

**What Works for Immigrant
Survivors:
Building Collaboration with Law
Enforcement, U-Visa Certification
and Family Court Emerging Issues
Immigration
Track 1**

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Atlanta, Georgia

Please Note

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Keeping Communities Safe: Ensuring Immigrant Survivors of Crime have Access to VAWA/ U-T Visas

Track #1: “Community Safety and
Legal Relief for Immigrant Survivors:
A Collaborative Response”



Learning Objectives:

- To understand the purpose of the U-visa.
- To identify and understand barriers that prevent immigrant and refugee victims from cooperating with the justice system.
- To effectively communicate with law enforcement in order to achieve promising U-visa certification practices.

What crimes are you seeing around your community ?

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

What Barriers are Present, if an Immigrant/Refugee Victim Considers Reporting?

Barriers for Noncitizens

- 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/school
 - Refugee status

Survivor's Deportation Concerns

- Immigration related abuse/deportation
- Economic survival
- Fear of losing custody/access to children
- Belief that if partner is deported she has to go with him
- Fear of abandoning the home

Survivor's Deportation Concerns Continued

- Danger to victim in the home country (retaliation)
- Fear of being ostracized by community in home country
- Fear of police/experience in home country
- Religion
- Political instability in home country
- Gender barriers in home country
- Fear of unknown

Immigration Enforcement

- Enforcement of Immigration Laws
- Local Enforcement of Immigration Laws
- Communities in which law enforcement prioritizes cooperation with Homeland Security over criminal investigations

Keeping Communities Safe: Reporting Crime Vs. Deportation

Concerns about immigration status result in undocumented immigrant crime victims being

- **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 coercion and threats; particularly immigration related threats, coercion and abuse

Why is Legal Immigration Status Important?

Immigration Status

- Protection from deportation
- Ability to work legally
- Path to lawful permanent residency and ultimately citizenship
- Increased access to public benefits, including housing
- Severs dependence on potential abusers
- Ability to travel to and from the U.S. (with some exceptions)
- Improved access to family law remedies, such as protection orders and custody

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

Other Legal Options for Immigrant Survivors

Immigration relief:

• VAWA self-petition

- Abused spouses/children of US citizens and lawful permanent residents
- Abused parents of U.S. citizens over 21 years of age

• Battered spouse waiver

- Abused spouses of US citizens with two-year conditional permanent residency

• T-visa

- Victims of severe forms of human trafficking

• Asylum

- Persecution based on protected classes

• Special Immigrant Juvenile (SIJ)

- Juveniles that have been abused, abandoned or neglected

• Deferred Action – Relief based on new DHS policies and for child arrivals

- Deferred action for “low priority” survivors, parents, and “dreamers”

VAWA Self-Petitioning

OMB No. 1645-0023, Expires 09/30/08

**I-485, Application to Register
Permanent Residence or Adjust Status**

For USCIS Use Only

| | | Returned | Except |
|----------------|--|-------------|--------|
| Applicant Name | | | |
| | | | |
| | | | |
| | | Resubmitted | |
| Apt. # | | | |
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General VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
- spouse,
- parent,
- adult son/daughter (over 21)
- With Whom self-petitioner resided
- No time period required
- Good Moral Character
- Good Faith Marriage

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
 - identity documentation
 - evidence of victimization and helpfulness
 - inadmissibility waiver and fees (waived)
 - biometrics
 - background checks
- Decision from USCIS in approximately 9 months

U-visa Quick Facts

- Only 10,000 U-visas can be granted annually
- Applicant may apply for immediate family members (spouse, children, siblings, *parent)
- 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 moral character

How does the U-visa help law enforcement?



How Law Enforcement Benefits from the U-Visa and VAWA Immigration Programs

- Encourages victims to report crimes
- Improves law enforcement's ability to comprehensively detect, investigate and prosecute crimes in the community
- Demonstrates the department's commitment to protecting immigrant community members
- Makes it easier to identify victim witnesses and pursue prosecutions of perpetrators
- Fosters community policing partnerships and trust

Benefits for Survivors

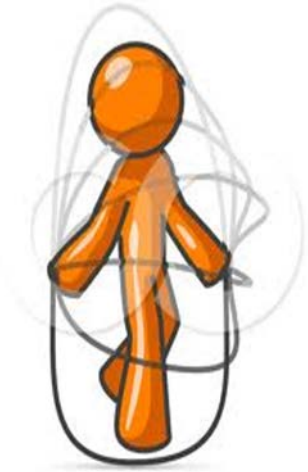
- Protection from deportation
- Enhanced Safety for Victim
- Financial independence from perpetrator
 - Abusive family member
 - Employer
- Legal Work Authorization – Drivers License/SSN
- VAWA Confidentiality
- Temporary legal immigration status
- U-visa protections for vulnerable family members
- Greater ability to gain/maintain custody of her children
- More access to victim services, health care and benefits

“It’s not 10,000 visas it is
10,000 tips to get criminals off
our streets”

- Chief Pete Helein, Appleton PD

Small Group Exercise

Discuss and list some of the challenges you anticipate or have experienced in obtaining the U-visa certification from law enforcement



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Large Discussion Mission Statements

- How might your local law enforcement's mission statement help you overcome some of those challenges ?

Laying the Foundation for Partnerships: The Department's Mission and Vision Statements

“We Maintain Open Communication with all the Communities We Serve. Their Input Helps to Determine Police Policies, Priorities and Strategies.”

-Excerpt from San Francisco Police Department's Mission Statement

“The people of our communities and members of the police Department must be united in their commitment to addressing crime, violence, and quality-of-life issues by engaging one another and all city agencies in problem-solving partnerships.”

-Excerpt from San Francisco Police Department's Vision Statement



Frame the Conversation: Focus on Common Goals

These goals include:

- Holding perpetrators accountable
- Increasing public safety
- Providing redress to victims
- Building trust in the community

Questions

- The next session, “Road Map to Building Relationships With Law Enforcement in your Community” will begin at 1:30 pm



Road Map to Building Relationships with Law Enforcement in Your Community

Track #1: “Community Safety and
Legal Relief for Immigrant Survivors:
A Collaborative Response”

Learning Objectives:

- Using effective communication based on common goals and objectives to form relationships with law enforcement.
- Creating plans to approach law enforcement in communities that encourage certification for immigrant survivors.



**What problems have you had
when collaborating with other
agencies?**

Common Challenges to Collaboration

- No contact person
- Miscommunication
- Lack of communication
- Clashing interests
- Personality clashes
- Needs are ignored

What are some of the good experiences you have had collaborating with agencies?

Benefits of Collaborating with Advocates and Assisting Victims for the Community

- Builds community trust
- Immigrant community learns that stigmas about law enforcement are not true and begin to trust law enforcement
 - Immigrants begin to feel safe in their community
 - Flow of information increases between community and law enforcement (e.g. immigrant community reports more illegal activities that would otherwise go unreported)

Benefits of Collaborating with Advocates and Assisting Victims for Law Enforcement

- Law enforcement does not have to repeatedly visit same scene of crime without any successful outcome → decrease in criminal activity + more crimes reported because people are willing to report
- Opens communication between law enforcement, advocacy/attorney groups, and present and future victims
- If more of these types of crimes are reported (domestic violence, sexual assault, etc.) branches of law enforcement agencies will maintain funding to operate

Benefits of Collaborating with Advocates and Assisting Victims for **Victim and Victim's Family**

- Do not have to rely on the potential abuser to be the breadwinner
- Children no longer exposed to harm
- Breaks cycle of violence
- Eliminates fear of talking to the police

Strategic Plan

1. “Do Your Homework”
2. “Building Alliances”
3. “Meet and Greet”

1. “Do Your Homework”

Before contacting law enforcement, prepare by conducting research in the following areas:

- Identify a law enforcement ally and learn about current practices
- Collect survivors’ stories
- Collect data about current U-visa certification practices





Do Your Homework

- Collect stories of survivors of crime, illustrative of the impact of current U-visa certification practices on crime victims (positive/negative) :
 - Should be emotionally compelling—focus on victimization and crimes committed by perpetrators
 - Allows advocates to assess and document barriers survivors face when working with law enforcement



Do Your Homework

- Work with allies and the community to collect data documenting the extent of U-visa certification practices:
 - How widespread are the failures to certify?
 - Are the failure to certify particular to one precinct or police chief?
 - Prepare talking points that document and articulate the problem
 - Develop a factual understanding of the nature and scope of any barriers to U-visa certification access for survivors

2. “Building Alliances”

Look for partners and/or coalitions that already have trusting relationships with police departments



“Building Alliances”

- Mainstream partners (e.g. Domestic Violence and Sexual Assault Agencies, Courts, Government) can help advocates successfully create relationships with law enforcement
- Formulate strategy to approach law enforcement based on allies’ past experiences
- Be proactive

“Building Alliances”

- If you do not have access to a mainstream partner or positive relationships with the police:
 - Plan a meeting with the Chief of Police or head of the agency through a trusted ally of the Chief
 - Make sure that the ally frames the issue in a manner that is in line with the Chief’s concerns for community safety and perpetrator accountability

Know your Role

The advocate's role is to be an expert who is an **honest broker** on the effect of current practices or policies on immigrant survivors, whom law enforcement can work with to improve U-visa certification practices.

