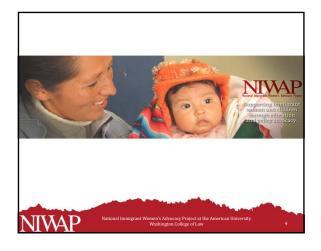


This project was supported by Grant No. 2017-TA-AX-K063 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author and do not necessarily reflect the view of the Department of Justice, Office on Violence Against Women.

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NIWAP

http://niwaplibrary.wcl.american.edu • Newsletters/FAQ • Criminal Justice Criminal Justice

- Trainings
- Past Trainings
- Manuals
- Regulations & Policies
- Multilingual Materials
- Immigration
- Public Benefits & Economic Relief
- Family Law

NIWAP

• VAWA Confidentiality • Dynamics, Culture & Safety

• Law Enforcement

Language Access

 Public Policy Research & Statutes

• Access to Legal Services

Judges

Materials Summary

• Materials

NIWAP

- Agenda
- Hard copy of PowerPoint presentation – Evaluations
- USB Drives supplementary tools and resources
- http://niwap.org/go/lawenforcement

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USB Drive Materials

- U Visa Toolkit For Law Enforcement Agencies And Prosecutors
- DHS: U and T Visa Law Enforcement Resource Guide
- DHS memos and policies

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- Tools for officers to promote language access
- Bluecard Tool Screening Victims for Immigration Protections

General Caveats

- Women, men and children can qualify for U Visas
- Victims of almost all violent crimes, and many other crimes are eligible to apply for U Visas
- That said, many examples that will be used throughout this presentation will refer to female victims of domestic violence and/or sexual assault



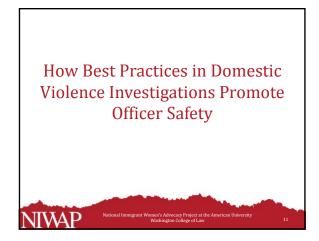
Learning Objectives

By the end of this workshop, you will be able to:

- Understand how investigations can be improved by using language access tools
- Hold offenders more accountable by using the U Visa certification process as a crime fighting tool
- Enhance victim safety and participation in the criminal justice system

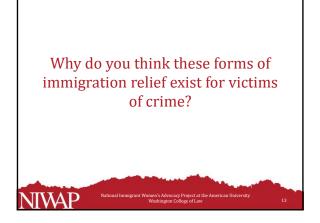
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• Enhance officer/victim/community safety using language access and certification programs



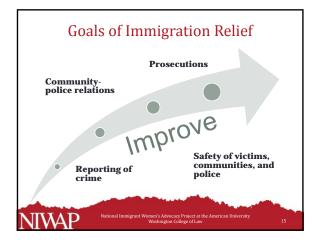






Legislative Intent

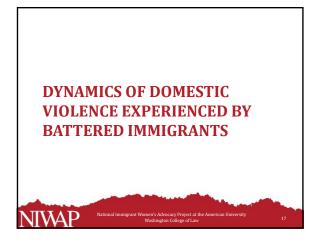
- We want crimes reported to police
- No one should be a victim of crime, especially violent crime
- Offenders prey upon the most vulnerable in our communities, often immigrants
- Without victims reporting crimes, we don't know about the most dangerous offenders
 - Domestic violence
 Sexual violence

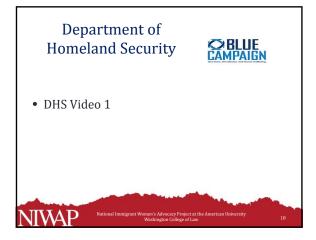




U Visa Statistics				
% of U Visas	Criminal Activity			
76.1% = Domestic Violence & Sexual Violence				
9.9%	Felonious Assault, Murder, Manslaughter			
8.47%	Kidnapping, Being Held Hostage, Unlawful Criminal Restraint, Torture			
5.3%	Blackmail, Extortion, Perjury, Obstruction of Justice, Attempts, Conspiracy, Solicitation			
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Immigration Related Abuse

- Refusal to file immigration papers on spouse/child/parent's behalf
- Threats or taking steps to withdraw an immigration case filed on the survivor's behalf
 Family or work based visas
- Forcing survivor to work with false documents
- Threats/attempts to have her deported

