

Enhancing Judicial Skills (EJS) 25th Anniversary Pre-Institute Program




U Visa Certification Considerations for Judicial Officers

**Presentation Materials adapted from the National Judicial
Network by NIWAP, American University,
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Disclaimers

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The program materials herein are for educational purposes and do not constitute legal advice. Participants should consult their jurisdiction's codes, case law, court rules, and canons/ethics rules for applicable requirements.

Take Care of Yourself

The material, exercises and videos used in this program depict domestic violence dynamics and abusive tactics.

Learning Objectives

At the end of this session participants will be better able to:

- Recognize the authority that Congress created for U visa certification by judges;
- Determine their role in the U visa certification process;
- Adhere to the federal provisions related to confidentiality for VAWA related visas; and
- Assess the ethical considerations related to the U visa certification process and identify their appropriate role as a judicial officer .



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Domestic Violence Overview

- **65% of immigrant survivors report some form of immigration-related abuse (NIJ, 2003)** *Edna Erez and Nawal Ammar, Violence Against Immigrant Women and Systemic Responses: An Exploratory Study (2003)*
- **When immigration-related abuse is present in a relationship it is 10 times more likely that physical and/or sexual abuse is also occurring in the relationship.** *Mary Ann Dutton, Leslye Orloff, and Giselle Hass, Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications (Summer 2000)*

Coercive Control Tactics: Immigrant Victims

- Threatening to or reporting/turning victim over to the Department of Homeland Security
- Controls access to mail/email/text communications from immigration agencies and/or courts
- Not filing or withdrawing immigration papers
- Giving misinformation about the immigration process and/or services available or rights of victims of crime or abuse
- Hiding, destroying, or restricting access to important papers
- Destroying property brought from her home country.

Immigration Law Definition of Domestic Violence

“Battery or Extreme Cruelty”

- Includes
 - All forms of abuse covered in state civil protection order statutes
 - All forms of abuse that constitute domestic violence under state criminal laws
 - Coercive control tactics
 - Plus – Forms of abuse that are extreme cruelty
 - No physical harm or crime required

Polling System Questions

1. Have you ever been asked to certify a U visa?
2. Have you certified a U visa?
3. Have you attended a training on U visas?
4. What knowledge level do you think you have related to the U visa process (including certification)
 - 1- none
 - 2- very little
 - 3- fairly knowledgeable
 - 4- very knowledgeable

U VISAS

What are U visas
and why do courts
need to know about
them?



Image by PresenterMedia



Immigration Protections for Noncitizen Victims of Crime and Abuse

U.S. Immigration Benefits for NONCITIZEN CRIME VICTIMS

T VISA CONSIDERATIONS

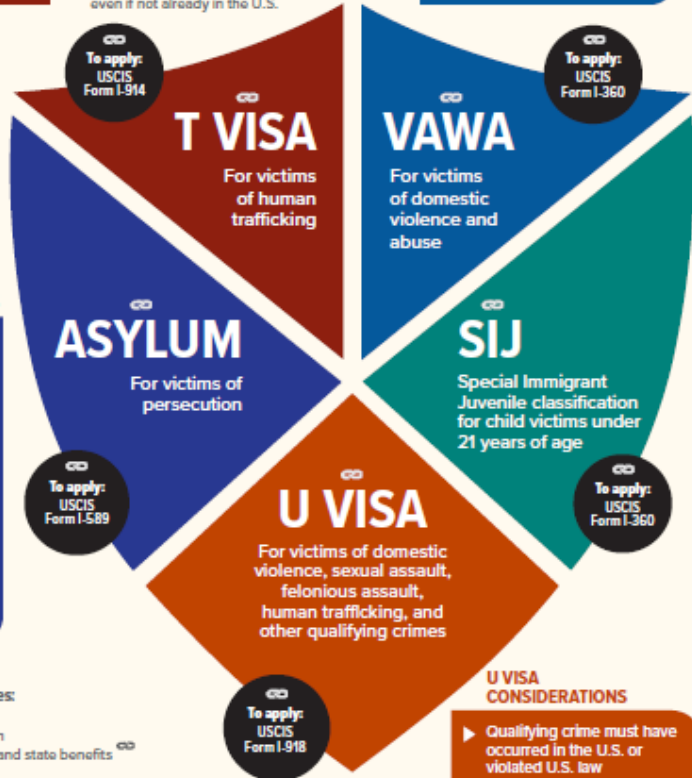
- ▶ Must be in the U.S. on account of human trafficking
- ▶ Law enforcement declaration is encouraged but not required