3. “Meet and Greet”

Plan by creating a strategy for contacting, meeting with, and building relationships with law enforcement agencies



“Meet and Greet”

- To whom is it best suited to send a **letter** and who is it best **from** ?
 - Chief, Sergeant, Sheriff, Mayor, Advocate, Judge, or another ally?

“Meet and Greet”

- Determine the best person to contact – may be:
 - The chief
 - An officer
 - A supervisor who knows Domestic Violence/Sexual Assault issues
- Identify a liaison with whom advocates can communicate

“Meet and Greet”

- Communicate U-visa certification goals in the context of law enforcement goals:
 - Victim safety
 - Lessening fear to enhance crime reporting and tips
 - Improving law enforcement’s ability to hold perpetrators accountable

Bring Something to the Table

- Collaborate with other advocates to create a packet of information, pocket sized cards and resource materials to hand out to victims containing:
 - names of advocates and/or shelters
 - victims' rights
 - names and numbers to call for assistance and counseling
 - medical information

Work with a Cross Discipline Team

- Determine who comprises the best cross-discipline team to attend any such meetings with law enforcement
- Set up regular meetings with advocates and provide the other agency with updated information
- Celebrate successes and develop a plan for improving shortcomings

Conduct Training

- Conduct trainings in the context of community policy and safety, rather than batterer/victim framework, and partner with another professional
- Create helpful tools for law enforcement, e.g.:
 - Toolkits
 - Flyers for victims
 - Agency protocols and procedures for U-visa certification

Putting Relationships with Law Enforcement into Practice

Relationships Key

*U-Visas Presentation – IFVC
– 2010 – Hass & Monahan*

Law Enforcement

Success

- Aware and sensitive about DV
- Coordinated with advocates and other first responders
- Call advocates when there is a case
- Educated about U-visas
- Lack anti-immigrant attitude

Challenges

- Not aware of DV dynamics
- Not coordinating with others
- Not educated about U-visas
- Anti-immigrant attitude

When Encountering an Immigrant Victim

Law enforcement can assist victims and advocates by :

- Determining whether the victim might be eligible for VAWA, U-visa, or T-visa protections/resources
- Providing victim with prepared packet of information about language access (if applicable), safety planning resources, etc. at their disposal

When Encountering an Immigrant Victim

Law enforcement can assist victims & advocates by :

- Gathering evidence
- For VAWA, encourage the victim early on to collect personal photos, mementos, etc. that can be used as proof the victim entered into relationship in good faith (prevents abuser from destroying evidence)
- For U-visa, gather documentation of the incident – take photos, etc., even if no visible “proof” of abuse

When Encountering an Immigrant Victim

Law enforcement can assist victims & advocates by :

- Contacting advocate/attorney – can call at the scene and give victim's information right away (with victim's approval)
- Interviewing survivor and any other witnesses in community that may have information about the survivor's case
- Prosecuting the perpetrator
- If an ongoing case, keeping in touch with advocate/attorney or survivor and staying informed about victim's VAWA/U-visa/T-visa status and whereabouts

Signing U-Visa Certification

- Law enforcement officers signing U-visa certifications must remember:
 - By signing a U-visa certification, you are **not** authorizing a U-visa; you are merely certifying the survivor is a victim of the crime, that is a qualifying offense and the person is cooperating/is likely to be helpful



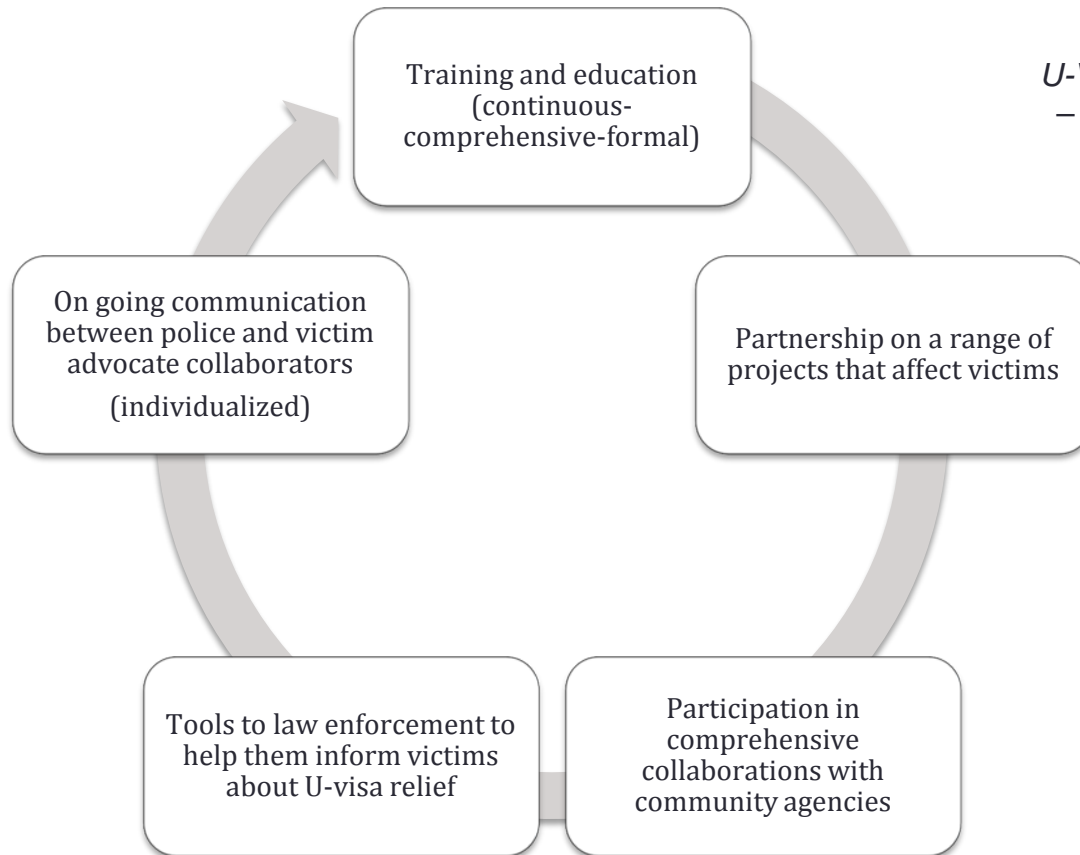
Encountering an Immigrant Victim: VAWA, U-visa, T-visa

Advocates can assist law enforcement by:

- Helping survivors apply for VAWA/U-visa/T-visa protections
- Providing survivor's demographic information
- Locating survivors
- Encouraging clients to maintain contact with law enforcement
- Getting client to office for interviews safely
- Making sure there is language access for client
- Educating clients about their rights so they are not further victimized in another context

Building Advocate-Law Enforcement Relationships Result in U-Visa Certification

*U-Visas Presentation – IFVC
– 2010 – Hass & Monahan*



Questions

- The next session, “Breaking Down Walls to Build Bridges: Addressing Key Challenges of U-Visa Certification” will begin at 2:45 pm



Breaking Down Walls to Build Bridges: Addressing Key Challenges of U-Visa Certification

Track #1: Community Safety and
Legal Relief for Immigrant Survivors:
A Collaborative Response

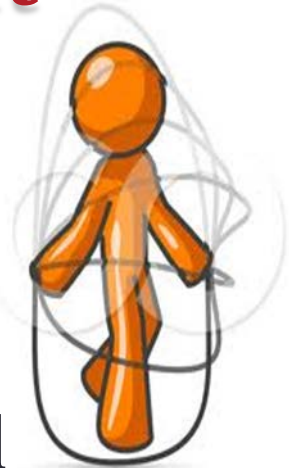
Learning Objectives

- By the end of this segment, you will be better able to:
 - Identify the reasons why law enforcement doesn't always sign U-visa certifications
 - Anticipate and overcome such challenges

City of X, Law Enforcement Certification Protocol

Small Group Exercise

- Identify any problems with the protocol
 - Note: provision numbers
- How could the protocol be improved?
- Can you think of situations where survivors would not be able to obtain a U-visa because of similar protocols?



