

Law Enforcement and Prosecution Best Practices: Immigrant Crime Victims, Language Access and the U Visa

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Introduction

- ▶ Faculty
- ▶ Housekeeping
- ▶ Pre-Training Assessment

Overview of Training Folder

- ▶ Pre-Training Assessment
- ▶ Agenda
- ▶ PowerPoint Presentation
- ▶ Faculty Biographies
- ▶ Participant List
- ▶ Technical Assistance Information
- ▶ U Visa Toolkit (contains Quick Reference Guide, Frequently Asked Questions, Sample Designee Letter)
- ▶ Language Access Handouts
- ▶ DHS Reference Materials

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,
- ▶ DHS Guidance
- ▶ Flowchart
- ▶ Frequently Asked Questions

DHS' Terminology Used in This Training

- ▶ The Department of Homeland Security (DHS) in the context of T visa certification and T visa endorsement uses the terms ***“law enforcement” and “law enforcement agencies”*** to mean federal, state, & local
 - Police departments, sheriffs, state police, FBI, ATF
 - Prosecutors and district attorneys
 - Child and Elder Abuse investigators and agencies
 - Departments of Labor , the Equal Employment Opportunity Commission (EEOC)
 - Courts, Judges, Magistrates, Commissioners
 - Any other government agency that has the authority to detect, investigate, prosecute, convict or sentence based on facts related to criminal activities covered by the U or T visa

Participant Introductions, Goals and Expectations



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

- ▶ Use the U visa certification process as a crime fighting tool
- ▶ Improve outcomes of crime scene investigations using language access tools that incorporate DOJ recommendations
- ▶ Use new tools to enhance offender accountability and victim safety
- ▶ Obtain the benefits of language access and certification programs for law enforcement and community safety

**What is your knowledge of
the U Visa?**

Answer Question on scale of 1-5

**What is your level of experience
using qualified interpreters at
crime scene investigations?**

Answer Question on scale of 1-5

Overview of the U Visa

- ▶ **Purpose:** Why does it exist?
- ▶ **Requirements:** Who can receive it?
- ▶ **Application Process:** How does one get it?

Purpose

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

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

The U Visa Application Process

- ▶ Law enforcement certification
- ▶ Complete and submit application with additional documentation and fees (or waiver request)
- ▶ Decision from USCIS within about 9 months to a 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

Immigrants, Language, and Law Enforcement: Domestic Violence Sexual Assault and Human Trafficking

Immigrants, Language, and Law Enforcement: Domestic Violence, Sexual Assault and Human Trafficking

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

- ▶ Understand the immigrant victim's fear of deportation
- ▶ Identify the barriers that prevent immigrant victims from cooperating with the criminal justice system

Which country do the victims in your jurisdiction come from?

What languages are spoken by victims in your jurisdiction?

Florida - Demographics

- ▶ Total foreign born population –3,747,136
- ▶ 19.2% of the state's 19.3 million people is foreign born
 - 51.6% naturalized citizens
 - 34.4% lawful permanent residents
 - 9.5% temporary legal status or undocumented
- ▶ 40.3 % rise in immigrant population from 2000 to 2012
- ▶ High proportion of new immigrants
 - 37.6 % entered 2000 or after
 - 23.7% entered in the 1990s
- ▶ 32.9% of children in the state have 1 or more immigrant parents
 - 85.5% of children with immigrant parents in Florida are U.S. citizens

• * Source: <http://www.migrationinformation.org/datahub/state.cfm?ID=FL> (February 2014)

Florida –Countries/Regions of Origin (2012)

- ▶ Latin America – 74.8%
 - Caribbean (41.7%)
 - Cuba (23.0%)
 - Central America (15.9%)
 - Mexico (6.9%)
 - South America (17.2%)
 - Colombia (6.2%)
- ▶ Asia – 10.5%
 - Southeastern Asia (4.2%)
 - South Central Asia (2.8%)
- ▶ Europe – 10.0%
 - Eastern Europe (3.3%)
- ▶ Africa – 1.7%

How does the U visa help law enforcement?