- ✓ If approved, benefit provides:**
- Up to four years of temporary nonimmigrant status
 - Work authorization
 - Access to federal and state benefits and services
 - Ability to apply for permanent residency
 - Ability for qualifying family members to receive derivative nonimmigrant status, even if not already in the U.S.

VAWA CONSIDERATIONS

- ▶ Have suffered battery or extreme cruelty perpetrated by your U.S. citizen or Lawful Permanent Resident spouse or parent or your U.S. citizen adult son or daughter
- ▶ Petitioners and perpetrators may be of any sex or gender

- ✓ If approved, benefit provides:**
- Lower priority for removal
 - Work authorization
 - Access to federal and state benefits and services (possibly sooner than approval)
 - Ability to apply for permanent residency
 - Ability for children of self-petitioning spouses or children to receive permanent residency, even if not already in the U.S.



ASYLUM CONSIDERATIONS

- ▶ Must fear persecution on account of race, religion, nationality, political opinion, or membership in a particular social group
- ▶ If in removal proceedings, may need to file Form I-589 with the Immigration Judge

- ✓ If approved, benefit provides:**
- Asylee status
 - Work authorization
 - Access to federal and state benefits and services
 - Ability to apply for permanent residency
 - Ability for spouse and children to receive asylum, even if not already in the U.S.

SIJ CONSIDERATIONS

- ▶ Must be a victim of abuse, abandonment, neglect, or a similar basis under state law by one or both parents
- ▶ Must have a juvenile court order with the required determinations

- ✓ If approved, benefit provides:**
- Ability to apply for permanent residency

- ✓ If approved, benefit provides:**
- Up to four years of temporary nonimmigrant status
 - Work authorization
 - Ability to apply for permanent residency
 - Ability for qualifying family members to receive derivative nonimmigrant status, even if not already in the U.S.



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 Regulations Definitions

Although terms are used interchangeably

- As a matter of law (U visa regulations)
 - Helpfulness in the “investigation or prosecution” always means
 - “Detection, investigation, prosecution, conviction, or sentencing”
 - “Crime” always means
 - “criminal activity”
- “Criminal activity” chosen to offer early access to justice system protection
 - Improving stability for crime victims

U Visa Qualifying Criminal Activity

- *Domestic violence*
- *Stalking*
- *Sexual assault*
- *Rape*
- *Sexual exploitation*
- *Abusive sexual contact*
- *Incest*
- *Prostitution*
- *Female genital mutilation*
- *Felonious assault*
- *Murder*
- *Manslaughter*
- *Kidnapping*
- *Abduction*
- *Trafficking*
- *Involuntary servitude*
- *Slave trade*
- *Being held hostage*
- *Torture*
- *Fraud Foreign Labor Contracting*
- *Unlawful criminal restraint*
- *Peonage*
- *False Imprisonment*
- *Blackmail*
- *Extortion*
- *Witness tampering*
- *Obstruction of justice*
- *Perjury*
- Similar activities e.g.,
 - Hate crimes
 - Child/elder/disabled abuse
 - Aggravated robbery
 - Video voyeurism

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

U VISAS

What is the role of a judicial officers in the U visa certification process?



Image by PresenterMedia

Who Can Certify?

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

U and T Visa Certification May be Signed by any Judicial Official

- Judicial officers who can sign U and T visa certification:
 - Any official with delegated authority from a federal, state, local, tribal or territorial court to decide cases including but not limited to: administrative law judges, commissioners, magistrates, aldermen, judicial referees, surrogates, masters, and chancellors.

What a U Visa is Not....

U visa certification does not mean a judicial officer is...