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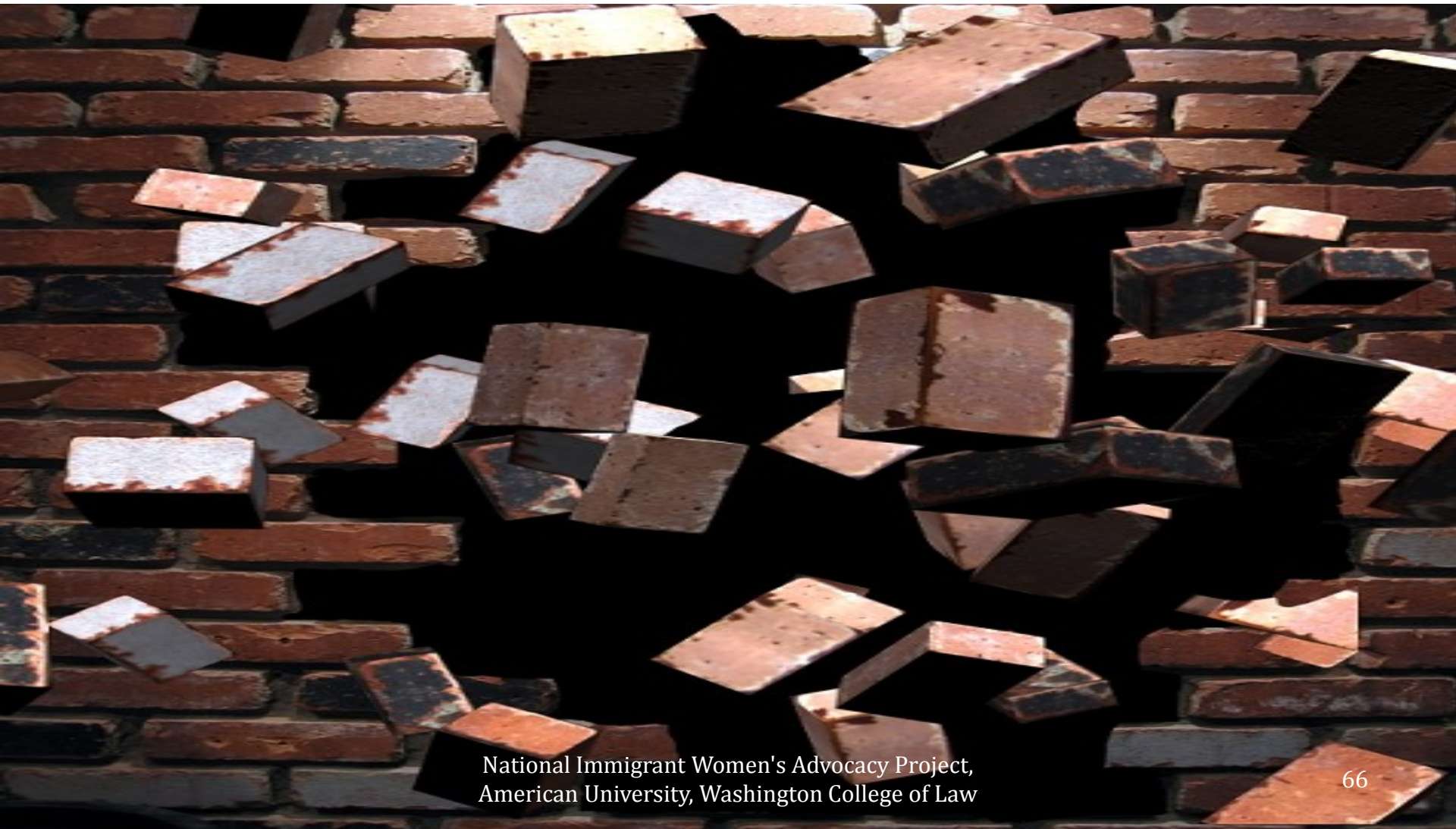
Challenges Usually Stem from

1. Misunderstanding of the helpfulness
2. Bias or fear of the unknown
3. Fraud concerns
4. Quantifying substantial harm or helpfulness
5. Systematic Problems



Overcoming Challenges

Large Group Discussion



Once you identify which category the challenge stems from, you will be better able to address law enforcements concerns

Let's review the challenges we identified earlier

Challenges

- No active investigation/case closed
- There is no prosecution/conviction
- She wasn't helpful enough, she didn't even testify, no conviction
- Immigration is a complicated federal matter we don't want to confer any benefits or be liable for the beneficiaries
- She has violated our laws, why should we help her

Challenges Continued

- How do we know she is not just making this up so she can gain immigration status.
- We need more proof that she was really harmed.
- There are only 10,000 visas and we need to save them for those that really deserve them.
- But she was arrested too !
- What do you mean indirect victim?

Challenges Continued

- We haven't developed a policy, come see us when we do.
- There are no records, so we don't know if she was helpful.
- We let the DA's office handle certifications.
- We know she is still with the abuser so what's the point.
- We will wait to sign it when the case is closed.

HYPOTHETICALS

Is this person eligible for a U-visa certification?

Hypothetical #1:

NUSHEEN

Nusheen entered the United States five years ago with a tourist visa. Well after the visa had expired, she met Ali through a friend at her mosque. Months later they married and bought a home together. One night soon afterward, their home was robbed and Ali was murdered in the couple's living room while Nusheen was asleep in the bedroom. She never saw the perpetrator, though several neighbors did. The police contacted Nusheen, who told them everything she knew. The police also spoke with the neighbors, who described the perpetrator.

PLEASE NOTE: This is not an example of an OVW possible case, but is included to further examine who is eligible for the U-visa

Hypothetical #2:

LI

Li is an 18-year-old Chinese national. A friend introduced him to a “snakehead” who would take him from China to the United States for \$75,000. The snakehead arranged for Li to go from China to Hong Kong, where Li was given a fake passport that he used to enter the U.S. Li now works seven days a week in a Chinatown restaurant. Most of his wages are taken from him to pay the snakehead, room and board, and other “fees.” When Li asked to work fewer hours so he could go to school, his employer shoved him against a wall and told him to never ask again. Li made contact with a Chinatown-based police officer who is fluent in Mandarin. The officer encouraged Li to report the restaurant to the Department of Labor and work with his department’s trafficking unit to report the snakehead. Li has agreed to do both.

PLEASE NOTE: This is not an example of an OVW possible case, but is included to further examine who is eligible for the U-visa

Hypothetical #3:

MARICELA AND DIEGO

Maricela and Diego paid a coyote to take them to Kansas, where they now work at a poultry processing plant. One payday they were robbed by three gang members who think of immigrants like Maricela and Diego as “walking ATMs” because they don’t have bank accounts and carry a lot of cash. In addition to losing their wages, the couple were beaten and Maricela was sexually assaulted. After their friends encouraged them, the couple reported the incident to local police. Maricela and Diego were able to describe their assailants and a few days later, the police apprehended three people who matched the descriptions. Maricela and Diego refuse to press charges, however, because they feared retaliation.

Large Group Discussion

What does it take to be helpful?



Helpfulness by the Regulations

- Statute and DHS Regulations state: ...has been helpful, is being helpful or is likely to be helpful in the
 - Detection, or Investigation,
 - 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

Examples of Helpfulness

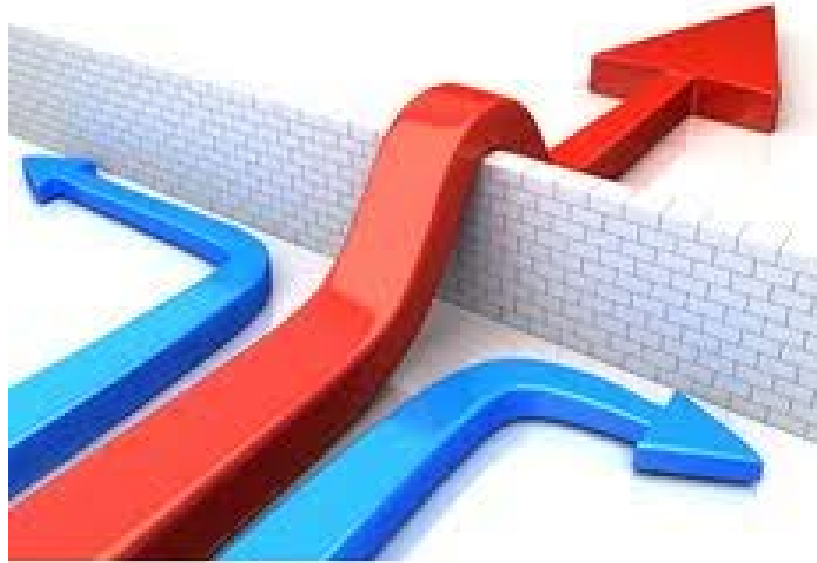
- Calling 911 to report a crime
- Providing a statement to the police
- Filing a police report
- Seeking a protection order
- Providing information to prosecutors
- Serving as a witness in a prior prosecution or investigation
- Providing information at sentencing/victim impact statement
- Probation violation report or Parole

But what if _____, can the victim still be considered helpful?

Helpfulness can be satisfied even if:

- Victim reports a crime and there is no further investigation
- Report is of a past crime, where victim did not know or feel safe to report at the time
- Perpetrator absconds or is subject to immigration removal
- Perpetrator is being prosecuted for a different crime
- Victim is not needed as a witness
- Victim is dead (indirect victim qualifies)
- Perpetrator is dead
- Victim has a criminal history
- Victim is subject to immigration enforcement
- Victim fully discloses story after better understanding rights, the U-visa and meaningful language access

How do you Address the Challenges?



Responding to Challenges

1. Identify which category the challenge falls into?
2. What is the Regulation or Rule?
3. What was the Congressional intent behind the regulation?
4. What is the benefit for law enforcement?
5. What is the benefit for the victim of the crime ?
6. What is the benefit for our community?

Law Enforcement will only certify when there is an active investigation?

