.17 or Separate Document in Right Pocket of Folder*

- ▶ **Identify the victim or indirect victim (Part 1)**
- ▶ Include agency and certifier information (Part 2)
- ▶ **What criminal activity occurred? (Part 3)**
- ▶ **Determine helpfulness of the victim (Part 4)**
- ▶ Determine if any family members were implicated in the crime (Part 5)
- ▶ **Signature of Certifier (Part 6)**



## Identify the Victim or Indirect Victims (Part 1)

- ▶ Victim was killed or is incapacitated
- ▶ Next friend
- ▶ Family members of alien victims
- ▶ Bystanders
- ▶ Any state laws regarding indirect victims?

## Identify the criminal activity that occurred (Part 3)

Law enforcement has to consider:

- ▶ What is the crime?
- ▶ Is the crime a qualifying criminal activity under the U visa?



What types of crimes are affecting the immigrant communities in your jurisdiction?





## Categories of qualifying criminal activities listed in the U visa statute

- ▶ Domestic violence
- ▶ Sexual assault
- ▶ Rape
- ▶ Incest
- ▶ Prostitution
- ▶ Torture
- ▶ Female genital mutilation
- ▶ Felonious assault
- ▶ Manslaughter
- ▶ Murder
- ▶ Kidnapping
- ▶ Abduction
- ▶ Trafficking
- ▶ Involuntary servitude
- ▶ Slave trade
- ▶ Being held hostage
- ▶ Peonage
- ▶ False Imprisonment
- ▶ Blackmail
- ▶ Extortion
- ▶ Witness tampering
- ▶ Obstruction of justice
- ▶ Perjury

Attempt, conspiracy or solicitation to commit any of these crimes

**Any similar activity**

## Determine Whether the Victim is Helpful (Part 5)

- ▶ **Review Statute and DHS Regulations: has been helpful, is being helpful **OR** is likely to be helpful in the**
  - Detection, or Investigation, or
  - Prosecution, or Conviction or
  - Sentencing
- ▶ There is no degree of helpfulness required
- ▶ Law enforcement may complete U visa certification once they assess victim's helpfulness
- ▶ The investigation or prosecution can still be ongoing

## Some examples of Helpfulness

- Calling 911 to report a crime
- Providing a statement to the police
- Filing a police report
- Seeking a protection order
- Providing information to prosecutors
- Serving as a witness in a prior prosecution or investigation



## Is the helpfulness requirement met if:

1. Victim reports a crime and there's no further investigation
2. Report is of a past crime; victim did not know or feel safe to report
3. Perpetrator absconds or is subject to immigration removal
4. The perpetrator is being prosecuted for a different crime
5. Victim is not needed as a witness
6. Victim fully discloses story after better understanding rights, the U visa and meaningful language access
7. Victim is dead (indirect victim is applying)
8. Perpetrator is dead
9. Victim has a criminal history
10. Victim is subject to immigration enforcement

## Law Enforcement Certification is only one form of evidence.

- ▶ Victim of a qualifying criminal activity
- ▶ Has been, is being, or is likely to be helpful
- ▶ Suffered substantial physical or mental abuse as a result of the victimization
- ▶ Possesses information about the crime
- ▶ Crime occurred in the U.S. or violated U.S. law

U-visa Certification: Introduction (Toolkit p.4) , U-visa Quick Reference Guide (Toolkit p.12)



# Hypothetical Case Scenario: 1

Lara



Lara entered the United States seven years ago with a student visa. One night after the visa had expired; she was walking home from waiting tables and was raped by a masked assailant. She never got a good look at the perpetrator. He whispered that he knew where she lived and told her he would tell her family back home the “filthy things” she had done if she told anyone. Four months later, Lara realized she was pregnant. When she began to miss late shifts at work and was disciplined by her boss, she finally shared with him what had happened to her. Her boss encouraged her to contact the police, and helped her call the police. Lara told the police everything she knew, but said she would not testify in court because she feared retaliation.

## Hypothetical Case Scenario: 2

### Amelia and Carlos



Amelia and Carlos were living in poverty in their home country. Together they saved, borrowed and planned to pay a “coyote” \$3,000 to bring each of them into the United States. Once they arrived in the U.S., the “coyote” demanded an additional \$3,000 to release and transport them to family members living in Louisiana. After the “coyote” had held Amelia and Carlos in an abandoned house for 5 days, without food or water, their family was able to send the additional money. The coyote agreed to drive Amelia and Carlos to their family. The coyote had been drinking heavily before the drive, and just before they reached their destination, the coyote’s van crashed into oncoming traffic. Amelia was sitting in the passenger seat and died instantly. The passengers in the other car had minor injuries. Police arrived on the scene, and took both Carlos and the “coyote” into custody. Carlos told the police many details of the coyotes’ illegal business enterprises.

## Hypothetical Case Scenario: 3

### Diego and Alex

Joe and Alex are day labourers. They had both arrived in the United States on tourist visas, but seeing the opportunity for steady work, they decided to remain in the United States. For the past 4 years, they have been doing a number of construction jobs in cities throughout the south west, and Diego has started a family here. One payday they were robbed by three gang members who think of immigrants like Diego and Alex as “walking ATMs” because they don’t have bank accounts and carry a lot of cash. In addition to losing their wages, the two men were beaten. After their friends encouraged them, Diego and Alex reported the incident to local police. Diego and Alex were able to describe their assailants and a few days later, the police apprehended three people who matched the descriptions. Diego and Alex refuse to press charges, however, because the robbery happened in their neighbourhood and they feared retaliation.