- Vouching for victim's character;
- Testifying as a character witness;
- Sponsoring or endorsing the victim; or
- Predicting anything about the victim's future actions

Authority for Certification

USCIS recognizes that the certification does **not**

- Predict or guarantee the future conduct of the victim; or
 - Guarantee that a U visa will be granted.
-
- Certifiers will not be liable for future conduct of the victim

According to DHS, a U/T Visa Certification Tells USCIS Only 3 Things:

- Certifier believes the applicant is a victim of a qualifying criminal activity
- Victim had knowledge of the criminal activity
- Victim was, is, or is likely to be helpful in the detection, investigation, prosecution, conviction or sentencing

Free Think

Why might a victim come to a judge for certification?

Why were judges included in the certification process?



Image by PresenterMedia

Why victims seek certification from courts

- Only justice system contact =
 - Victim sought
 - Protection order
 - Custody
 - Divorce
 - Victim
 - Filed a civil case (e.g. tort)
 - Participated in child welfare case
- No language access when victim called police for help
- Police did not investigate and case was never sent to the prosecutor

Things to Know About Certification

- Judges, law enforcement, and other certifiers
 - May complete U visa certification if they observe or detect a victim's helpfulness
 - Can be a civil, family or criminal case
- The investigation, prosecution, or family court case
 - Can still be ongoing
 - Can be closed
 - May have settled
 - May have occurred a long time ago
 - May never have been criminally prosecuted

What Evidence of “Criminal Activities” and “Helpfulness” Could be Present in These Cases?

- Family
 - ✓ Civil Protection
 - ✓ Custody
 - ✓ Divorce
 - ✓ Paternity
 - ✓ Adoption
- Juvenile
 - ✓ Child Abuse, Neglect, or Termination of Parental Rights
 - ✓ Delinquency
- Criminal
- Probate
 - ✓ Elder / Dependent Adult Abuse
 - ✓ Guardianship
 - ✓ Conservatorship
- Civil
 - ✓ Employment
 - ✓ Tort damages against a perpetrator

Criminal Case Examples: Evidence of Helpfulness

- **Evidence in case that the victim:**

- Called 911
- Participated in a criminal investigation
- Identified perpetrator at line up
- Testified before a grand jury or at trial
- Appearance in a case
- Attended criminal court hearings in the case
- Victim impact statement
- Testimony at sentencing

Family/Civil Case Examples: Evidence of Helpfulness

- Filed and/ or appeared at hearing for full protection order
- Plead and or testified about abuse or sexual assault in a court case (e.g. protection order, divorce, custody, small claims, housing, employment)
- Evidence in case that victim called the police, made a police report, cooperated in a criminal or EEOC investigation
- Serving the perpetrator with notice of a
 - Temporary protection order
 - A case in which the pleadings contain allegations of facts that constitute domestic violence, sexual assault or other U visa criminal activities

Helpfulness Requirement Met *Even When*:

- Victim reports a crime and there's no further investigation, arrest, or prosecution
- Perpetrator absconds or is deported
- Perpetrator is being prosecuted for a different crime
- Victim is not needed as a witness
- Victim is dead (indirect victim is applying)
- Perpetrator is dead
- The criminal case did not result in a guilty plea or conviction
- Victim is applying for a civil protection order or custody but domestic violence is not being criminally prosecuted

Helpfulness vs. Cooperation/Assistance

For Certification Before Filing the U visa

- Has been helpful *Or*
- Is being helpful *Or*
- Is likely to be helpful

TO.....

- Detection *Or*
- Investigation *Or*
- Prosecution *Or*
- Conviction *Or*
- Sentencing

After Filing the U visa & for Permanent Residency

- Ongoing obligation to provide cooperation or assistance
 - Reasonably requested by law enforcement or prosecutors
- **Exception:** may show that refusal to cooperate or assist was not unreasonable

Analysis

Is the request
reasonable?

8 C.F.R. 214.14(b)(3)

8 C.F.R. 245.24(2)(2)(ii)

Is the refusal
unreasonable?

8 C.F.R. 245.24(a)(5)

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

Considerations:

- Totality of the circumstances, including the nature of the victimization
- Victim's fear of the abuser
- Trauma suffered
- Force, fraud or coercion
- Continued threats of violence
- Financial hardship
- Threats from either family

Judicial Ethics Considerations



**ABA Model Code of Judicial
Conduct**



Image by PresenterMedia

Small Group: List Generation

Using the provided flip chart:

Make a list of any possible ethical considerations (concerns) regarding U visa certification by judges.



