

# Office on Violence Against Women (OVW)

September 5-6, 2024

## National Violence Against Women

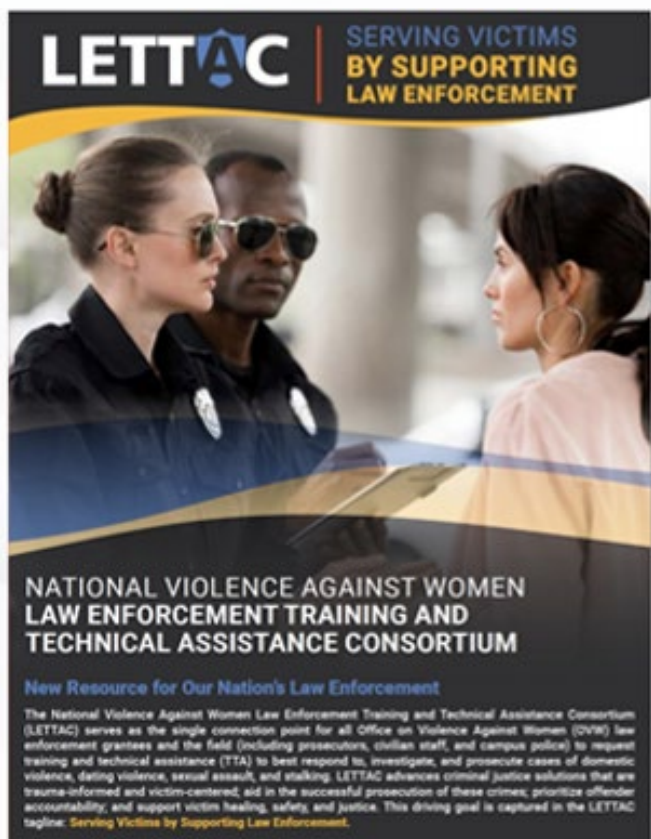
## Law Enforcement Training and Technical Assistance Consortium (LETTAC)

### Investigating and Prosecuting Cases of Intimate Partner Violence Involving Immigrant Crime Victims and Leveraging U and T Visa Programs

*This project was supported by Grant No. 2020-TA-AX-K033 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.*

**LETTAC**

# LETTAC



- Supported by the U.S. Department of Justice, OVW
- A comprehensive training and technical assistance (TTA) provider
- Provides no-cost, comprehensive, tailored TTA to OVW grantees and potential grantees, focused on strengthening the law enforcement response to and investigations of domestic/dating violence, sexual assault, stalking, and co-occurring crimes
- Provides customized on-site training, policy review and feedback, educational webinars, partnership development, collaboration building, and much more

[www.LETTAC.org](http://www.LETTAC.org)

# Introductions

- **Cannon Han**, Senior Program Manager, Asian Pacific Institute on Gender-Based Violence (API-GBV)
- **Leslye Orloff**, Adjunct Professor, Director, National Immigrant Women's Advocacy Project (NIWAP), American University, Washington College of Law
- **Michael Wilmore-Crumrine**, Sergeant, Austin, Texas, Police Department

# NIWAP

- The NIWAP American University Washington College of Law
- We provide TTA to
  - Local, state, federal law enforcement; prosecutors; victim advocates; judges; attorneys; and other professionals
  - Serving immigrant victims of domestic violence, sexual assault, dating violence, stalking, human trafficking, child/elder abuse, and other crimes
  - Our goal is to increase immigrant crime victims' safety, justice system participation, and the ability to rebuild their lives and thrive



# Virtual Roundtables

- Law enforcement and prosecutors only
- Interactive discussion
  - Strategies to build rapport, establish trust, and ensure safety
  - Ask questions from subject-matter experts and peers
- To register, visit <https://www.surveymonkey.com/r/LERoundtable>



# NIWAP <http://niwaplibrary.wcl.american.edu>

- Training materials for:
  - Law enforcement
  - Prosecutors
  - Systems-based victim advocates
  - Judges
  - Attorneys
  - Other victim advocates
- Statutes, regulations, policies, and government publications
- Training tools, webinars, and podcasts
- Language access
  - Multilingual materials
- Immigration
- Law enforcement and prosecution tools
- Family and criminal law
- Violence Against Women Act (VAWA) confidentiality
- Public benefits, legal services, and economic relief
- Dynamics, culture, collaboration, and safety