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

Keeping Communities Safe Crime Reporting and 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

Prevalence of Domestic Violence in Immigrant Communities

- ▶ Domestic Violence in U.S. in general: 22.1% (NIJ)
- ▶ Domestic Violence among Immigrant women: 30-50%
- ▶ Immigrant women with US citizen spouses abuse rate reaches 59.5%
- ▶ Research has found that immigrant victims
 - Stay longer with their abusers
 - Have fewer resources
 - Sustain more severe physical and emotional consequences of abuse

Prevalence of Sexual Assault In Immigrant Communities

- ▶ Immigrant women particularly vulnerable to sexual assault
- ▶ High school aged immigrant girls are twice as likely to have suffered sexual assault as their non-immigrant peers
 - Including increased risk of recurring sexual assault
- ▶ Immigrant children also particularly susceptible to child abuse

Large Group Discussion

**Why do immigrant victims fear
deportation to their home country?**

Immigrant Victims Concerns Surrounding Abuse and 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 has to go with him
- ▶ 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

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

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

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BREAK

Crime Victim Visa Requirements and Consideration for Law Enforcement and Prosecutors

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, and U visas)
- ▶ Memorandums on DHS detention priorities
- ▶ DHS law enforcement Q & A on T and U visas
- ▶ U Visa Law Certification Resource Guide

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DHS Video Part 1.mpg

U Visa Requirements: Criminal Activity

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

- ▶ Identify types of criminal activities covered under the law
- ▶ Begin identifying victims who might qualify for U visas
 - Statutory and Regulatory Background, Toolkit p. 46

These are the categories of criminal activities listed in the statute

- ▶ 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

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

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

Review the U Visa Certification Form

U-visa Toolkit, p.12

- ▶ **Goals:** Identify the criminal activity and the victim, then begin the certification process

**I-918 Supplement B,
U Nonimmigrant Status Certification**

START HERE - Please type or print in black ink.

Part 1. Victim information.

Family Name Orloff	Given Name Leslye	Middle Name J
Other Names Used (Include maiden name/nickname) 		
Date of Birth (mm/dd/yyyy) 08/28/1973		
Gender ☐ Male ☒ Female		

Part 2. Agency information.

Name of Certifying Agency Salem Police Department		
Name of Certifying Official Michael P. LaRiviere	Title and Division/Office of Certifying Official Supervisor/D.V.U.	
Name of Head of Certifying Agency Chief Christian Vaughn		
Agency Address - Street Number and Name 95 Margin St		
City Salem	State/Province MA	Suite # 01970
Daytime Phone # (with area code and/or extension) 808-555-5555		Fax # (with area code) 808-555-5556
Agency Type ☐ Federal ☐ State ☒ Local		
Case Status ☒ On-going ☐ Completed ☐ Other		
Certifying Agency Category ☐ Judge ☒ Law Enforcement ☐ Prosecutor ☐ Other		
Case Number 675842		FBI # or SID # (if applicable)

For USCIS Use Only.

Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	Remarks
Date	
Reloc Rec'd	
Date	

LEAVE BLANK

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.)

- | | | | |
|--|---|---|---|
| ☐ Abduction | ☐ Female Genital Mutilation | ☐ Obstruction of Justice | ☐ Slave Trade |
| ☐ Abusive Sexual Contact | ☐ Hostage | ☐ Peonage | ☐ Torture |
| ☐ Blackmail | ☐ Incest | ☐ Perjury | ☐ Trafficking |
| ☒ Domestic Violence | ☐ Involuntary Servitude | ☐ Prostitution | ☐ Unlawful Criminal Restraint |
| ☐ Extortion | ☐ Kidnapping | ☐ Rape | ☐ Witness Tampering |
| ☐ False Imprisonment | ☐ Manslaughter | ☐ Sexual Assault | ☐ Related Crime(s) |
| ☐ Felonious Assault | ☐ Murder | ☐ Sexual Exploitation | ☒ Other: (If more space needed, attach separate sheet of paper) |
| ☐ Attempt to commit any of the named crimes | ☐ Conspiracy to commit any of the named crimes | ☐ Solicitation to commit any of the named crimes | Stalking |

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)

4/22/13

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

266-13A Assault and Battery - Domestic

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?