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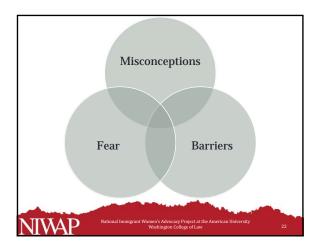
• Calls to DHS to turn her in – have her case denied

Coercive Control Over Immigration Status

- Among abusive spouses who could have filed legal immigration papers for survivors:
 - $-\ 72.3\%$ never file immigration papers
 - The 27.7% who did file had a mean delay of 3.97 years.
- 65% of immigrant survivors report some form of immigration related abuse (NIJ, 2003)
 "Edua Ecra un Navel Annua: Vielence Asainst Immigrant Women and Svetenic Resonances: An Ecoloratory Study (2003)

What prevents immigrant victims from reporting crime?

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Fears

- Deportation
- Returning to home country
- Separation from children
- Lack of contact with family
- Family in danger in their country of origin
- Ostracism from the community
- Retaliation

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Misconceptions

- Lack of knowledge of
- Crime victim legal rights
- Laws regarding domestic violence, sexual assault
- Do not trust the police
- Believe police will arrest them
- Local police are immigration officers
- No services are available to immigrant victims

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- Police are corrupt
- Criminal justice system will do nothing

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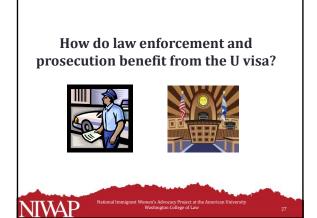
Barriers

- Do not speak or understand English
- Financial dependence on perpetrator
- Isolation

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- Lack of transportation or child care
- Community pressure
- Family pressure
- Religious factors

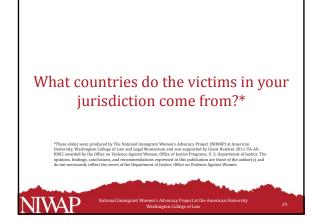
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U Visa Benefits to Law Enforcement and Prosecutors

- Encourages victims to report crimes
- Improves investigation and prosecution of violent crimes
- Increases potential to convict most dangerous criminals
- Demonstrates commitment to protecting immigrant community members
- Enhanced immigrant community involvement
- Makes it easier to identify victim witnesses
- Reduces repeat calls and recanting victims
- Fosters community policing partnerships
- Enhances officer and community safety

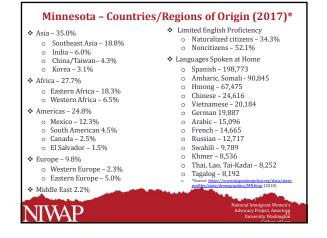
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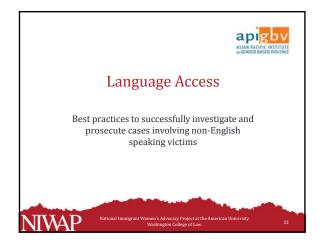


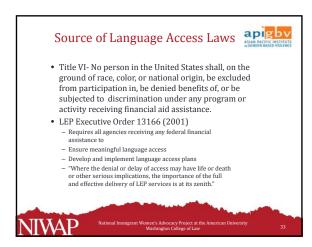
Minnesota Demographics (2017)*

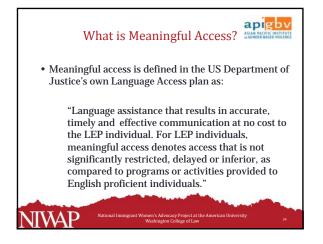
- Total foreign born population 486,243
- 8.7% of the state's 5 million people are foreign born o 52.4% are naturalized citizens
 - ~ 26.7 % are lawfully permanent residents^{**}
 - ~ 20.9 % are undocumented**
- 86.7% rise in immigrant population from 2000-2017
- 20.0% of children in the state under age 18 have one or more immigrant parents
 - 85.1% of these children are native-born U.S. citizens
 "Source <u>https://www.mbgrationpolicy.org/data/state-profiles/state/demographics/MNttog</u> (2018)
 "Source (2015 Department of Homeland Security Data)

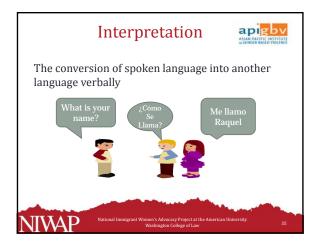
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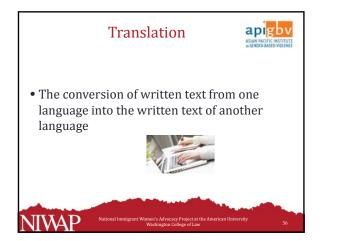