# Interpretation Technical Assistance Resource Center (ITARC)

ITARC provides TTA to OVW-funded grantees, national organizations, state coalitions, and local programs on language access and interpretation. Our expertise focuses on: Title VI compliance, language access plan development and implementation, spoken language interpretation, sign language interpretation for deaf victims who do not use ASL, compliance with federal and state language access laws and policies, emphasizing the distinctions between bilingual advocacy and interpretation, and compiling resources and producing materials that enhance program development and practice

# Materials Summary

- Materials
  - Agenda
  - PowerPoint presentation
  - Hypotheticals
  - Evaluations
- Web library: <https://niwaplibrary.wcl.american.edu/law-enforcement-training-materials>
- USB drives: Tools and resources



# NIWAP USB Drive Materials

- U and T Visa Toolkit For Law Enforcement Agencies And Prosecutors
- U.S. Department of Homeland Security (DHS): U and T Visa Certification Resource Guides
- DHS memos and policies
- Tools for officers to promote language access
- Bluecard Tool Screening Victims for Immigration Protections
- Tools for law enforcement and prosecutors working with immigrant survivors including multi-lingual know your rights brochures

# General Caveats

- Women, men, children, and persons of all genders can qualify for U and T visas
- Victims of almost all violent crimes, and many other crimes, are eligible to apply for U visas

*That said, many examples that will be used throughout this presentation will refer to female victims of domestic violence and/or sexual assault*

# Participant Introductions, Goals, and Expectations



# Learning Objectives

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

- Discuss the realities of gender-based crimes and intimate partner violence (IPV)
- Enhance successful outcomes of investigations and prosecutions by effectively using interpreters, leveraging bilingual officers, identifying technology to support interactions with victims, and implementing tools to strengthen victim safety
- Support U and T visa applications to promote trust with immigrant victims of crime and immigrant communities
- Improve victim and officer safety and increase justice system participation through certification and language access
- Strengthen cases to increase offender accountability

# **Victim and Offender Realities: Understand the Complexities**

**“A victim of domestic violence  
calls the crisis line for the first  
time on the average after the  
fifth assault”**

Nashville, Tennessee,  
YWCA Crisis line



**“I’m more afraid of you than my abuser”**

–Victim of a domestic violence (DV)  
hostage situation

**Justice and Safety**



# Realities of Sexual Assault in America

Of 100 rapes committed

an estimated 5-20 are  
reported to the police

0.4-5.4 are prosecuted

0.2-5.2 result in a  
conviction

incarceration

0.2-2.8

Lonsway, K.A. & Archambault, J.  
(2012). The "Justice Gap" for  
Sexual Assault Cases: Future  
Directions for Research and  
Reform, *Violence Against Women*,  
18 (2), 145-168.



# Child Sexual Assault in America

- \*86% of child sexual abuse goes unreported altogether
- However, when victims of child sex abuse do report, a high percentage of them delay disclosure well into adulthood
- Among 10 to 17-year-olds, 66.3% of episodes are not reported to parents or any adult

\*Data from the Department of Justice

# Realities of Sexual Assault and Domestic Violence in LGBTQI+ Communities

- 44% of lesbians and 61% of bisexual women experience rape, physical violence, or stalking by an intimate partner, compared to 35% of cisgender straight women
- 1 in 4 or 25% of gay men have experienced rape in their lifetime vs 3% of heterosexual men. 26%, or a little over 1 in 4 gay men, have experienced IPV in lifetime
- 6 in 10, or 64%, of transgender individuals have been sexually assaulted in lifetime and more than half, 57%, of respondents experienced some form of IPV

