



The Use of the U-Visa to Improve Law Enforcement's Work with Immigrant Victims

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Introduction

- ▶ Faculty
- ▶ Pre-Training Assessment





Participant Introductions, Goals and Expectations



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

- ▶ Understand the U-visa certification process
- ▶ Understand law enforcement ability to work with immigrant victims
- ▶ Understand the benefits of the certification program to law enforcement and to community safety
- ▶ Understand the importance of collaboration with victim advocates in working with immigrant victims





What is your knowledge of the U-visa?

Answer Question on scale of 1-5



Purpose

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

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



U-Visa Requirements

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

The U-visa Application Process

- ▶ Law enforcement/prosecutor certification
- ▶ Complete and submit application with additional documentation and fees (or waiver request)
- ▶ Decision from USCIS within about 1 year

Quick U-visa Facts

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



How does the U visa help law enforcement?





U visa Benefits to Law Enforcement

- ▶ 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



Large Group Discussion

Why do immigrant victims fear deportation to their home country?




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Immigrant Victims Concerns Regarding Deportation

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



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If an immigrant/refugee victim considers reporting, what are the barriers?


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Barriers to Reporting

- ▶ Threat of deportation
- ▶ Perpetrator's power and control over victim's immigration status
- ▶ Took her valid documents
- ▶ Valid documents replaced with fake documents
- ▶ Shame
- ▶ Perpetrator was a gang member- victim feared violence
- ▶ No access to money
- ▶ Made to feel powerless
- ▶ Subject to total power and control
- ▶ Language barriers
- ▶ Lack of knowledge about legal rights and U.S. system



Law Enforcement Collaboration with the Federal Government



Civil vs. Criminal Immigration Violations

- ▶ **Civil Violations**
 - Unlawful entry into the U.S.
 - Unlawful presence
 - Working without employment authorization
- ▶ **Criminal Violations**
 - Illegal entry, departure, and subsequent reentry (federal)

DHS Priorities for Enforcement and Victim Protection DHS Memos – Guidance

- ▶ DHS victim witness memo
- ▶ Humanitarian release
- ▶ 384 DHS computer system (VAWA, T-visas, U-visas)
- ▶ Memorandum on DHS detention priorities
- ▶ DHS law enforcement Q & A on T and U visas
- ▶ U-visa Law Certification Resource Guide



Secure Communities

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



DHS Video Part I

- ▶ <http://niwap.org/training/DHS-roll-call/>



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U Visa Criminal Activities

- ▶ 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
- ▶ Fraud Foreign Labor Contracting
- ▶ False Imprisonment
- ▶ Blackmail
- ▶ Extortion
- ▶ Witness tampering
- ▶ Obstruction of justice
- ▶ Perjury
- ▶ Stalking

Attempt, conspiracy or solicitation to commit any of these crimes any similar activity

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U-Visa Criminal Activities (11/2011 data)

- ▶ Domestic violence 45.9%
- ▶ Rape, sexual assault, incest, trafficking 30.4%
- ▶ Felonious assault, murder, manslaughter 9.9%
- ▶ Kidnapping, being held hostage, unlawful criminal restraint, torture 8.47%
- ▶ Blackmail, extortion, perjury, obstruction of justice, attempts, conspiracy, solicitation 5.3%

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U-visa Certification Considerations For Law Enforcement

- ▶ What criminal activity occurred
- ▶ Identify the victim or indirect victim
 - Note injuries observed, if any
- ▶ Determine helpfulness of the victim
- ▶ Determine if any family members were implicated in the crime

Identify the Victim or Indirect Victims (Part 1)

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



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



Role Play

Interviewing the Victim

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Law Enforcement Certification Form I-918 Supplement B

Department of Homeland Security
U Nonimmigrant Status Certification
I-918 Supplement B

Part 1 - Victim Information

Victim Name: _____ Date: _____
 Other Names Used (do not include married names): _____
 Date of Birth (month/year): _____ Gender: Male Female
 Date: _____

Part 2 - Agency Information

Name of Certifying Agency: _____ Title and Position of Certifying Official: _____
 Name of Head of Certifying Agency: _____ Title: _____
 Agency Address - Street Number and Name: _____ City: _____ State/Province: _____ Zip/Postal Code: _____
 Agency Type: Federal State Local
 Certifying Agency Category: Changing Consular Other
 Certifier: Judge Law Enforcement Prosecutor Other
 Date/Time: _____

Part 3 - Criminal Act

The Applicant is a victim of criminal activity involving or similar to violation of one of the following Federal, State or Local laws:

<input type="checkbox"/> Abduction	<input type="checkbox"/> Female Gender Motivation	<input type="checkbox"/> Obstruction of Justice	<input type="checkbox"/> Slave Trade
<input type="checkbox"/> Abduction of Child	<input type="checkbox"/> Foreign	<input type="checkbox"/> Passport	<input type="checkbox"/> Stalking
<input type="checkbox"/> Abduction of Woman	<input type="checkbox"/> Rape	<input type="checkbox"/> Perjury	<input type="checkbox"/> Trafficking
<input type="checkbox"/> Abduction	<input type="checkbox"/> Racketeering	<input type="checkbox"/> Persecution	<input type="checkbox"/> Unlawful Criminal Assistance
<input type="checkbox"/> Adult Entertainment	<input type="checkbox"/> Stalking	<input type="checkbox"/> Rape	<input type="checkbox"/> Witness Tampering
<input type="checkbox"/> Adult Entertainment	<input type="checkbox"/> Stalking	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Witness Tampering
<input type="checkbox"/> Adult Entertainment	<input type="checkbox"/> Stalking	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Witness Tampering
<input type="checkbox"/> Adult Entertainment	<input type="checkbox"/> Stalking	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Witness Tampering
<input type="checkbox"/> Adult Entertainment	<input type="checkbox"/> Stalking	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Witness Tampering
<input type="checkbox"/> Adult Entertainment	<input type="checkbox"/> Stalking	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Witness Tampering

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The Parts of the Certification Form

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

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

OVI/8 No. 1615-0104, Expires 08/31/2010
U Nonimmigrant Status Certification

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

START HERE - Please type or print in black ink.

Part 1. Victim information.

Family Name: **Orloff** Given Name: **Leslye** Middle Name: **E**

Other Names Used (Include maiden name/nickname):

Date of Birth (mm/dd/yyyy): **08/28/1956** Gender: Male Female

Part 2. Agency information.

Name of Certifying Agency: **Sheriff's Office**

Name of Certifying Official: **Captain Mike** Title and Division/Office of Certifying Official: **Supervisor/D.V.U.**

Name of Head of Certifying Agency: **Sheriff Ric Bradshaw**

Agency Address - Street Number and Name: **3228 Gun Club Road** Suite #:

City: **Atlanta** State/Province: **GA** Zip/Postal Code: **33406**

Daytime Phone # (with area code and/or extension): **(561) 688-3000** Fax # (with area code): **(561) 688-3000**

Agency Type: Federal State Local

Case Status: On-going Completed Other

Certifying Agency Category: Judge Law Enforcement Prosecutor Other

Case Number: **H-62632-11** FBI # or SID # (if applicable):

Part 3. Criminal acts.

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

<input type="checkbox"/> Abduction	<input type="checkbox"/> Female Genital Mutilation	<input type="checkbox"/> Obstruction of Justice	<input type="checkbox"/> Slave Trade
<input type="checkbox"/> Abusive Sexual Contact	<input type="checkbox"/> Hostage	<input type="checkbox"/> Peonage	<input type="checkbox"/> Torture
<input type="checkbox"/> Blackmail	<input type="checkbox"/> Incest	<input type="checkbox"/> Perjury	<input type="checkbox"/> Trafficking
<input checked="" type="checkbox"/> Domestic Violence	<input type="checkbox"/> Involuntary Servitude	<input type="checkbox"/> Prostitution	<input type="checkbox"/> Unlawful Criminal Restraint
<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"/> Manslaughter	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Related Crime(s)
<input type="checkbox"/> Felonious Assault	<input type="checkbox"/> Murder	<input type="checkbox"/> Sexual Exploitation	<input checked="" 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	stalking

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

LEAVE BLANK

Part 3. Criminal acts. (Continued.)

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

Date (mm/dd/yyyy): **12/19/12** 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.
sec. 741.28 Domestic Violence

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?
Atlanta, GA

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.

Husband strangled Mrs. Orloff during a domestic dispute and has been following her wherever she goes.

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

As a result of Mrs. Orloff being assaulted and strangled she suffered injuries to her neck. (see attached photographs)

Part 4. Helpfulness of the victim.

The victim (or parent, guardian or next friend, if the victim is under the age of 16, 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 limitation.) (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

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Part 4. Helpfulness of the victim. (Continued.)

5. Other, please specify.

Mrs. Orloff called 911 for help during a domestic dispute. Upon arrival she provided information about the incident to the officer on scene and allowed the officer to take photographs of the injury to her neck.

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
William Orloff	Husband	Defendant

Part 6. Certification.