Image by PresenterMedia

Questions and Considerations

- Extra-Judicial?
- Negate impartiality?
- Impermissible character reference?
- Lend the Prestige of the Judge's Office?
- Inappropriate public statements?
- Others?

U Visa Consideration

U visa certification = a judicial act, falls within the official duties of a judge

- **Certification does not grant immigration status**
- Not required action
- Certification is explicitly authorized by federal statutes, regulations and policies
- Judge decides whether to certify
- Does not involve extra-judicial activity
- **Ways to stay in your lane with form – edits by judge**

Judicial Officers May Edit the Form...

- Judges do not investigate or prosecute criminal activities.
- Judges will need to edit the U visa certification form crossing out the phrase “based upon investigation of the facts” and replacing it with the basis for the judge’s certification (e.g. review of court records, findings, order, probable cause)
- Examples – “Based upon my findings of fact....” “Based upon my issuance of a protection order”

Part 6. Certification

I am the head of the agency listed in **Part 2.** or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in **Part 1.** is or was a victim of one or more of the crimes listed in **Part 3.** I certify that the above information is complete, 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 U.S. Citizenship and Immigration Services (USCIS), 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 or she is a victim, I will notify USCIS.

1. Signature of Certifying Official (sign in ink)



2. Date of Signature (mm/dd/yyyy)

3. Daytime Telephone Number

4. Fax Number

U Visa (2) Consideration

- **Rule 1.2 Promoting Confidence in the Judiciary**

- Requires a judge to “act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

- U visa certification is based

- Detection of criminal activity and/or

- Detection for U visa purposes is akin to probable cause in criminal cases
- Certification may be granted based on any credible evidence
- Also includes hearing testimony, proffers, review of evidence (e.g. police reports, medical records), making findings and issuing orders based on evidence presented in civil, family, criminal and other court proceedings

- Convicting or sentencing perpetrators of criminal activity

U Visa (3) Consideration

Certifies three things: (within a particular context for a limited purpose)

1. Victim's past or present helpfulness
 - A judge certifies based on current and past facts
 - Certification requires only one form of helpfulness - past, or present, or future
 - Judicial certifications need to avoid future predictions
 - A judge is not adjudicating whether someone gets a U visa. This is the function of USCIS.
2. Victimization
3. That the criminal activity occurred, was attempted, was threatened or there was a conspiracy to commit the criminal activity.

Judicial Officers May Edit the Form...

- Good character not same as helpfulness within this limited context.
- This past or present helpfulness is determined based on the victim's actions at or before the U-cert request is signed.
- Only one form of helpfulness is required (e.g. past or present).
- Judges should explicitly avoid certifications of future helpfulness and will therefore need to strike out the following line of the I-918B form: "I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS."

Part 6. Certification

I am the head of the agency listed in **Part 2**, or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in **Part 1**, is or was a victim of one or more of the crimes listed in **Part 3**. I certify that the above information is complete, 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 U.S. Citizenship and Immigration Services (USCIS), 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 or she is a victim, I will notify USCIS.

1. Signature of Certifying Official (sign in ink)



2. Date of Signature (mm/dd/yyyy)

3. Daytime Telephone Number

4. Fax Number

Adequate Basis

- The judge must have an adequate basis for the averments in the certification
 - Judicial certification is based on victim's actions in the court case or with other governmental agencies
 - E.g. police, prosecutors, EEOC, CPS, APS
 - An immigrant who has been helpful in the detection, investigation, prosecution, conviction, or sentencing of criminal activity may or may not have good moral character.
 - That is an assessment USCIS makes in its adjudication and decision about whether or not to exercise its discretion to grant a victim a U visa.