## Sexual violence

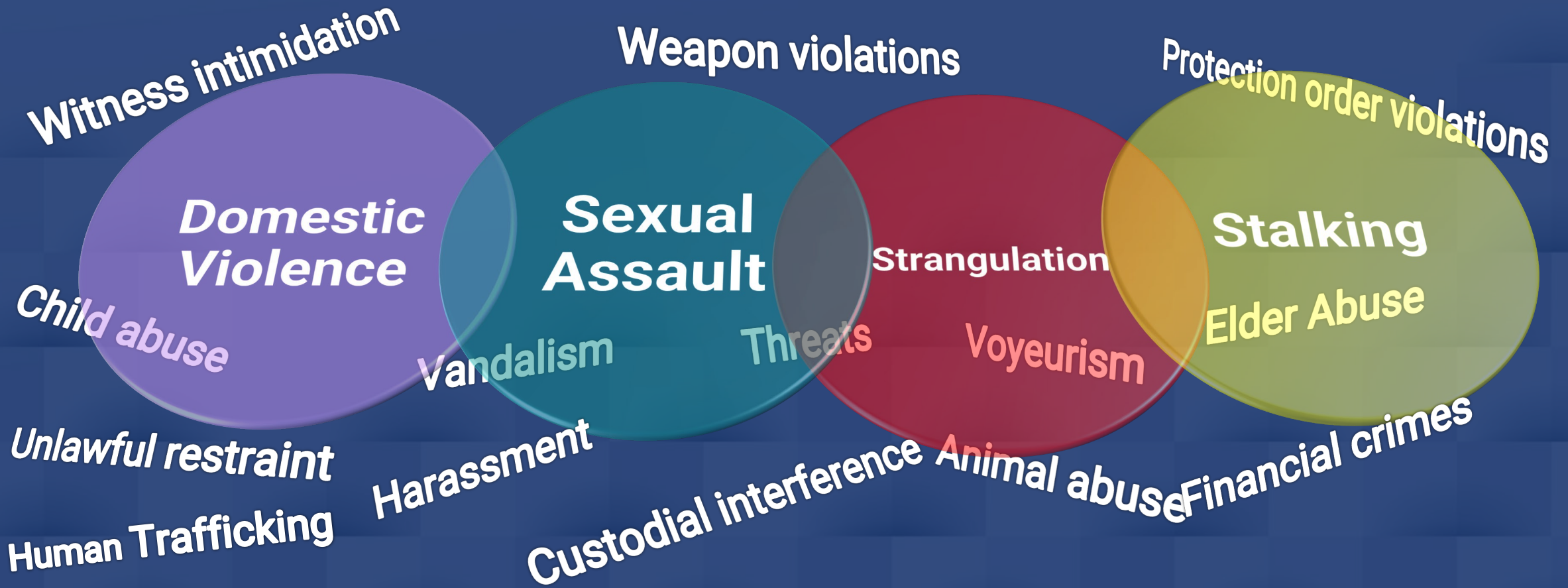
\* CDC National Intimate partner/Sexual Violence Survey (October 10, 2023)

\* 2015 National Transgender Discrimination survey

# Who Reports

- According to National Crime Victimization Survey from 2006 – 2015, 56% of nonfatal IPV victimizations were reported to the police
- The National Coalition of Anti-Violence Programs (NCAVP, 2016) reported that in 2015 only 33% of victims of same-sex IPV reported to the police

# Interconnected and Co-Occurring



## Course of Conduct Investigation

# Realities of Gender-Based Violence Crimes

The Federal Bureau of Investigation (FBI) reports that between 75% and 90% of all hostage takings in the United States are related to *DV situations*

# Realities of Gender-Based Violence Crimes

Nationally, prosecutors report that witness intimidation plays a role in 75–100% of violent crimes committed in gang-controlled neighborhoods and is nearly universal in all cases of domestic violence and other areas of abuse

Healey, K. M. (1995). *Victim and witness intimidation: New developments and emerging responses*. National Institute of Justice (NIJ) Research in Action series.

# Common Characteristics of IPV Crimes

- Course of conduct versus incident-based
- Multiple concurrent crimes
- **Traumatic impact**
  - Victim/survivor
  - Officer/investigator
- Minimization by victim
- **Underreported**
- Serial nature of perpetrators

# Realities of IPV Crimes

**What is the impact of missing these crimes?**

**Violence escalates/fatality**

**Victim and officer safety compromised**

**Liability issues**

**Loss of community trust**

**Recidivism/re-victimization**

**Victim hesitant to report further incidents**

**Perpetrator empowered**



# What are the Reasons Co-occurring Crimes are Often Missed by Officers?

Lack of information regarding and understanding of trauma

Lack of communication

Lack of training

Language barriers

Insufficient supervisor oversight

Personal beliefs and/or biases

Minimization by victim and/or perpetrator

Evidence is often cross-jurisdictional

# Victims of Gender Based Violence

- Not going to be a “perfect” victim
- Often delay reporting crime
- Experience trauma because of the violence
- Are often threatened, afraid, and reluctant
- May feel powerless to stop the violence
- May have vulnerabilities that the perpetrator will exploit
- May mistrust police
- Do not want to “get in trouble” or get perpetrator in trouble

# Offenders

- Plan their crimes
- Ensure there are no witnesses
- Are strategic and calculating
- Engage in targeting and “testing” to select victims
- Groom victims
- Are often repeat offenders with a series of and/or multiple victims
- Escalate violence over time

# Frustrations

Can often lead to

- improper response
- inadequate services
- a compromise of victim and officer safety
- ineffective investigations

But can be alleviated through a better understanding of the realities of perpetrators and victims of these crimes.