Salem, MA

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.

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 and chin . (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

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 and chin.

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.

Officer Michael P. LaRiviere #42

Date (mm/dd/yyyy)

April 22, 2013

The U Visa Certification: Nuts and Bolts

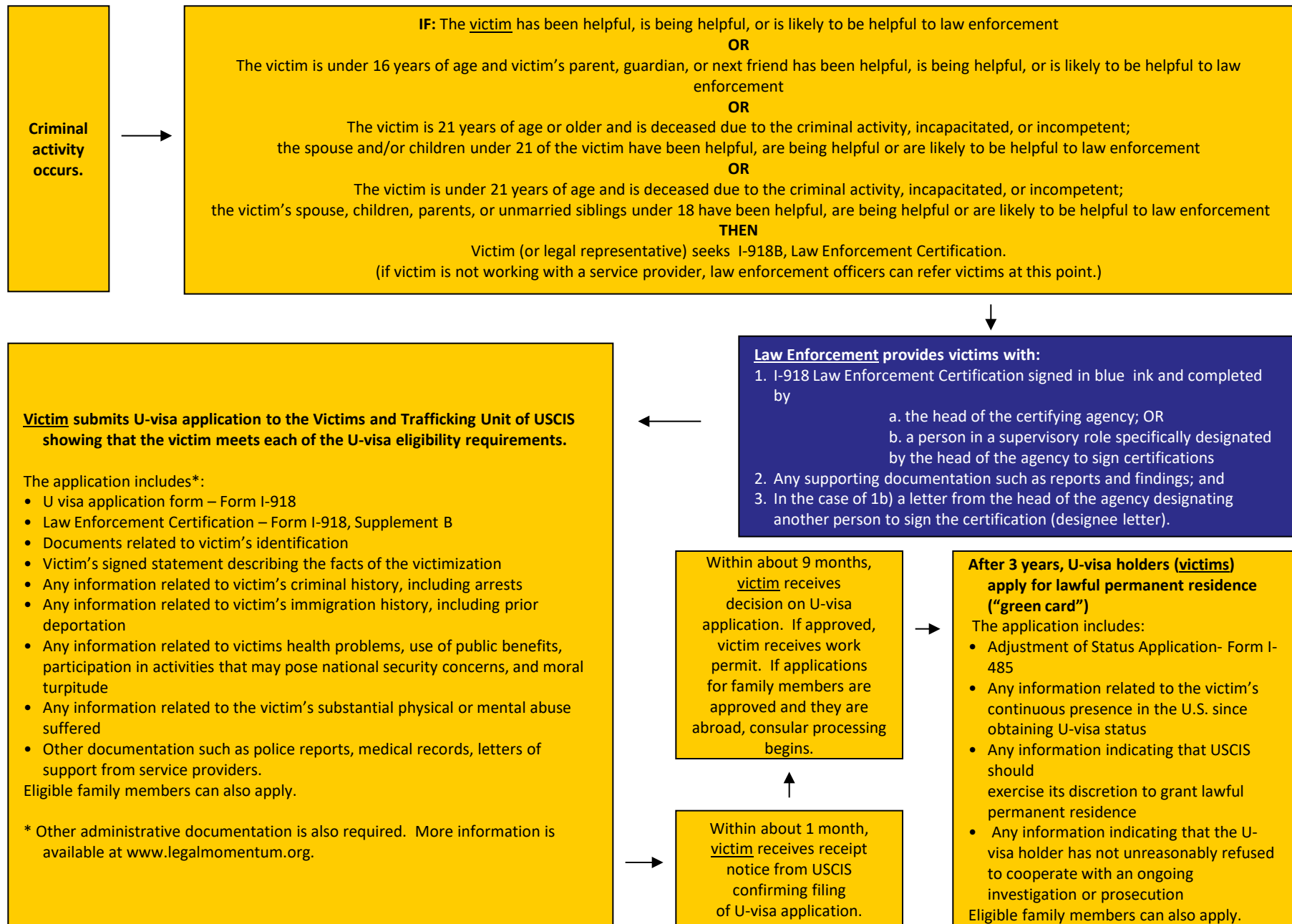
Identify the Victim or Indirect Victim

- ▶ **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
- ▶ **Bystanders victimization – very limited**

