

Immigrant Crime Victims and the U Visa: Law Enforcement Best Practices Technical Assistance Overview

**Battered Women's Justice Project
ICJR Orientation
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Participant Introductions, Goals and Expectations

Learning Objectives

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

- Be familiar with our TA project and our resources and tools
- Understand the wide range of topics and various ways NIWAP can support your work with immigrant survivors
- Hold offenders more accountable by using the U Visa certification process as a crime fighting tool
- Enhance officer/victim/community safety using the U and T visa certification programs

Types of Technical Assistance

- Free training in local jurisdictions
- National in-person and webinar trainings
 - Scholarships for law enforcement for Aug 2019
- Bi-monthly Roundtables officer only
- Training materials and practice tools
- Model U/T visa certification policies
- 24/7 web library and training videos
- Officer to officer TA on cases and policies
- Directory of service providers

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

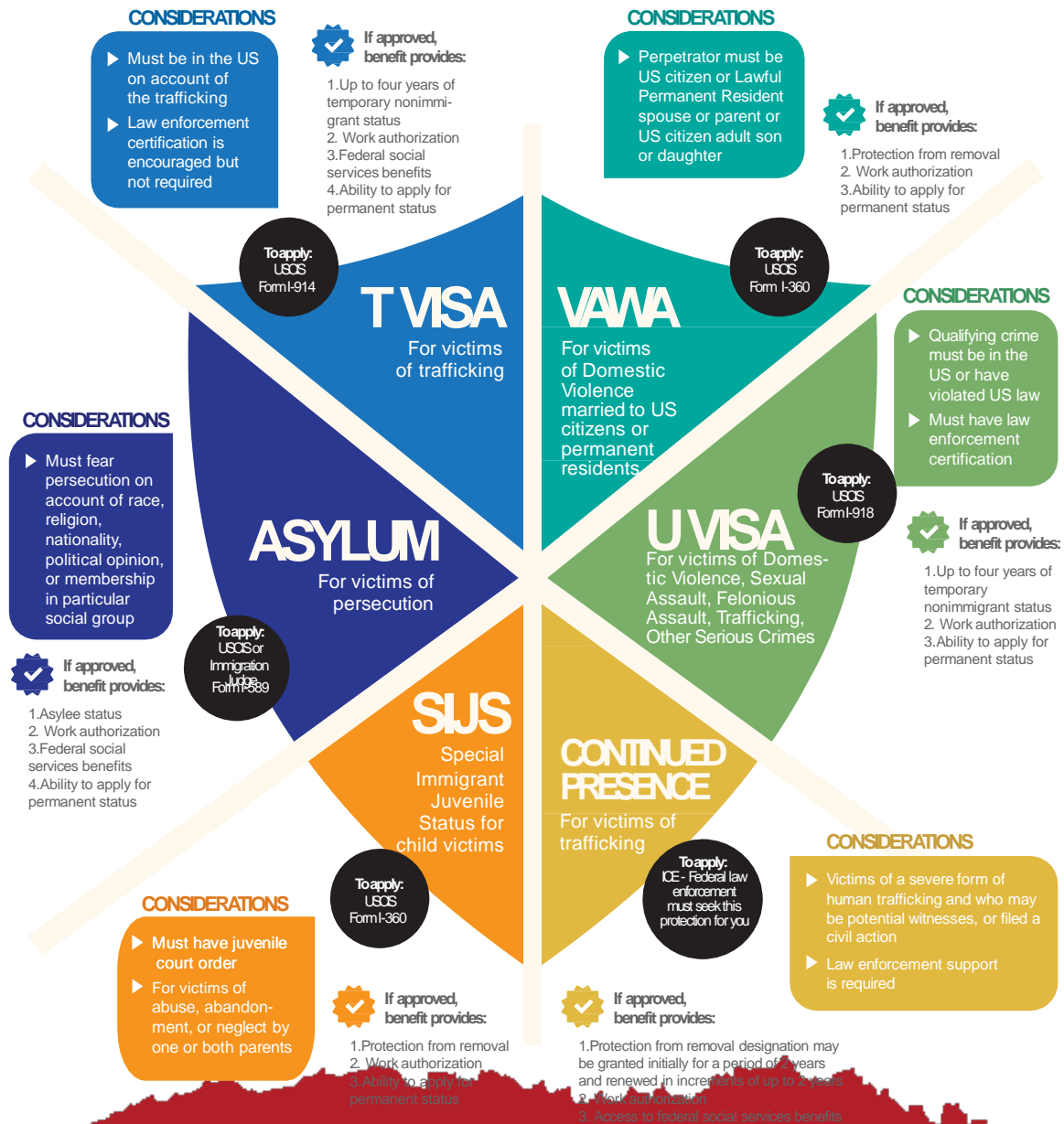
How Best Practices in Domestic Violence Investigations Involving Immigrant Victims Promote Officer Safety

Department of Homeland Security



- DHS Video on Dynamics

PROTECTIONS FOR IMMIGRANT VICTIMS



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

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

Qualifying Criminal Activity

75% of cases filed are domestic and sexual violence

- 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 in 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

U Visa Basics

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



Who Can Certify?

“law enforcement” & “law enforcement agencies” =

- Federal, state, and local
 - Police, sheriffs, FBI, HSI, ATF...
 - 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

IACP 2018 Resolution Promotes U/T Visa Certification As “Significant Crime Fighting Tools” and “Best Practice”

- Training, education, communication and “increased police leadership involvement” needed on U/T visa certification
 - U and T visas are “effective tools for law enforcement agencies that enhance public safety, officer safety and protection of victims nationwide.”
 - These visas increase “trust between law enforcement officials and otherwise reluctant immigrant communities.”
- Model Policy available on USB

U Visa Certification Considerations

- 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

Things to Know About Certifying

- “Do I believe this person was a victim of a qualifying crime?”
- “Did the person assist or willing to assist in detection, investigation, conviction, prosecution and/or sentencing?”
- Question is **NOT**:
 - Can we prosecute the crime?
 - Can I arrest the offender?
 - Do I have proof beyond a reasonable doubt?
 - Will the prosecutor’s office file charges?
 - Is this within the statute of limitations?
 - Did we get a conviction?

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

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

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