I am the head of the agency listed 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 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 Services, 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: Captain Mike Date (mm/dd/yyyy): March 4, 2013

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DHS Video Part 2

▶ <http://niwap.org/training/DHS-roll-call/>



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VAWA Specialized Unit Effective

- ▶ The non-partisan Congressional Research Service noted that DHS has incorporated safeguards for adjudicating these cases and there is no empirical evidence of fraud.
- ▶ DHS uses a high degree of diligence and vigilance in adjudicating these cases
 - Requests for further evidence rate (DHS 2007–2011)
 - 74% VAWA cases
 - 18.3% family visa petition cases
- ▶ Denial rate (DHS 2007–2011)
 - 31.4% VAWA self-petitions
 - 21% U visas
 - 11.2 % family members of citizens
 - 14.2% family members of lawful permanent residents

Hypothetical Case Scenario: 1

Lara



Lara entered the U.S. 7 years ago with a student visa. One night after the visa had expired; she was walking home from waiting tables and was raped by a masked assailant. She never got a good look at the perpetrator. He whispered that he knew where she lived and told her he would tell her family back home the "filthy things" she had done if she told anyone. Four months later, Lara realized she was pregnant. When she began to miss late shifts at work and was disciplined by her boss, she finally shared with him what had happened to her. Her boss encouraged her to contact the police, and helped her call the police. Lara told the police everything she knew, but said she would not testify in court because she feared retaliation.

Hypothetical Case Scenario:2

Amelia and Carl



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

Hypothetical Case Scenario:3

Joe and Alex



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

Helpfulness by 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

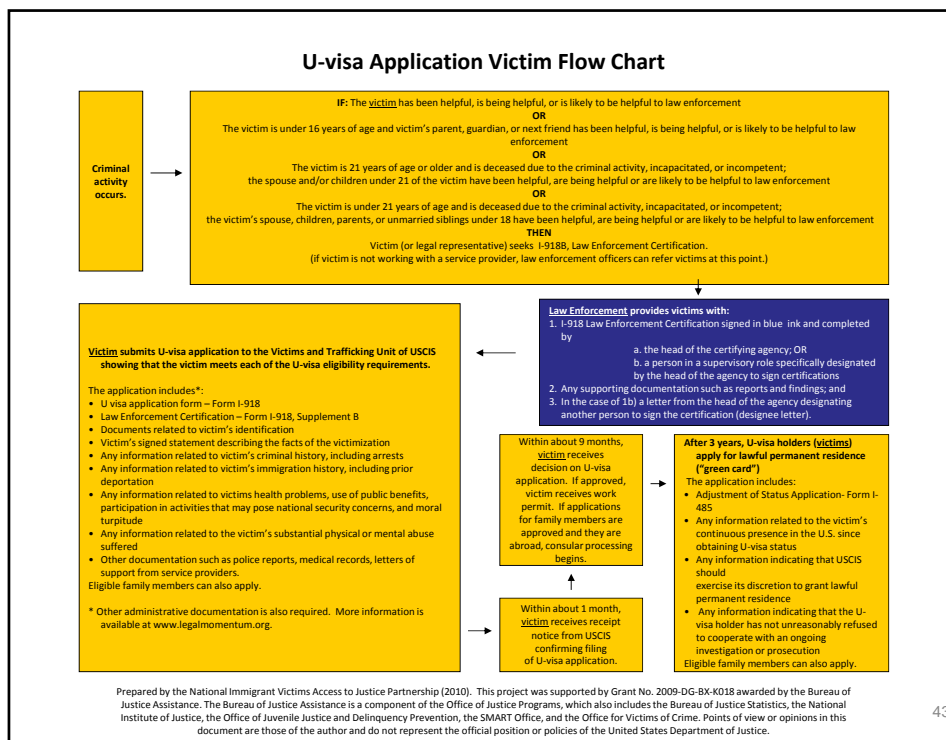
Some Examples of Helpfulness

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



Is the helpfulness requirement met if:

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




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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 one of the following
 - Humanitarian need; OR
 - Family unity; OR
 - Public Interest
- DHS reviews cooperation or determines whether the victim's non-cooperation was unreasonable



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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 (*U-visa Toolkit, p.23*)

Collaboration and U Visa Certification

- The Collaboration Slides in this presentation were supported by Grant No. 2011-TA-AX-K002 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(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Narrative Data: Key Findings

- Between July 2007 and June 2009, Legal Assistance for Victims (LAV) grantees provided narrative data to the Office on Violence Against Women (OVW) on barriers encountered, successes achieved, and lessons learned from advocacy efforts with victims.
- The most significant finding presented is that **comprehensive collaborations with law enforcement agencies contribute to success in U-visa advocacy.**

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Comprehensive Collaboration With Law Enforcement

- Elements of successful collaboration
 - Continuous and comprehensive training for law enforcement
 - Ongoing, individualized communication with law enforcement, and building personal relationships
 - Providing U-visa certification training tools to law enforcement
 - Multi-agency cooperation through community collaboration projects

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collaboration
is everything



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Evaluations



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