Beyond the Certification

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

U-visa Application Victim Flow Chart



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

Lunch



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DHS Video Part 2.mpg



Miami ICE Field Office

Assistant Field Office Director: Gabriel Martinez

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Area of Responsibility:

Florida, Puerto Rico, U.S. Virgin Islands

ICE Victim Assistance Specialist

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305-597-6174

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Recap: U Visa Requirements

- ▶ Victim of a qualifying criminal activity
- ▶ **Has been, is being, or is likely to be helpful**
- ▶ 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 Certification: Introduction (Toolkit p.4) , U-visa Quick Reference Guide (Toolkit p.12)

Helpfulness

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

- ▶ Understand the scope of the helpfulness standard
- ▶ Apply the helpfulness standard to U-visa certifications

Hypotheticals

- ▶ Is this person eligible for a U Visa certification?

Hypothetical Case Scenario: 1

Lara



Lara entered the United States seven 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 Carlos



Amelia and Carlos 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 United States. 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 Carlos 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 Carlos 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 Carlos and the “coyote” into custody. Carlos told the police many details of the coyotes’ illegal business enterprises.

Large Group Discussion

- ▶ What does it take to be helpful?

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

Helpfulness can be satisfied even if:

- ▶ Victim reports a crime where there's no further investigation
- ▶ Report is of past crime, where victim did not know or feel safe to report
- ▶ 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
- ▶ 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

Successful Criminal Investigations and Prosecutions Start with Crime Scene Language Access

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

- Know how improved language access helps LEP victims and enhances officer safety
- Identify LEP victims and their language needs
- Recognize the point at which a qualified interpreter should be obtained to--
 - Ensure accuracy and improve outcomes of criminal investigations and prosecutions
- Secure a qualified interpreter

How Interpretation Benefits Law Enforcement and Prosecutors?

Benefits

- ▶ More convictions
- ▶ Convictions not overturned
- ▶ Case not dismissed
- ▶ Perpetrator not prosecuted on a lesser charge
- ▶ Prosecutor more likely to prosecute
- ▶ Improves integrity and quality of the investigation
 - Reduces impeachment evidence at trial
 - Better police reports
 - Less “*inconsistent*” statements

Benefits to Officer Safety

- ▶ Correctly identify victim and perpetrator
 - Primary aggressor determination
- ▶ LEP persons with interpreters are better able to follow law enforcement directions

Department of Justice Limited English Proficient(LEP) definition

- ▶ Individuals who
 - Do not speak English as their primary language;
 - Who have a limited ability to read, speak, write, or understand English
 - Can be limited English proficient (LEP)
- ▶ These individuals may be entitled language assistance with respect to a particular type or service, benefit, or encounter.

Source of Law

- ▶ Civil Rights Act of 1964 Title VI- No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving financial aid assistance

LEP Executive Order 13166 (2001)

- ▶ Requires all agencies receiving any federal financial assistance to
 - ▶ Ensure meaningful language access
 - ▶ Develop and implement language access plans
 - ▶ “Where the denial or delay of access may have ***life or death or other serious implications***, the importance of the full and effective delivery of LEP services is at its zenith.”

Additional Sources of Law

- ▶ Crime Control Bill
- ▶ DOJ Regulations
- ▶ American Disabilities Act (ADA)
- ▶ Handout

DOJ Model Guidance

- ▶ Police provide free language access to:
 - LEP persons who request it
 - *When officer decides it is helpful* to the criminal investigation or prosecution
- ▶ Police will inform members of the public that language assistance is available free of charge
- ▶ Language access provided in persons primary language

From: DOJ Sample p. 1-2 – Policy

DOJ Model Guidance

- ▶ Primary language means
 - Native tongue
 - Language in which the individual most effectively communicates
- ▶ Translation – written
 - *Spanish, French Creole,*
 - Italian, Portuguese, Tagalog
 - Chinese, Arabic, Vietnamese