- What's the Rule:
 - There is no statute of limitations regarding the time frame in which the crime must have occurred.
 - Federal legislation specifically provides that a victim may be eligible for a U-visa based on having been **helpful** *in the past* in an investigation or prosecution a crime.

Will not certify because there was no conviction or prosecution ?

- What's the Rule ?
 - There is no statutory or regulatory requirement that an arrest, prosecution, or conviction occur for someone to be eligible to apply for a U-visa
 - As long as the victim has been **helpful** in the detection, investigation or prosecution of the qualifying **criminal activity**, AND
 - Victim has not unreasonably refused to cooperate in the investigation or prosecution of the crime

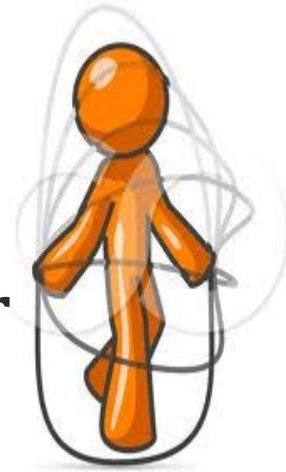
Law Enforcement benefits in signing certification under these circumstances

- May lead to tips on new crimes especially those that are serial in nature (e.g. rape)
- Victim may feel safe to report new crimes
- Builds trust with immigrant community
- Brings stability to the survivor of the crime

Reasons for Certification

- Victim nevertheless came forward and was **helpful** in detection and investigation of criminal activity
- Congress did not want to interfere with the discretion of investigators and prosecutors
- There are many factors to consider when there is not a conviction or prosecution unrelated to a victims willingness to be helpful
 - Pleas
 - Perpetrator flees
 - Unable to ID perpetrator

Small Group Activity



- Lets work through the remaining major challenges? How would you respond?
 - 1. How do we know she is not making up the crime so that she can get a visa?
 - 2. If she is here illegally, then she is a law breaker. Why should we sign a certification?
 - 3. We don't think the level of harm was sufficient for a U-visa.



Addressing Safeguards Against Fraud

- Agencies that investigate and prosecute are in the best position to address fraud
- Applications are adjudicated by a specialized unit
- USCIS conducts FBI fingerprint and background checks, and review of inadmissibility issues
- USCIS may ask for further evidence –supporting evidence
- Additional fraud checks when applying for LPR status



Addressing Bias Against Undocumented Persons or Fear of the Unknown

- DHS has dual policies of enforcement and victim protection
- DHS encourages certification practices and protocols
- Signing the U-visa certification is only one of several requirements
- Reasons why Congress created the U-visa
- Show law enforcement how U-visa is a tool to keep our communities safe, foster relationships and protect victims



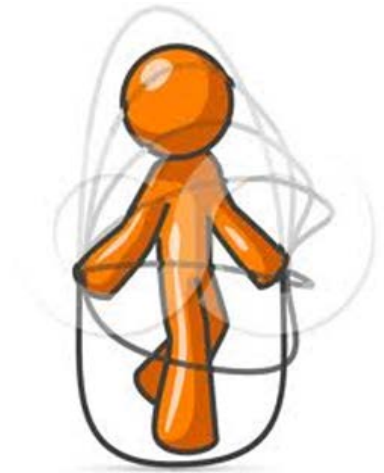
Addressing Substantial Harm

- USCIS determines “substantial physical or mental harm on a case-by-basis
- Cite DHS materials that clarify that certifying agencies do not make this determination
- Congressional intent behind not leaving this to Law Enforcement
- Unique manifestation of harm and dynamics in victims of sensitive crimes

Recognize Certification is NOT always Possible

- Small Group Exercise

Think of a circumstance when law enforcement justifiably refused to sign a U-visa certification.



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Questions

- Announcements
- Tomorrow we will reconvene at 8:00 am



Putting Your Pen to Work: Preparing a U-Visa Certification Form and Request so that Law Enforcement signs it and Vermont Accepts it

TRACK #1: Community Safety and Legal Relief for Immigrant Survivors: A Collaborative Response

National Immigrant Women's Advocacy Project Resource Library: <http://niwaplibrary.wcl.american.edu/>

Learning Objectives

- Apply your knowledge by screening for U-visa eligibility, being able to identify the criminal activity and assess the strengths and weaknesses in obtaining the certification from law enforcement.
- Together we will explore promising practices for completing the U-visa form for law enforcement and what to include in your request.

U-visa Overview

- Victim of crime suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity;
- Victim has information about the criminal activity;
- Certification required to establish that victim has been, is being helpful, or is likely to be helpful to law enforcement official;
- Criminal activity occurred in the United States or is covered by US law;

Steps to Determining Eligibility

1. Is the survivor a victim of the qualifying criminal activity?
2. Has the victim/survivor been helpful, is being helpful, likely to be helpful in detection, investigation, prosecution, of the criminal activity?
3. Has the survivor suffered “substantial physical or mental abuse” as a result of the criminal activity?
- 4. Can the required certification be obtained ?**
5. Is the victim/survivor considered inadmissible and, if yes, can it be waived ?

Step 1: Determining the Qualifying Criminal Activity

- Rape
- Torture
- Trafficking
- Incest
- Domestic violence
- Sexual assault
- Prostitution
- Female genital mutilation
- Murder
- Manslaughter
- Felonious Assault
- Kidnapping
- Abduction

- 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



Large Group Discussion

A few years ago Moriah, was raped. At the time, Moriah had only been in the U.S. for a few months. She did not want to tell the police. She did not speak any English and she was afraid. She did talk to a counselor at a community center in her neighborhood a couple of months after the attack. She ended up spending three years in counseling.

Is Moriah eligible to apply for U nonimmigrant status?

Step 2 : Cooperation

- Has the victim had contact with investigating authorities?
- Is the victim willing to continue to be helpful?
- Has the victim provided updated contact information to investigating or prosecuting agencies?

Step 3: Suffered Substantial Physical or Mental Abuse

- Factors :
 - Nature of injury inflicted/suffered;
 - Severity of perpetrator's conduct;
 - Severity of the harm;
 - Duration of the harm;
 - Pattern of abuse by this perpetrator against victim;
 - Existence of permanent or serious harm (physical or mental), including aggravation of pre-existing condition

Step 4: Form I-918, Supplement B: The U Certification

The U Nonimmigrant Status Petition cannot be filed without a certification on Form I-918, Supplement B, signed within 6 months of the U filing.

- No certification = No case

Step 5: Addressing Inadmissibility

- Did the victim enter without inspection?
- Does she have unlawful presence ?
- Misrepresentation or False Claim to USC?
- Has she ever been arrested or convicted of a crime?
- Broad and Generous standard for the waiver/pardon
 - Form I-192 -victim should show it is - “in the national or public interest: to grant it -INA § 212(d)(14).
 - Denial may occur in cases where a victim has multiple arrests, convictions or has a serious or violent arrest record,

Determine whom and how to send the request

Who

- Network with other advocates to see where they have been successful
- Chief/ or Victim Liaison

How

- Because of heavy work volume some law enforcement agencies prefer that requests are sent pre-filled, others prefer to fill out the form themselves
- Often practitioners will send both, the pre-filled form can serve as a guide

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| | | | | |
|--|---|---|---|---------|
| Part 1. Victim information. | | | For USCIS Use Only. | |
| Family Name | Given Name | Middle Name | Returned | Receipt |
| Other Names Used (include mother names/surnames) | | | Date | |
| Date of Birth (mm/dd/yyyy) | | | Date | |
| Gender | | | Resubmitted | |
| <input type="checkbox"/> Male <input type="checkbox"/> Female | | | Date | |
| Date | | | Date | |
| Date | | | Reloc Sent | |
| Date | | | Date | |
| Date | | | Date | |
| Date | | | Reloc Rec'd | |
| Date | | | Date | |
| Date | | | Date | |
| Date | | | Remarks | |
| Part 2. Agency information. | | | | |
| Name of Certifying Agency | | | | |
| Name of Certifying Official | | | | |
| Title and Division/Office of Certifying Official | | | | |
| Name of Head of Certifying Agency | | | | |
| Agency Address - Street Number and Name | | | | |
| State # | | | | |
| City | | | | |
| State/Province | | | | |
| Zip/Postal Code | | | | |
| 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"/> Ongoing <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 violation 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"/> Perjury | <input type="checkbox"/> Trafficking | |
| <input type="checkbox"/> Domestic Violence | <input type="checkbox"/> Involuntary Servitude | <input type="checkbox"/> Persecution | <input type="checkbox"/> Unlawful Criminal Extortion | |
| <input type="checkbox"/> Extortion | <input type="checkbox"/> Kidnapping | <input type="checkbox"/> Rape | <input type="checkbox"/> Witness Tampering | |
| <input type="checkbox"/> False Imprisonment | <input type="checkbox"/> Molestation | <input type="checkbox"/> Sexual Assault | <input type="checkbox"/> Related Crime(s) | |
| <input type="checkbox"/> False Personation | <input type="checkbox"/> Murder | <input type="checkbox"/> Sexual Exploitation | <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 | <input type="checkbox"/> Solicitation to commit any of the named crimes | | |

Victim info →

Agency info →

Crime info →

Date, location and other Crime info. ->

Part 3. Criminal acts. (Continued.)