## **Who can sign a U visa Certification? (Part 6)**

- ▶ Any agency that investigates or prosecutes criminal activity may sign a certification:
- ▶ Judges
- ▶ State, Federal, Local LE Agencies and Prosecutors (Supervisor)
- ▶ Child or Adult Protective Services
- ▶ Federal agencies (EEOC, DHS, ATF, FBI)
- ▶ State or Federal Departments of Labor
- ▶ Other agencies that meet guidelines

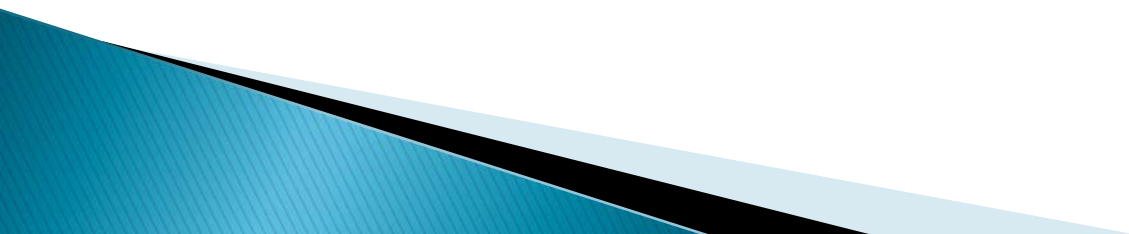


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# Identifying and Addressing Difficult Issues for Law Enforcement





## Discussion

**When you consider taking the information you are learning today back to your agency, what concerns do you think the following persons may have?**

- Your Chief/Sheriff
- Your District Attorney
- Other Officers
- Other Prosecutors
- Supervisors

## Common Concerns of Law Enforcement

- ▶ Does not want to confer citizenship on victim
- ▶ Certifications are going to create an administrative backlog
- ▶ Belief that undocumented immigration status is a federal offense
- ▶ It's the responsibility of Homeland Security, not of the local police
- ▶ Victim is uncooperative or no longer helpful
- ▶ Victim has a criminal history
- ▶ Crime occurred a long time ago or the case is closed
- ▶ Perpetrator cannot be found, identified, or is dead

## Some ways to efficiently address common concerns

- ▶ Work with your agency to craft a U visa policy that addresses the concerns and creates a process
- ▶ Keep in mind that the application process is extensive, the certification is just one piece of evidence that the victim must provide
- ▶ Take note of where your certifications are coming from, create partnerships that are mutually beneficial
- ▶ Contact us, or DHS– we are free resources for you

## Drafting a U visa Protocol: Group Exercise

# What should an agency's U visa certification protocol include?

Read City of X, Law Enforcement Certification Protocol  
*(Right Hand Pocket of Trainee Folder)*

- ▶ Identify any problems with the protocol
  - ▶ Note provision numbers
- ▶ How could the protocol be improved?
  - ▶ What is missing?

## A closer look at the victim's U visa application process

In addition to the law enforcement certification, what other documents could the crime victim applicant provide to Homeland Security ?



## Recap: To receive a U visa, a victim has to demonstrate to USCIS, that the victim meets the following requirements

- ▶ Victim of a qualifying criminal activity
- ▶ Has been, is being, or is likely to be helpful
- ▶ Suffered substantial physical or mental abuse as a result of the victimization
- ▶ Possesses information about the crime
- ▶ Crime occurred in the U.S. or violated U.S. law

## Victim Must Provide Documents Showing:

- ▶ Physical or mental abuse as a result of the criminal activity
  - May provide medical records, affidavits from health professionals
- ▶ Lack of criminal history
  - Victim must disclose criminal history
  - Immigration law definition of “aggravated felony”
  - Waivers available – DHS discretion
  - No waiver if history of espionage or terrorism
  - Victim will be fingerprinted
- ▶ Immigration history including violations
  - Misrepresentation on an immigration application
  - Removal proceedings
- ▶ Information about family members who may also receive U visas

## Forming Partnerships with Entities involved in the U visa Process

# How will you encounter U visa certification in your work? You will--

- ▶ Be the first responder on a call involving an immigrant victim
- ▶ Receive a request for certification from
  - A victim advocate
  - An immigration attorney
  - A community based organization
  - A victim



# Community Partnerships

- Identify community outreach tools to improve your agency's protection of and help for undocumented immigrant victims

# Group Discussion

- ▶ How would you build meaningful relationships with immigrant victims and immigrant communities using the U visa policy?
- ▶ How would you share information about this policy with other law enforcement colleagues?
- ▶ How would your agency help other law enforcement agencies that do not yet have a U visa policy or protocol?

## Discussion with Advocates

- What services are available to help immigrant victims?
- Who are the agencies to whom law enforcement can refer victims they identify who may be eligible for immigration relief?

# Resources

## ▶ **Technical Assistance**

▶ Call 202.274.4457 or Email [niwap@wcl.american.edu](mailto:niwap@wcl.american.edu)

## ▶ **Materials on U visa and Immigrant Victims Legal Rights**

▶ Visit [www.iwp.legalmomentum.org](http://www.iwp.legalmomentum.org)

## **Department of Homeland Security Sources**

- Contact Scott Whelan at [scott.whelan@dhs.gov](mailto:scott.whelan@dhs.gov)
- Contact Thomas Pearl at [thomas.pearl@dhs.gov](mailto:thomas.pearl@dhs.gov)
- USCIS U visa Fact Sheet “Questions & Answers: Victims of Criminal Activity, U Nonimmigrant Status” at [www.uscis.gov](http://www.uscis.gov)

**Evaluations**

**Certificates**