Language identification

- ▶ I need an interpreter –
- ▶ I speak Cards
- ▶ World Language Identifier

DOJ Model Guidance

- ▶ Interpretation - oral
 - Act of listening to a communication in one language and orally converting it to another language while retaining the same meaning
 - Consecutive
 - Simultaneous
 - Sight

Bilingual Interpreter Resources

- ▶ Interpreter vs. Bilingual person
 - Interpreter is a
 - Trained professional
 - Neutral conduit for communication
 - Bilingual person does not have interpretation skills

Conversation about proficiency

- ▶ Effect of Trauma
- ▶ Languages that do not have words for certain crimes
 - Rape
 - Sexual assault
- ▶ Cultural taboos about discussing sex and sexual violence

How do you obtain a qualified interpreter in your departments/agencies?

Qualified Interpreter Resources

- ▶ Bilingual officers
 - With interpreter training
- ▶ Telephonic interpreter services
- ▶ Community Resources
 - Contract/Volunteer
- ▶ Other creative approaches

How does an officer
secure the scene?

Securing the scene

- ▶ Who is the perpetrator?
- ▶ Is the offender present?
- ▶ Where is the offender ?
- ▶ Does the perpetrator have a weapon?
- ▶ Is there a weapon in the house?
- ▶ Where is it?
- ▶ Is anyone injured?
- ▶ Who ?

How do you obtain this information?

Could you ask these questions and still not know if the person is LEP?

How do you know whether the persons you are speaking with are LEP?

- ▶ Small group activity
- ▶ What questions will you ask to determine if persons are LEP that do not gain information you need for your case?
 - Domestic violence scene at someone's house
 - Sexual assault in the workplace
 - Violent Crime in Public



Report Back

- ▶ Handout reference

Exigent Circumstances

- ▶ Use the most reliable *temporary* interpreter available to address exigent circumstances
 - Fleeing suspect
 - Weapons
 - Life threatening to the officer /victim/or public

Exigent Circumstances

- ▶ Once exigency passes
 - Seek an interpreter
 - Bilingual personnel HR approved
 - Telephonic interpreters
 - Contract /volunteer interpreters

Use of Family, Friends, Bystanders in Exigent Circumstances to:

- Only to obtain basic information at the request of the LEP victim
- Ideally after determining that the friend, family or bystander is:
 - Not the perpetrator
 - Not the perpetrators family member or friend

What life, death or serious implications could occur if qualified interpreters are not provided?

Why Children Should Not Interpret

- ▶ They are possible witnesses to the incident
- ▶ Children may not understand word/concepts officer uses
- ▶ With child interpreting
 - interviewees unlikely to be forthcoming
 - Child may lie to protect a parent
- ▶ Interpreting could put child at risk from perpetrator
- ▶ Harmful to child's emotional well being
- ▶ Police reports and statements recording based on child's interpretation could be challenged in court

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Working With Interpreters

Ensuring interpreter impartiality

- ▶ Screen for conflict of interest
 - Where is the interpreter from?
 - Does the interpreter know the parties or witnesses?
 - Confirm that they follow the interpreters code of ethics (see handout)
- ▶ Ask LEP person if they
 - Know the interpreter
 - Are comfortable with this person interpreting
 - Use telephone or other resource to determine
- ▶ If problem get another interpreter

Using an interpreter in a criminal investigation

- ▶ Officer responsible for
 - The investigation of a case
 - Interrogations
 - Controlling actions in the case

Tell LEP Person About the Interpreter

- ▶ Explain to the LEP person the role of the interpreter :
 - Interpreter is a neutral person
 - The interpreter will not insert his or her perspective into the communication
 - The interpreter will ONLY interpret and not provide advice
 - Interpreter will not independently question the LEP person

Before Working with an Interpreter

- ▶ Inform the interpreter of any special terminology used in the case
- ▶ Ask the interpreter if he/she know terminology for body parts and the confirm that he/she is comfortable interpreting
 - Trauma
 - Torture
- ▶ If possible prepare interpreter to sight translate by notification in advance