2. Provide the date(s) on which the criminal activity occurred.

| Date (mm/dd/yyyy) | Date (mm/dd/yyyy) | Date (mm/dd/yyyy) | Date (mm/dd/yyyy) |
|-------------------|-------------------|-------------------|-------------------|
| | | | |

3. List the statutory citation(s) for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

4. Did the criminal activity occur in the United States, including Indian country and military installations, or the territories or possessions of the United States? Yes No

a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute? Yes No

b. If "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

c. Where did the criminal activity occur?

5. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the individual named in Part 1. Attach copies of all relevant reports and findings.

6. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

Helpfulness statement ->

Part 4. Helpfulness of the victim.

The victim (or parent, guardian or next friend, if the victim is under the age of 18, incompetent or incapacitated):

1. Possesses information concerning the criminal activity listed in Part 3. Yes No

2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. (Attach an explanation briefly detailing the assistance the victim has provided.) Yes No

3. Has not been requested to provide further assistance in the investigation and/or prosecution. (Example: prosecution is barred by the statute of limitations.) (Attach an explanation.) Yes No

4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. (Attach an explanation.) Yes No

Form I-918 Supplement B (11/21/01) V Page 2

Additional helpfulness info. →

Part 4. Helpfulness of the victim. (Continued)

3. Other, please specify.

Part 5. Family members implicated in criminal activity.

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim? Yes No

2. If "Yes," list relative(s) and criminal involvement. (Attach extra reports or extra sheet(s) of paper if necessary.)

| Full Name | Relationship | Involvement |
|-----------|--------------|-------------|
| | | |
| | | |
| | | |
| | | |

Part 6. Certification.

I am the head of the agency listed in Part 2 or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in Part 1 is or has been a victim of one or more of the crimes listed in Part 3. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Service, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

Signature of Certifying Official Identified in Part 2.

Date (mm/dd/yyyy)

Form I-918 Supplement B (Rev. 11/2010) T Page 3

Culpable family members →

Signature : IN BLUE →

Law Enforcement Agencies are Only Certifying the following:

- The survivor was a victim of the qualify crime;
- The survivor has specific knowledge and details of the crime; and
- The survivor has been, is being or is likely to be helpful to law enforcement in detection, investigation, or prosecution of the qualifying crime
 - **Notice that these are not the same requirements for U-visa eligibility?**
 - **What is missing ?**



Question 6 of Part 3

- Asks law enforcement to provide information about any injuries that the law enforcement agency knows about or has documented
 - USCIS make the determination of “substantial physical or mental abuse” on a case by case
 - The burden to **prove** is on the survivor –
- Encourage law enforcement to fill this box out when ever possible.**

Identify the Victim or Indirect Victim

- Murder/Manslaughter/Incapacitated
 - Family members: spouses; unmarried children under 21;
 - Victims under 21: parents and unmarried siblings under age 18
- Next friend
 - Someone who is assisting a direct victim who is incompetent, incapacitated, or under 16.
 - Must appear in a lawsuit to act for the benefit of the direct victim
- Family members of victims
- Bystanders
 - Or show vicarious victimization resulting from witnessing or having knowledge of the criminal activity
- Any state laws regarding indirect victims?

Small Group Exercise



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- Review the facts of your case:
 - Determine if the person in the fact pattern is eligible for U-visa?
 - Fill out the U-visa certification form
 - Determine if you were the Chief of Police would you sign it? What are the strengths/weakness?
 - Do you think your local law enforcement would sign it? Is it different for someone else at your table?

Report Back

- Amelia and Juan Carlos
- Aditi
- Maura
- Gloria
- Anastasia
- Lola

Tips for Filling out the Form

- Check more than one box for the qualifying criminal activity whenever applicable
- You might want to pre-fill the form as a guide for law enforcement
- Use information contained in official court records and police reports
- Have the boys in blue **sign in blue**
- File your case before it expires with 6 months

Disclosure Issues

- Consider discovery issues and safety risks for survivors with pending criminal prosecutions
- The U-visa certification form may be discoverable under some circumstances
 - Information contained in the form should be based on official court records
 - No declarations
- Different implications for Federal vs. States cases
- Law enforcement should distribute standardize material to all victims that contain victim based immigration remedies

Victim Must Additionally Prove:

- Physical or mental abuse as a result of the criminal activity
- Disclose criminal history, if any
 - Immigration law definition of “aggravated felony”
 - Discretionary waivers available
 - No waiver if history of espionage or terrorism
 - Victim will be fingerprinted
- Immigration history including violations, if any
 - Misrepresentation on an immigration application
 - Removal proceedings
- Information about family members who may also receive U-visas

Organization for the Application is Key

- Roadmap Cover letter
- Detailed Index of Evidence explaining what each piece of evidence is trying to accomplish
- Neatly Type Forms
- Colorful Index Sheets

General U-Visa Process

- Government official signs certification
- Child and/or child's parent filed U-visa application
- DHS may **R**equest **F**urther **E**vidence
- DHS adjudication – grants/denies U-visa
- After 4 years some will qualify for lawful permanent residence
- Can apply for citizenship 5 years after receiving lawful permanent residency

Which U-Visa Recipients Can Obtain Lawful Permanent Residence?

- Did not **unreasonably refuse** to cooperate in the detection, investigation or prosecution of criminal activity; AND
 - Humanitarian need, OR
 - Family unity, OR
 - Public interest
- Homeland Security's review of cooperation and the reasonableness of non-cooperation is required for lawful permanent residency

Questions

- Next session “ How to Effectively use U-visa the Toolkit to Train Others”



How to Effectively use the U-Visa Toolkit for Training Others

Track #1: Community Safety and
Legal Relief for Immigrant Survivors:
A Collaborative Response



Learning Objectives

- Explore promising practices for training law enforcement and others working with immigrant survivors.
- Become familiar with the U-visa toolkit and learn to use it as a resource.

Setting the Stage

It's important to understand and be able to convey DHS' dual policies

1. To Enforce Immigration Law; AND
2. To Identify and Protect Immigrant Victims of Crime, Domestic Violence, Human Trafficking and those seeking refuge in the U.S.

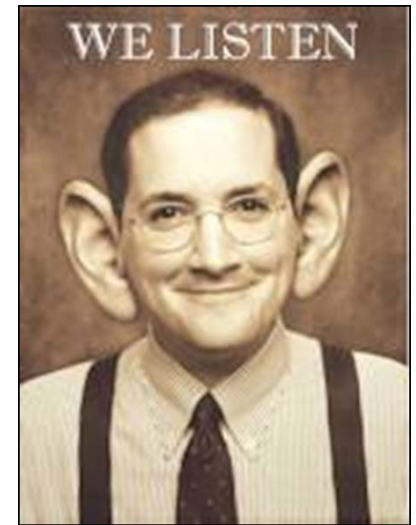
**** (Refer to DHS' Policies and Guidance Handout)**

Be an Honest Broker of Information

- Leave your bias at the door
- Despite your experience with an agency, believe that you have valuable information that will help you both achieve your goals
- Always be honest and recognize law enforcement's important role in our community

Opportunity to Learn and Listen

- Recognize that this is an opportunity to learn and listen to one another
- Opportunity to ask about the agencies policies and procedures



Peer to Peer Training

- Training with an ally or peer can be more effective than training alone or with an outsider-
 - Example from our BJA training-
Law Enforcement Officer conducts training with an attorney or advocate
- Law enforcement presents on what police officers should be doing
- Advocate focuses only on technical aspects

Training Setting

- If possible conduct training in a setting where law enforcement will be most comfortable
- Trainers are encouraged to work as a team to facilitate participation, to ensure that participants are given breaks and to complete the training at the advertised time.

Can local advocates participate?

- Depending on the dynamics of each jurisdiction, you may want to have a limited number of local advocates participate in the training.

Small Group Activity

Narrow and Identity 3 teaching points you would like participants to take away from your training.



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Teaching Points

Organize your Teaching Points

The U-visa :

1. Encourages victims to report crimes and contributes to investigations and prosecutions regardless of immigration status.
2. Supports law enforcement efforts to investigate and prosecute crimes committed against immigrant victims.
3. Helps target crime perpetrators who prey on undocumented vulnerable populations.