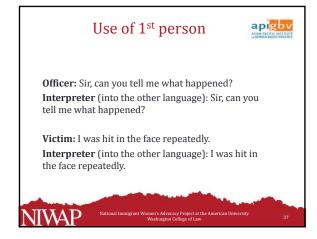


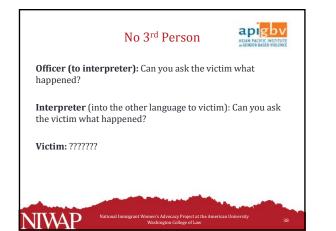


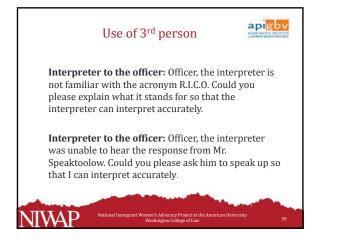


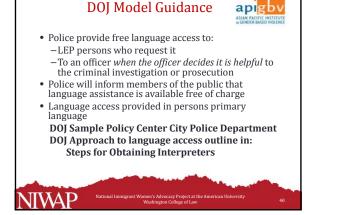




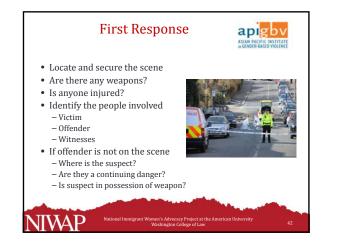


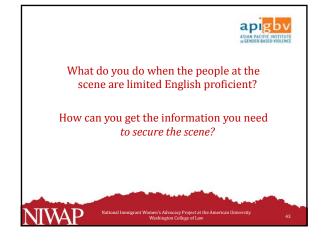














- Use the most reliable *temporary* interpreter available to address exigent circumstances
- -Fleeing suspect
- -Weapons

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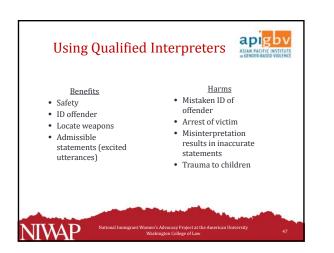
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-Life threatening to the officer /victim/or public

DOJ Requirements for Investigations & Interrogations "A qualified interpreter shall be used for any interrogation or taking of a formal statement where the suspect or witness' legal rights could be adversely impacted" Criminal interrogations Criminal interrogations Vital written materials translated into primary language Miranda warnings

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Case Study - Jose Lopez Meza - 2008

apigbv

- Charged with first degree murder Charge was reduced to manslaughter
 - Baby died after Meza shook his 3 week old son so violently the child's brain began to swell, ultimately killing him
 - Detectives used a Spanish speaking officer to assist with the interview
 - Review of the tapes by court appointed certified interpreters revealed that the officer interpreting left out some of the information, misinterpreted several statements made by the suspect and the detective

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Bilingual Officer v. Interpreter Bilingual officers When they are interpreting, they are not investigating Biculturalism v. bilingualism Different words have different meanings: e.g.: Variations on the word "highway" depending on what state you're from. "500 feet" many communities don't know what that distance looks like.

<text>

Call fire/rescue Call crime scene Develop probable cause Photograph Formal interviews at the station

Call detective

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• Prepare case for prosecution

On Scene Considerations



- Separating parties
- Use of two interpreters
- Is the abuser threatening in a different language or making intimidating gestures?
- Headset and background noise
- Consider cultural differences (ex. matriarchal vs. patriarchal)
- Be aware of the perception of an implicit bias

Other Encounters With LEP Victims

• Dispatch

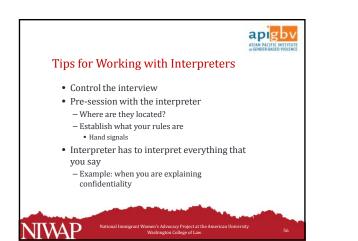
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- Walk into station
- Referrals from other agencies -CPS, APS, Family Justice Center
- How would you identify the languages?