U Visa Certification Consideration

- Administrative action of the court based on
 - Actions the person took in the court case
 - Evidence submitted in the court case
 - The record in a completed court case
 - That informs DHS about the applicant's
 - Victimization
 - Helpfulness
- USCIS is responsible for adjudication of the U visa case
- Judicial certification is statutorily authorized
- Confidential by federal law
- Relies upon Findings and Decision-Making as in all other cases

U Visa Certifications (2) Considerations

Not Public Statements

- U visa certifications are made in the course of a judge's official duties
 - Based on records of court proceedings, court findings, and/or court orders
 - ≠ making an inappropriate public statement about a court proceeding that might signal the judges pre-judgement of an issue
- U visa certifications are not public
 - Sealed by VAWA Confidentiality laws 8 U.S.C. §1367
- Certifications made in closed civil, family, criminal or administrative cases do not implicate this rule.

U Visa Certifications Considerations

- Certifications can be made in open and closed cases including at early stages of case and in a civil/family/juvenile case whether or not there is a criminal case including when the criminal case is not concluded.
- **Closed cases:**
 - Issuing certification after a judge has made findings and issued orders = administrative function of the court
 - Applies to civil, family, criminal, administrative cases
- Issuing U visa certifications following recommended procedures complies with both ex parte communications bars and federal VAWA confidentiality laws 8 U.S.C. §1367.

U Visa Certifications

- Certification can be made by
 - The judge who presided over the case based on the judge's observations, findings, rulings, orders in the case; or
 - Another judge based on court records
- Since the case is closed there is no pending or impending matter
- **Recusal appropriate** - should there be subsequent proceedings involving the
 - Same or similar issues and
 - The same victim or accused person.

○ Issuing U visa certifications following recommended procedures complies with both ex parte communications bars and federal VAWA confidentiality laws 8 U.S.C. §1367.

Considerations: Pending Cases

- Administrative judge or another judge not presiding over the pending case
 - Determines whether the evidence in the court records to support certification of:
 - Victimization, and
 - Victim's helpfulness
 - This is an administrative function based on court records

Pending Cases: Both ex parte communications bars and VAWA Confidentiality 8 U.S.C. § 1367 apply

Considerations: Pending Cases

- For a victim to request certification from the judge presiding over a pending civil, family, criminal, or administrative case in a manner that complies with VAWA confidentiality (8 U.S.C. §1367)
 - All victims must be adults (**cannot waive if it is a child or even on their behalf**) and
 - All adult victims must sign a waiver of VAWA confidentiality protections of 8 U.S.C. §1367; and
 - This waiver would also have to comply with 34 U.S.C. 12291(b)(2) requirements that waivers of confidentiality signed by victims must be:
 - Written, informed, time-limited, and issued specifically and only for the purpose of obtaining a ruling on the victim's U visa certification request

Pending Cases: Both ex parte communications bars and VAWA Confidentiality 8 U.S.C. § 1367 apply

Open Case Continued

- A U visa certification request in an open court case would need to include
 - The U visa certification request
 - Written confidentiality waivers of the protections required by 8 U.S.C. 1367 and 34 U.S.C. 12291(b)(2)
 - The judge would need to determine that the waivers were informed, time-limited and specific to the U visa certification request

Open Case Continued

- Only if and after the judge determines that the proposed waivers comply with federal law can
 - The court issue notice to be served on all parties giving them notice and a reasonable opportunity to be heard on the victims U visa certification request
- Any certification issued by the judge may be provided to all parties
- All information about or contained in any U visa case the victim may file is confidential under 8 U.S.C., 1367 and not discoverable

Open Case Continued - Criminal

- In a criminal case ensuring that the judge who considers the certification **is not the judge presiding over the criminal case** is an important way to comply with judicial ethical obligations to
 - Maintain judicial impartiality
 - Avoid pre-judging issues
 - Remain neutral, and
 - Not cross over into law enforcement or prosecutorial roles

Confidentiality: What Courts Should Know

DHS describes the federal law's limitations on disclosure of information about the existence of, actions taken in, and information contained in files related to an 8 U.S.C. 1367 protected case as:

“In enacting this nondisclosure provision, Congress sought to prevent, with limited exceptions, disclosure of any information relating to beneficiaries of applications for VAWA benefits (battered spouses or children) or for T or U nonimmigrant status, including the fact that they have applied for benefits. The disclosure of certain information is permitted in limited circumstances. Those circumstances include disclosure for legitimate law enforcement purposes, statistical purposes, and benefit granting or public benefit purposes. See 8 U.S.C § 1367(b) (listing exceptions to general nondisclosure rule)”