Stress that only USCIS can grant nonimmigrant status and that certification by law enforcement does not guarantee a U-visa

Share a Survivor's Story

- Everyone *should* connect with some aspect of a survivor's story
- Provide an example of a barrier that you have seen a victim experience while reporting crimes to law enforcement

Teaching point: The discussion should illicit fears and barriers to crime reporting

What is in the U-visa Toolkit

- Background Information
- Quick Reference Guide
- Certification Instructions
- Sample Redacted U-visa certification (I-918B)
- Sample Designee Letter
- Sample Officer's Duties
- Sample Outreach Flyer
- Sample Protocol
- News Articles Summary
- Statutory and Regulatory
- Background
- Flowchart
- Frequently Asked Questions

Key Resources in the U-visa Toolkit

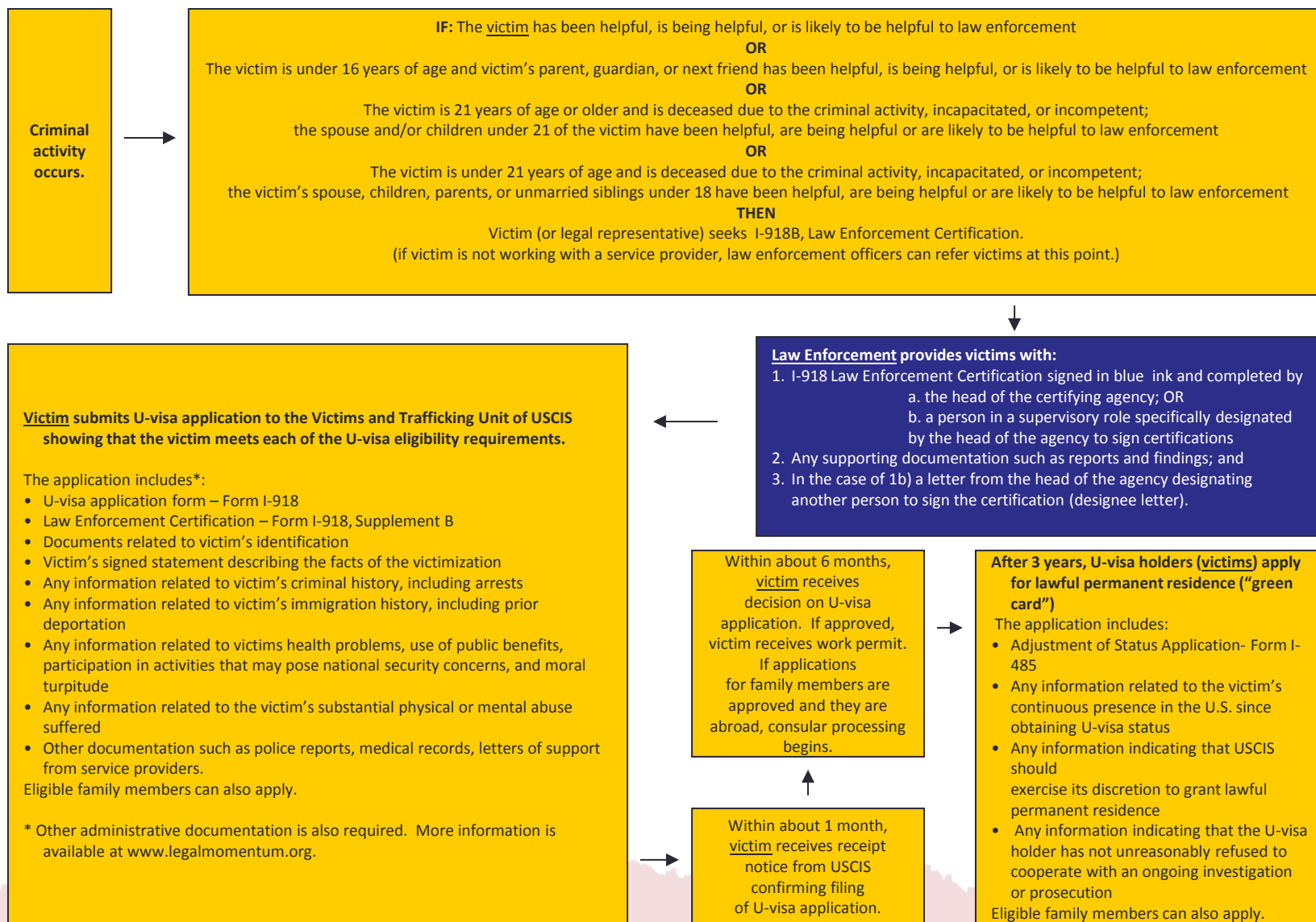
- Instructions for Form I-918 (*Toolkit, p.14-16*)
- I-918 Supplement B Form (*Toolkit, p.17-19*)
- Redacted U-visa certification (*Toolkit, p.20*)
- Sample Designation Letter (*Toolkit, p.23*)

Interact and Solve a Problem Together “Beyond the Certification Exercise”

- *Brainstorm*
- In addition to the certification, what else is a victim required to prove to Homeland Security in order to receive a U-visa?

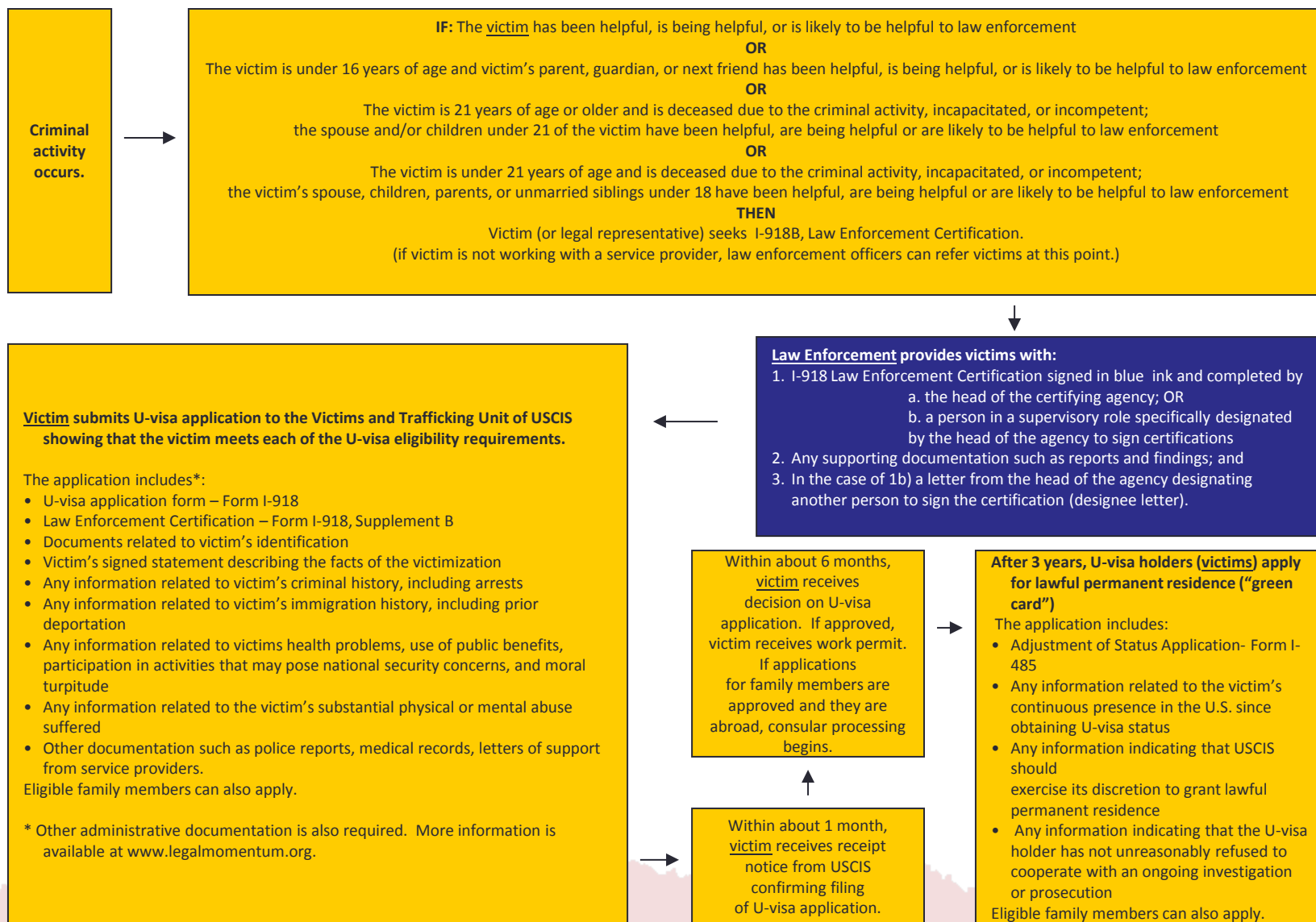
Flow Chart Exercise

U-Visa Application Victim Flow Chart



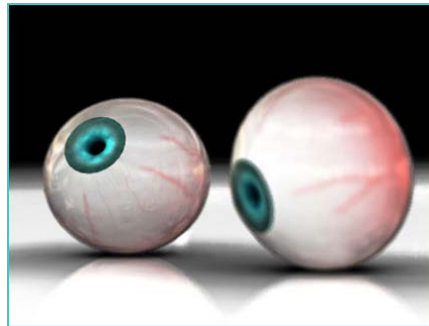
**Why do you think this flowchart
is effective learning tool ?**

U-Visa Application Victim Flow Chart



Use of Flow Chart

- The previous chart is an effective visual in showing how law enforcement plays a small yet crucial role in the U-visa application process for the survivors of crime.
- Use the chart to encourage U-visa certification



Local Enforcement of Immigration Law

- Secure Communities
- 287(g)
- Criminal Alien Program
- Informal partnerships with Immigration and Customs Enforcement (ICE)

**Do you know which of these
programs operate in your
jurisdiction either formally or
informally?**



Criminal Alien Program (CAP)