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Interpretation Best Practices

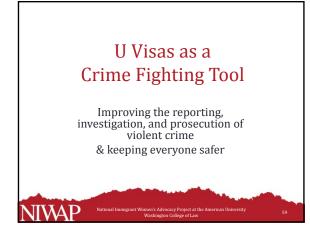


- Evaluation systems
- Interpreter uses a dictionary, takes notes
- Interpreter comfortable with subject matter of the case
- Address cultural experiences ahead of time
- Ensure that they do not know the parties

 If using telephonic interpreters: first ask where they are located
- Team interpreting and interpreter breaks

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What, if anything, do you know about U Visas?

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U Visa Basics

- Law enforcement certification is just one part of the overall process it does not = citizenship
- Meant to promote reporting of crime
- Targets offenders who prey on most vulnerable victims
- Offender may be citizen or non-citizen
- Can be "revoked"
- Increases immigrant victim participation in criminal justice system

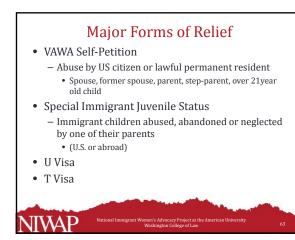
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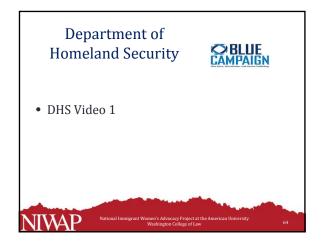
Purpose of Crime Victim Protections

Congress enacted VAWA self-petitioning (1994) and the U and T visas (2000) to:

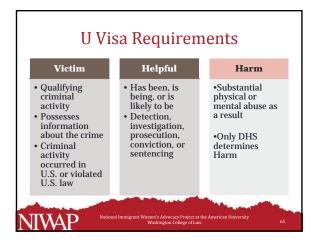
- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Allow victims to report crimes without fear of deportation
- Enhance victim safety
- Keep communities safe

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Abduction	Hostage	Sexual Assault
Abusive Sexual Contact	Incest	Sexual Exploitation
Blackmail	Involuntary Servitude	Slave Trade
Domestic Violence	Kidnapping	Stalking
Extortion	Manslaughter	Torture
False Imprisonment	Murder	Trafficking
Felonious Assault	Obstruction of Justice	Witness Tampering
Female Genital Mutilation	Peonage	Unlawful Criminal Restraint
Fraud in Foreign Labor Contracting	Perjury	Prostitution
Rape	Attempt, conspiracy or solicitation to commit crim or similar activity	

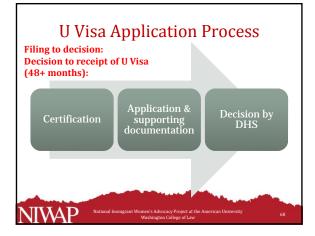


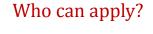
Who Can Certify?

"Law Enforcement" & "Law Enforcement Agency" =

- Federal, state, and local
 - Law enforcement
 - Prosecutors
 - Judges, Magistrates, Commissioners
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and Elder Abuse investigators and agencies
- Other government agencies with criminal, civil, administrative investigative power

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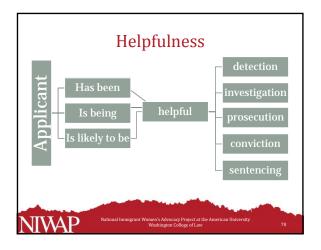


- Victims of qualifying criminal activity
- Parents and guardians can apply as an "indirect victim" if:
 - the victim is a child under 21 years of age and/or
 - is incompetent, incapacitated, or deceased due to murder or manslaughter
- Bystanders victimization very limited

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• For child victims a "next friend" can provide helpfulness

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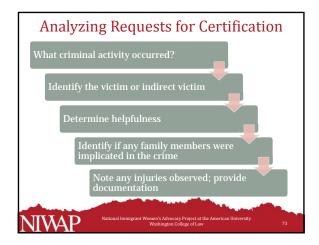
Making Determination

- Certifying agency determines "helpfulness"
- Helpfulness can include:
 - Calling 911

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- Providing a description of offender
- Allowing photographs to be taken
- Giving information about the offender's whereabouts
- Statement about prior bad acts

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How will a U visa certification request come to you?