DHS, Memorandum For All OPLA Chief Counsel: VAWA 2005 Amendments To The Immigration Laws, 25 (Feb. 1, 2007), <http://niwaplibrary.wcl.american.edu/pubs/iceopla-vawa-confidentiality-2007-foia/>; 8 U.S.C. § 1367; see also, USCIS, Policy Manual, 1, part 7. (1 USCIS-PM A.7.) (Sept. 27, 2023), <https://www.uscis.gov/policy-manual/volume-1-part-a-chapter-7>.

Confidentiality continued.

The judicial review exception to VAWA confidentiality applies only to the judicial review of a victim's VAWA confidentiality protected immigration case.

Release of information in the context of judicial review is limited by statute to contexts where release can be accomplished “in a manner that protects the confidentiality of such information.”

Hawke v. United States Dep't of Homeland Security, 2008 U.S. Dist. LEXIS 87693, at *1 (N.D. Cal. Sept. 29, 2008); No. C-07-03456 RMW, 2008 WL 4460241 at *1 (N.D. Cal. Sept. 29, 2008); DHS, Memorandum For All OPLA Chief Counsel: VAWA 2005 Amendments to The Immigration Laws, 25 (Feb. 1, 2007), <http://niwaplibrary.wcl.american.edu/pubs/iceopla-vawa-confidentiality-2007-foia/>; 8 U.S.C. § 1367; see also, 1 USCIS-PM A.7. (Sept. 27, 2023), <https://www.uscis.gov/policy-manual/volume-1-part-a-chapter-7>.
4 8 U.S.C. 136(b)(3); DHS, Instruction Number: 002-02-001, Implementation Of Section 1367 Information Provisions, 6 (Nov. 7, 2013), <http://niwaplibrary.wcl.american.edu/pubs/implementation-ofsection-1367-all-dhs-instruction-002-02-001/>.

Confidentiality:

- Following the procedures recommended for closed and pending cases below, judges can sign U visa certifications in a manner that complies both with federal VAWA confidentiality requirements and judicial ethics rules.

Closed Cases:

- Issuance of a U visa certification in a civil, family, or criminal case after the case is closed, including after a judge has made findings or issued an order is an administrative function of the court.
- The certification can be issued by the judge who presided over the case, or another judge based on court records.
- Should there be a subsequent proceeding involving the same or similar issues and the same victim or the person accused by the victim, the judge should recuse themselves.

Confidentiality:

- **Pending Cases:** Since VAWA confidentiality requirements under 8 U.S.C. 1367 does not authorize the release of information about the existence of a VAWA confidentiality protected case, there are two ways state court judges can issue U visa certifications in a manner that complies with both 8 U.S.C. 1367 and judicial ethical canons in pending civil, family, and criminal cases.
- First, if an administrative judge or another judge who is not the judge presiding over the open case makes the determination about whether the evidence in the court records contains evidence of victimization and helpfulness to support the certification the judge can sign the certification as an administrative function of the court based on the court records without violating ex parte rules and without violating the federal VAWA confidentiality laws under 8 U.S.C. 1367.

Confidentiality

- In order for the victim to request certification from the judge presiding over a pending civil, family, or criminal case in a manner that complies with VAWA confidentiality 8 U.S.C. 1367 all adult victims in the case must sign a waiver of VAWA confidentiality protections under 8 U.S.C. 1367(b)(4). Further under this waiver would also have to comply with 34 U.S.C. Section 12291(b)(2) requirements that waivers of confidentiality by victims must be written, informed and time-limited and issued specifically and only for the purpose of obtaining a ruling from the judge on the victim's request that the judge issue a U visa certification.

Paul Virtue, Non-Disclosure and Other Prohibitions Related to Battered Aliens: IIRARA Section 384, Immigration And Naturalization Service, 2 (May 5, 1997), <http://niwaplibrary.wcl.american.edu/pubs/conf-vawagov-insconfvawamemo-05-05-1997/>.