- Allows local law enforcement to check the immigration history of an individual in custody
- Provides some amount of financial reimbursement for subsequent custody based on immigration violations

Secure Communities

- Permits the FBI to share the fingerprints they receive from state and local law enforcement with DHS
- DHS may then ask local law enforcement to detain the immigrant for immigration purposes

The 287(g) Program

- Immigration and Nationality Act § 287(g) allows law enforcement officers to perform the duties of an immigration officer
- Partnership must be established by a Memorandum of Understanding (MOU) with the Department of Homeland Security
- Exists in limited number of jurisdictions
- Basis: 1996 IIRIRA (allows MOU and voluntary reporting)

Use Tools and Materials to Support You

- Regulations, INA and Preamble
- Use Updated DHS' materials in your trainings and/or in your letter requests for certification

U Visa Law Enforcement Certification Resource Guide

for Federal, State, Local, Tribal and Territorial Law Enforcement



Community Policing and the U-visa

- Proper utilization of the U-visa:
 - will strengthen law enforcement's ability to detect, investigate and prosecute criminal activity
 - will help bridge the gap between the police and minorities
 - help us solve crimes that may not otherwise be reported



Homeland Security

Technical Assistance

- Reach out to your local law enforcement agencies and prosecutors and be available for TA requests
- Reach out to national providers for additional TA
- Bureau of Justice grant provides peer-peer TA for Law Enforcement

Technical Assistance

- PowerPoint and materials from this training
 - www.niwap.org/go/atlanta2012
- NIWAP's technical assistance
 - (202) 274-4457
 - niwap@wcl.american.edu
- Web Library NIWAP and Legal Momentum
 - <http://niwaplibrary.wcl.american.edu/>
 - Training materials
 - Tools for advocates
 - Multi-lingual materials for immigrant survivors
 - National online Directory of Programs Serving Immigrant Survivors

National TA Providers

- National Immigrant Women's Advocacy Project
niwap@wcl.american.edu (202)274-4457
- ASISTA questions@asistahelp.org (515)244-2469
- National Immigration Project of the National Lawyer's Guild www.nationalimmigrationproject.org 617.227.5495



Questions

- The next session,
“Exploring U-visa Certifiers other than Law Enforcement and other options for Survivors using DHS’s New Policies that Protect Survivors”
will begin at 2:30 pm



EXPLORING U-VISA CERTIFIERS OTHER THAN LAW ENFORCEMENT AND OTHER OPTIONS FOR SURVIVORS USING DHS'S NEW POLICIES THAT PROTECT SURVIVORS

TRACK #1: Community Safety and Legal Relief for Immigrant Survivors: A Collaborative Response



Learning Objectives

- Identifying U-Visa Certifiers other than Law Enforcement
- Identifying alternative options for Survivors if certification is not possible using DHS new victim protection policies



U-visa Certification Overview

- Without a certification USCIS will not approve a victim's case
- The certifying agencies are certifying that:
 1. The survivor was a victim of the qualifying crime;
 2. The survivor has specific knowledge and details of the crime; and
 3. The survivor has been, is being or is likely to be helpful to law enforcement in **investigation or prosecution** of the qualifying criminal activity

Review of “Investigation or Prosecution”



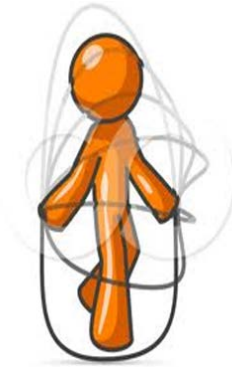
- Detection
- Investigation
- Prosecution
- Conviction
- Sentencing

Why “Criminal Activity” and not limited to “Crimes”?

- U-visa protection available even when:
 - Investigation does not result in prosecution
 - Victim helpful in investigation, does not testify at trial
 - Abuser eludes arrest
 - Criminal case dismissed
 - Victim comes forward and makes report and police or prosecutors decide not to prosecute
 - Prosecution but no conviction
 - Victim of listed criminal activity but another crime prosecuted
 - Prosecution cannot take place (diplomats, no extradition)

Certifying Agencies

- All authorities responsible for detection, investigation, prosecution, conviction or sentencing of the qualifying criminal activity
- How many do you think we can name?



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Who can certify?

- Federal/State/Local
 - Police/Sheriff
 - Prosecutor
 - Judge
 - Family Protective Services
- Immigration Officer
- Any other authority with responsibility for investigation or prosecution of criminal activity

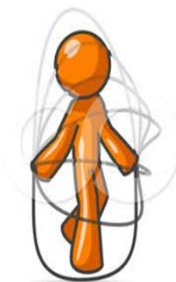


Other Federal, State or Local Agencies

- Agencies with criminal investigative jurisdiction
- In areas of expertise
- Including but not limited to:
 - Child Protective Services Worker
 - Adult Protective Services Worker
 - Equal Employment Opportunity Commission (EEOC)
 - Department of Labor (DOL)
 - ATF, FBI

Large Group Discussion

- How have you approached other certifiers in the past?
- What paperwork, if any, have you provided them?
- What do you think is the best approach and why?



Seeking U-Visa Certification from Judges



Small Group Exercise

Samantha is undocumented, she came to see you. She was referred to you by the local domestic violence shelter. She has shared with you that her partner, Eric had physically abused her. In fact, when she first went to the domestic violence shelter, Samantha still had bruises on her face from the last beating. That is when she left Eric for good. Samantha shows the picture that she took with her to court when she was granted a civil protection order from Eric. When you are screening for immigration remedies, you find out she was not married to Eric, and she never called police about the abuse. She is still very fearful of Eric, especially after he exploded when he was served with the protection order. Samantha refuses to call the police because she doesn't want Eric, the father of her children, to be deported.

Small Group Exercise

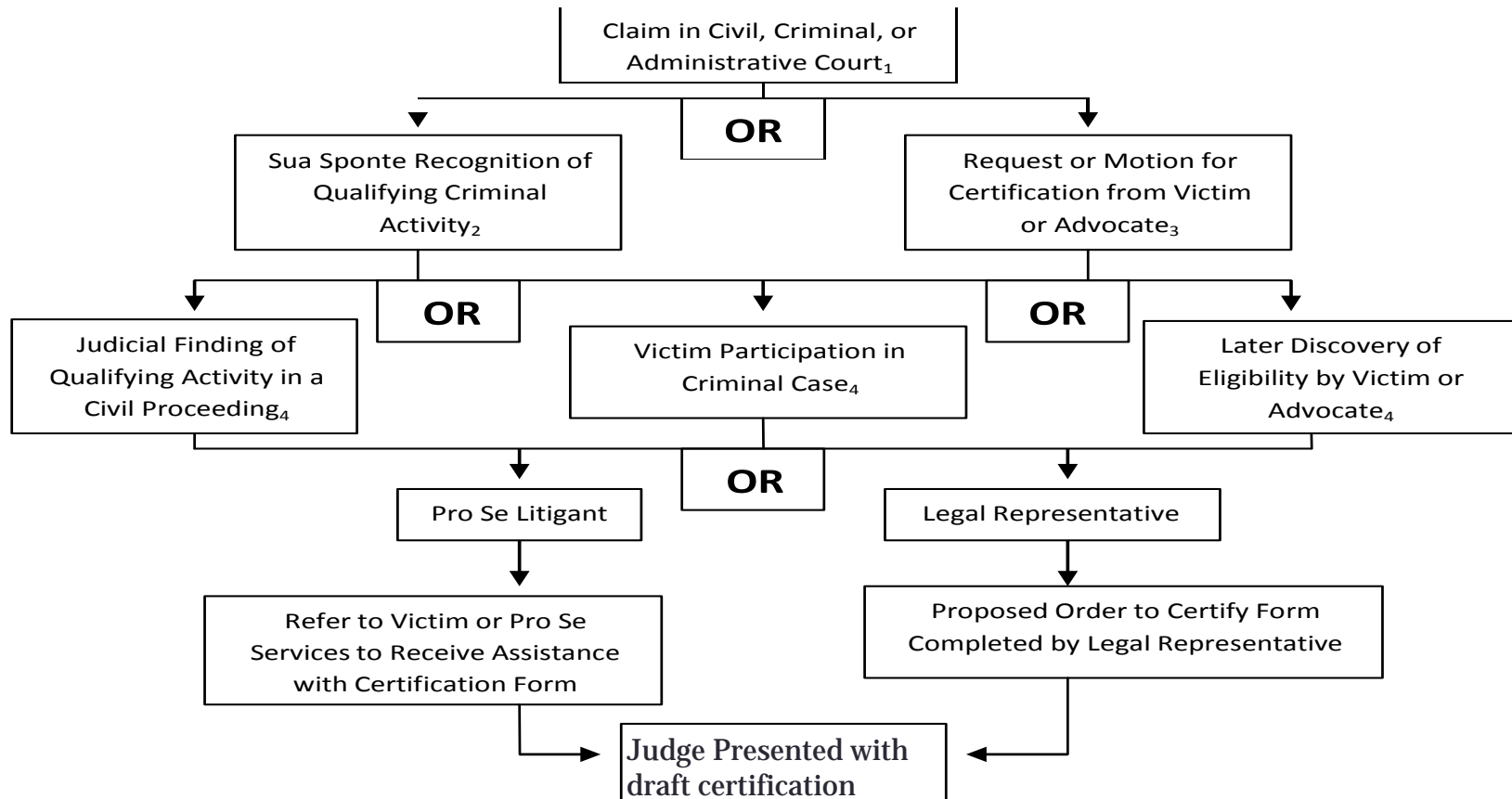
Lets Come Up with Ideas

- When and why might you seek U-visa certification from a judge?
- Develop a strategy for approaching the family court judge for certification.
 - What case strategy would you use?
 - How would you approach the judge?
 - When would you approach the judge?
 - What would you provide?
 - Written documents?
 - Evidence?