- From victim advocate or immigration attorney
- As a police officer you are the first responder

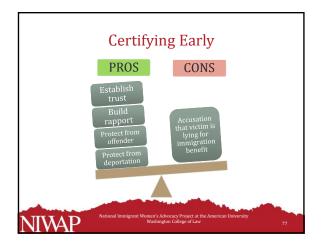
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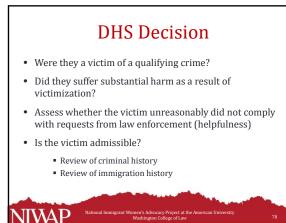
• As a prosecutor you might have continued contact with the victim and might be first to identify victim's U visa eligibility

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 When should you certify?







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 <u>lawful</u> <u>permanent residency</u>- no guarantee
- <u>U.S. citizenship</u> can only be attained after lawful permanent residency for 5 years + proof of good moral character

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T Visa Overview

- Non-Immigrant, 4 Year visa
 - Victim of severe form of trafficking
 - In the US or territories on account of trafficking
 Respond to reasonable requests for collaboration with investigation and prosecution unless victim is under 18
 - Limited "trauma exception"
 - Hardship upon return to home country
- May apply for adjustment of status after investigation/prosecution is over or 3 years, what ever time is shorter

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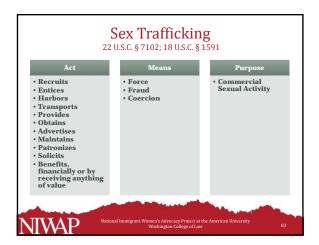
Human Trafficking

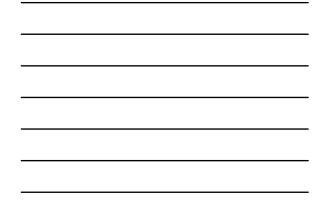
- Generally: use of force, fraud and/or coercion to exploit a person for profit.
- Federal statute: TVPA 2000

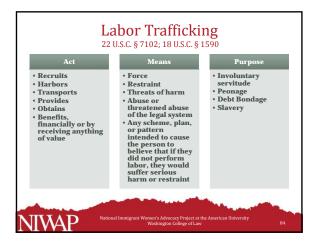
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• Every state now has their own human trafficking statute – (labor trafficking), (sex trafficking)

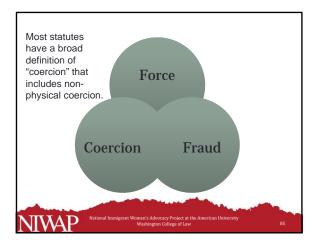
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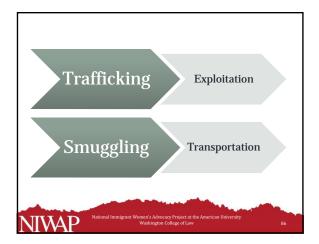


















Labor Trafficking Statistics

- 47.5% Men 52.5% Women
- 10% Minors 90% Adults
- 46% Single 45% Married
- 64% had children
- 33% some college or higher
- Average age = 33

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 71% of victims entered the U.S. <u>legally</u> ¹Understanding the Organization, Operation and Victimization of Labor Trafficking in the United States², Urban Institute and Northeastern University in collaboration with Freedom Network USA (2014)

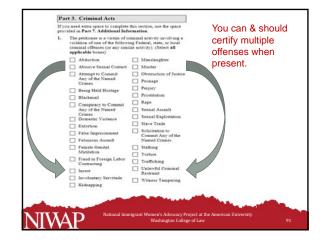
What are Severe Forms of Human

- Trafficking? Sex Trafficking: in which a commercial sex act is
- Sex Trafficking: in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- Labor: The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery

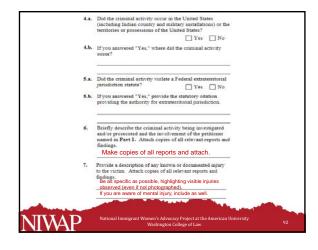
(Federal Law—"Victims of Trafficking and Violence Prevention Act of 2000 can be found at www.oip.usdoj.gov/vawo/laws/vawo2000/)