Working With An Interpreter

- ▶ Everything will be interpreted – false starts, mumbling, cursing, thinking out loud
 - Includes everything the LEP person and you say
- ▶ Maintain pauses and use hand signals to regulate the speaker
- ▶ Break down, explain legal concepts simply
- ▶ Do not
 - Give interpreter explanatory responsibilities
 - Leave interpreter alone with LEP person

Tips for working with an interpreter

- Speak directly to the LEP person
- Do not speak to the interpreter
 - ▶ Use 1st person language
 - ▶ Speak slowly, even pace, and short segments
 - ▶ Do Not Ask the Interpreter for opinion or advice

Tips for Working With Interpreters

- ▶ Avoid using technical terms, slang, abbreviations
- ▶ Instruct the LEP person to think about what they are saying and not be distracted by the interpreter
- ▶ Be in control of the conversation

Signs of Interpretation Problems

- ▶ Does the LEP person look confused?
- ▶ Does the interpreter look confused?
- ▶ Is the interpreter engaging in side conversations?
- ▶ Is there a change in the LEP persons demeanor?
- ▶ Can you understand what the interpreter is saying ?

True or False

- ▶ Its OK for an interpreter to summarize what was said
- ▶ A bilingual professional and an interpreter are the same
- ▶ A qualified interpreter will bring a dictionary
- ▶ An interpreter is a cultural broker whose opinion could be useful to you
- ▶ A qualified interpreter will provide you their opinion of the LEP person English proficiency

Standard Procedures Apply When Working With An Interpreter and LEP Victim

- ▶ Take photos
- ▶ Provide information about available resources
 - Information in victims language
- ▶ Tell victim to contact your office
 - If/when bruises develop
 - If/when contacted by perpetrator
 - To provide more details when they remember more

Identifying and Addressing Challenging Issues

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

- ▶ Identify the reasons why police and prosecutors are not signing U visa certifications
- ▶ Identify issues that arise in providing language access to police and prosecution assistance
- ▶ Anticipate and overcome such challenges

Small Group Discussions

- ▶ When you consider taking the information you are learning today back to your agency about
 - Language Access
 - U Visas
- ▶ What are the concerns/questions the following persons may have
 - Your Chief/Sheriff
 - Your District Attorney
 - Other Officers
 - Other Prosecutors
 - Supervisors

Large Group Discussion

- ▶ Report and discuss the small group responses regarding
 - Language Access
 - U Visa certification

What will you do regarding the U visa when you return to your agency?

**What will you do regarding the
Language Access when you return
to your agency?**

U visa Certification Protocols

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

- ▶ Draft an effective certification protocol
- ▶ Design a system that results in issuance of U visa certifications

Small Group Discussion

- ▶ City of X, Law Enforcement Certification Protocol
- ▶ *Right Hand Pocket of Trainee Folder*
 - Identify any problems with the protocol
 - Note provision numbers
 - How could the protocol be improved?
 - What is missing?

Large Group Discussion

- ▶ What should a U visa certification protocol include?
- ▶ How might victim advocates, attorneys and immigrant community agencies assist your department with U visa certification

Another Sample Protocol

- ▶ *U-visa Toolkit, p.30*

Large Group Discussion

- ▶ How could you share information about this policy with other law enforcement colleagues?
- ▶ How could your agency help other law enforcement agencies that do not yet have a U-visa policy or protocol?
- ▶ How can departments/agencies help each other with U visa certification?

NIWAP

Resources

- ▶ **Technical Assistance**

- ▶ Call 202.274.4457 or Email
niwap@wcl.american.edu

- ▶ **Materials on U visa and Immigrant Victims Legal Rights**

- ▶ Visit <http://niwaplibrary.wcl.american.edu>
- ▶ U visa Certification Toolkit
- ▶ DHS Answers to Law Enforcement Reasons for Not Certifying
- ▶ USCIS Q and A on Certification
- ▶ Roll call training videos
- ▶ All available at: <http://niwap.org/bja>

Evaluations Certificates