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Who does that look like?





Judges Detect Criminal Activity

- Congress intentionally specified that judges be able to certify
- Even though judges are not investigating crimes, they are in position to DETECT criminal activity
- Judges make findings and issue orders based on qualifying criminal activities



Examples of When Judges Detect

- In civil protection order, custody and child abuse cases, family court judges “detect” criminal activity
 - to issue protection orders
 - to make determinations in child abuse proceedings
 - to make abuse findings in custody determinations



Reasons to Move the Court Certify

- Judges detect criminal activity in their courtrooms
- Judges make findings and issue orders based on qualifying criminal activities.
- Judges were included as certifiers to increase a victim's ability to access relief – especially for LEP survivors
- Judges have considerable legal and violence training.

Attesting Helpfulness

- Judges need not provide a summary of victim reports or testimony on the certification form.
- Judges need only provide a general description of victim helpfulness, for example:
 - Victim spoke freely with responding officers
 - Victim testified in protection order hearing
 - Victim called police to report the crime

Timing of U-Visa Certification

- Judges may certify at any time after detecting a qualifying U-visa offense
- Judges may prefer to sign certifications after the completion of a case
- Judge might arguably inform the opposing party

Large Group Discussion

- Report back on:
 - Strategies
 - How/when to approach the judge
 - Written documentation evidence

Group exercise:

How does the U-visa benefit APS/CPS?





Benefits to or CPS/APS to Sign Certifications

- Encourages victims to report crimes
- Improves APS's ability to comprehensively investigate and prosecute crimes
- Demonstrates the department's commitment to protecting immigrant community members
- Makes it easier to identify victim witnesses and pursue prosecutions of perpetrators
- Fosters community policing partnerships

Certifications form the EEOC

- Requests for certification will initially be submitted to the Regional Attorney, who will coordinate with enforcement unit staff to assess whether the charge appears to merit further investigation
- Regional Attorney will recommend to headquarters Office of General Counsel for review to the Chair
- The Chair will notify the General Counsel and designate the Regional Attorney as the certifying official
- *Reference - Memorandum July 3, 2008

Department of Labor

- The authority to complete U-visa certifications has been delegated to the Wage and Hour Division Regional Administrators
- Many wage and hour investigations take place in industries marked by vulnerable workers; the Wage and Hour Division is often the first federal agency to make contact with workers and detect criminal activity in the workplace

**Will only consider 5 qualifying criminal activities:
involuntary servitude, peonage, trafficking,
obstruction of justice or witness tampering**

Other Options for Survivors when U-visa Certification, or other victim based immigration remedies, are not possible?

Deferred Action for Childhood Arrivals - including those who are immigrant victims (June 15, 2012)

Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children Memo permits certain young people who were brought to the United States as young children, who do not present a risk to national security or public safety, and meet several key criteria, to remain in the U.S.



Deferred Action for Childhood Arrivals (DACA)

- Came to the U.S. **under age 16** and were **under 31 on June 15, 2012**;
- Continuously resided in the U.S. since **June 15, 2007**;
- **Entered without inspection** before June 15, 2012 or otherwise **had no legal status** on June 15, 2012;
- Are in school, graduated from high school, have earned a GED, or have been honorably discharged from the Coast Guard or the US Armed Forces;
- Have not committed felonies, "significant" or multiple misdemeanors, or pose a "public safety" or "national security" threat.

DHS and White House Working to Ensure Enforcement Conforms to DHS New Priorities

- In the *civil immigration context*, DHS is confronted with more *administrative violations* than its resources cover
- By favorably exercising prosecutorial discretion, DHS decides not to assert the **full** scope of its enforcement authority - available on a case-by-case basis to the agency in “low priority” cases
- Prioritize use of enforcement personnel, detention space and removal on:
 - National security
 - Border security
 - Public safety
 - Integrity of the immigration system

DHS Prosecutorial Discretion Not to Initiate Removal Against Crime Victims and Witnesses

(June 17, 2011)

- To minimize the effect that immigration enforcement may have on the willingness and ability of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints to call the police and pursue justice

DHS - Detention Release – Immigration Court Dismissal of Case (August 20, 2010)

- **Release for immigrants with filed, pending or approved applications for immigration benefits**
 - U-visa
 - T-visa
 - VAWA
 - Family Petition
- **Dismissal without prejudice of immigration court case if:**
 - Immigration case likely to be approved
- **Unless applicant:**
 - Has criminal convictions or misconduct
 - Is a threat to public safety or national security
 - Evidence of fraud

DHS Humanitarian Release

- Breastfeeding mothers
- Sole/primary caregivers of children
- Screening in detention done:
 - In English/Spanish
 - Orally and in writing
- Release as:
 - Order of recognizance
 - Order of supervision
 - Alternatives to detention



Positive Factors: Low Priority Cases

- Length of time in U.S. (including lawful presence)
- Circumstances of arrival, manner of entry
- Presence in the U.S. since childhood
- Pursuit of education: U.S. high school/college
- Person/close family, veteran/military, particularly combat
- Community/family ties, contributions
- Ties to/conditions in home country
- Age – minor, elderly
- USC/LPR spouse, parent, child
- Person who suffers from serious mental or physical disability or serious health condition
- Primary caretaker of child, person with mental/physical disability, seriously ill parent
- Crime victim or witness



Negative Factors to Consider



- Clear risk to national security
- Serious felons, repeat offenders or individuals with a lengthy criminal record of any kind
- Known gang members or other individuals who pose a clear danger to public safety
- Individuals with an egregious record of immigration violations, including those with a record of illegal re-entry and those who have engaged in immigration fraud
- Criminal history – including arrests, prior convictions or outstanding arrest warrants
- Immigration history – including any prior removal, outstanding order of removal, prior denial of status or evidence of fraud
- Whether the person poses a national security or public safety concern

If a survivor is detained by immigration, what should be the first thing she tells officials ?

- A. She has filed for VAWA, U-visa, or T-visa**
- B. She is a survivor of violence (DV/SA/ Human Trafficking)**
- C. She has two young children waiting for her at home**
- D. All of the above**

Questions

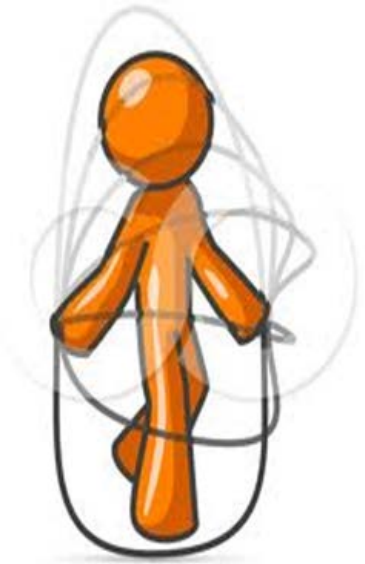
- Next session: Collaboration Case Study Revisited.



CASE STUDY: WHAT COULD HAVE HAPPENED DIFFERENTLY?

Small Group Activity

- Tell the story again with a better outcome for survivor.
- What **changes** did you make?
- Why do you think this would have produced **a better outcome** for the survivor?



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CASE STUDY: ALTERNATE CONCLUSIONS

Key Points

- **Different outcomes:**
 - Custody decision
 - Immigration Status
 - Immigration Remedies
 - Helpfulness
 - Criminal case
- When we do our jobs to the best of our ability and collaborate with each other, **survivors have a better outcome.**

U-Visa and VAWA Programs Can Benefit Law Enforcement...



- Encourages victims to report crimes
- Demonstrates the department's commitment
- Makes it easier to pursue prosecutions of perpetrators
- Fosters trust

...and Survivors.

- Enhanced Safety for Victim
- Legal Work Authorization – Drivers License/SSN
- U-visa protections for vulnerable family members
- Protection from deportation
- Financial freedom from perpetrators
- Greater ability to maintain custody
- Access to benefits and safety

TELL YOUR STORY

Closing and Evaluations

November 14 –15, 2012

Atlanta, Georgia

Technical Assistance and Materials

- Power Point presentations and materials for this conference at niwap.org/go/atlanta2012
- **NIWAP Technical Assistance:**
 - Call (202) 274-4457
 - E-mail niwap@wcl.american.edu
- Website: www.wcl.american.edu/niwap

EVALUATIONS



QUESTIONS & ANNOUNCEMENTS

Thank you!