Confidentiality

- In order to provide notice to all parties in a pending case the victim would need to provide the judge as part of their U visa certification request a written, voluntary waiver that limits the waiver of 8 U.S.C. 1367 protections solely for the limited purpose of providing notice about the motion for a U visa certification from the judge in the pending proceeding. The judge should also allow a reasonable opportunity for any party to the proceeding to respond to the request.

Paul Virtue, Non-Disclosure and Other Prohibitions Related to Battered Aliens: IIRARA Section 384, Immigration And Naturalization Service, 2 (May 5, 1997), <http://niwaplibrary.wcl.american.edu/pubs/conf-vawagov-insconfvawamemo-05-05-1997/>.

What are the benefits of U Visas?

- Survivors and their children
- The justice system
- Communities



Image by PresenterMedia

2013 and 2017 Research Found Increased Justice System Participation

- VAWA Self-Petitioners
 - 62% participate in criminal investigations and prosecutions
 - 63% seek civil protection orders
 - 60% turn to the courts for child custody orders
- U visa Victims
 - 70% participate in active criminal prosecutions and investigations
 - An additional 29% willing to cooperate if their criminal cases went forward
 - 67% seek protection orders
 - 64% seek custody orders

Krisztina E. Szabo, David Stauffer, Benish Anver, *Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014) and Rodrigues et al. *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey* (May 3, 2018); Leslye Orloff, et. al., *U Visa Victims and Lawful Permanent Residency 5* (September 6, 2012)

With Deferred Action and Work Authorization Trust Improves

- Increased justice system involvement
 - 114% increase in willingness to trust the police
 - 36% make police reports regarding future crimes
 - 22% help other victims report abuse and seek help/justice
 - 67% decline in immigrant victims who were not willing to participate in criminal investigations and prosecutions

Transforming Lives: How the VAWA Self-Petition and U Visa Change the Lives of Survivors and Their Children After Employment Authorization and Legal Immigration Status (June 8, 2021)

<https://niwaplibrary.wcl.american.edu/pubs/transforming-lives-final-report>

With Deferred Action and Work Authorization Immigration Related Abuse Declines

- Significant reductions in abusers using the victim's immigration status as a tool to perpetuate abuse
 - 74% decline in immigration related abuse
 - 78% decline in threats to snatch/cut off access to children
 - 65% decline in efforts to use immigration status of the victim to gain advantage in family court

Orloff, Magwood, Campos-Mendez, & Hass, Transforming Lives: How the VAWA Self-petition and U Visa Change the Lives of Victims and their Children After Work-Authorization and Legal Immigration Status (June 2021)

<https://niwaplibrary.wcl.american.edu/pubs/transforming-lives-final-report>

Benefits For Survivors and Their Children of Work Authorization and Deferred Action

- **VAWA and U visa victims report increases in:**
 - Involvement in children's schools 660%
 - Formal sector jobs that deduct taxes 542%
 - Jobs paying at least minimum wage 300%
 - It being easier to make decisions 432%
 - Sleeping better & being calmer– 300%
 - Being more focused – 280%
 - Victims taking ESL classes 226%
 - More independent – 261%
 - Standing up for themselves 225%
 - Pursuing education: GED 35%; AA/BA 28%; Vocational 21%; Advanced degrees 19%
 - Victim's children are more socially active 100% and pursuing own interests 134%

Practice Considerations

- Include DHS brochures about victim-based immigration relief in the know your rights materials distributed at the courthouse.
- Make Connection with services with expertise serving immigrant and limited English proficient survivors of crime and abuse (to refer for assistance with immigration, public benefits, family law, victim advocacy)
- Use qualified interpreters and bilingual court personnel.
<https://niwaplibrary.wcl.american.edu/language-access/>
- I Speak Cards (available at <https://www.lep.gov/>)

Resources



AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

NIWAP

SJI
State Justice Institute

**U VISA CERTIFICATION
TOOLKIT**
for
**FEDERAL, STATE AND LOCAL
JUDGES, COMMISSIONERS,
MAGISTRATES AND OTHER JUDICIAL
OFFICERS**

**National Judicial Network
(NJN)**



Judicial Education Development Initiative on Domestic Violence

NCJFCJ