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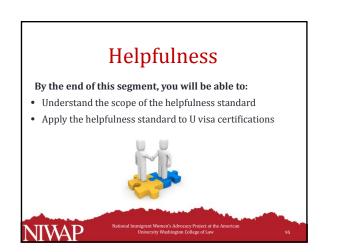




	rt 5. Family Members Culpable In Criminal iivity			
1.	Are any of the victim's family members culpable or believed to be culpable in the criminal activity of which the petitioner is a victim? Yes No			
	If you answered "Yes," list the family members and their criminal involvement. (If you need extra space to complete this section, use the space provided in Part 7 . Additional Information.)			
2.a.	Family Name (Last Name)			
2.b.	(First Name)			
2.c.	Middle Name			
2.d.	Relationship			
2.e.	Involvement			
Because many applications will include domestic violence, this may likely be the defendant.				
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Par	rt 6. Certification	
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1	Date of Signature (mm (dd yyyy))	
3.	Daytime Telephone Number	
ž.	Fax Number	
were a victim of a c	s is merely a certification crime. This does not auto ranted immigration relief.	omatically mean that
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Hypotheticals Small Group Activity

- Is this person eligible for a U Visa certification?
- Stories handout

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Helpfulness in the Regulations

- 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

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Helpfulness can be satisfied even if:

- Victim reports a crime where there's no further investigation
- Report is of past crime that the victim did not report at the time
- Perpetrator absconds or is subject to immigration removal
- The perpetrator is being prosecuted for a different crime
- Victim is not needed as a witness
- Victim is dead (indirect victim qualifies)
- Perpetrator is dead

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- Victim has a criminal history or is subject to immigration
 enforcement
- Victim fully discloses story after better understanding rights, the U-visa and meaningful language access

Why would a victim report a crime and then refuse to participate in the ensuing investigation and trial?

Reasons for Refusing to Cooperate

- Fear of reprisal
- Continued threats or violence
- Pressure from either family
- Financial hardship
- Lesser of two evils

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Evaluating Whether Victim's Refusal to Provide Assistance/Cooperation was "Unreasonable"

- <u>Considerations:</u>
 - Totality of the circumstances, including the nature of the victimization
 - Victim's fear or the abuser
 - Trauma suffered

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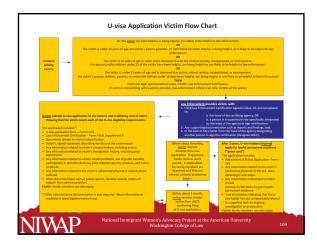
- Force, fraud or coercion

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If you still believe the victim is unreasonably refusing...

- Note on the certification, sign, and return to victim or victim's attorney
- Burden shifts to victim to prove the refusal is not unreasonable
- DHS makes the ultimate decision





Law Enforcement provides victims with: 1. I-918 Law Enforcement Certification signed in blue

ink and completed by:

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- a. the head of the certifying agency; OR
- b. a person in a supervisory role specifically designated by the head of the agency to sign
- certifications 2. Any supporting documentation such as reports and findings; and
- 3. In the case of 1b) a letter from the head of the agency designating another person to sign the certification (designee letter).

Collaboration and Community Policing

- How might you use what you learned today - In your collaborations other agencies in your
 - community, including those that serve victims? – To support your community policing work

Collaboration between Law Enforcement and Prosecution

- Maintain victim and witness contact
- Update victims on case status
- Coordinate victim services

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• Investigate witness tampering and other co-occurring crimes

Cooperation is key

Small Group Discussion Based on the training today, what will you take back when you return to your agency?

- What are two things you will implement in your work?
- Questions you want might expect and would like to know how to answer?



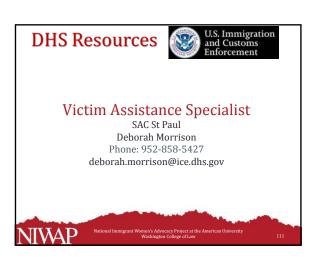


Large Group Discussion

- City of X, Law Enforcement Certification Protocol
- Are these true or false?
 - Identify any problems with the protocol
 - Note provision numbers
 - How could the protocol be improved?
 - What is missing?

NIWAP

• MODEL POLICY in USB



Resources

Technical Assistance
 Call: 202.274.4457

NIWAP

- Email: niwap@wcl.american.edu
- Materials on U visa and Immigrant Victims Legal Rights
 - Visit <u>http://niwaplibrary.wcl.american.edu</u>
 - U Visa Certification Toolkit
 - > DHS Answers to Law Enforcement Reasons for Not Certifying
 - USCIS Q & A on U Visa Certification
 - Roll call training videos
 - All available at: http://niwap.org/lawenforcement

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