# Themes Threaded Throughout Training

Trauma-  
informed  
response

Victim-  
centered  
approach

Offender-  
focused  
investigations

# Trauma

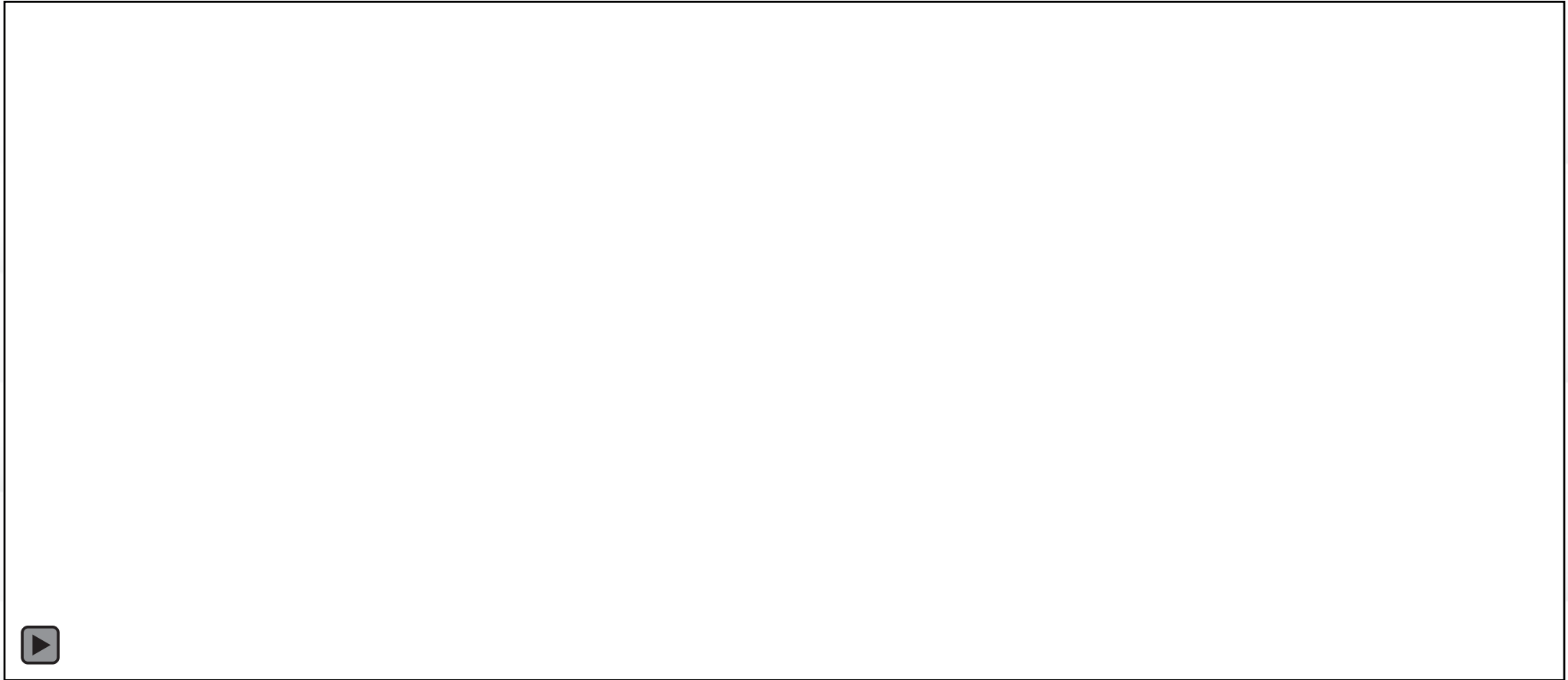
Is characterized by the feelings of intense fear, helplessness, and loss of control. A hallmark of trauma is that it typically overwhelms an individual mentally, emotionally, and physically.

# Officer Trauma



*Courtesy- Tom Tremblay L.E. Consulting and Training*

# I am a Survivor



*Courtesy- Tom Tremblay L.E. Consulting and Training*



# Officer Trauma & Victim Trauma

## Police Officer

- “I don’t remember pulling my weapon”
- “I don’t remember squeezing off the first five six shots”
- “I had a vision of my wife at my funeral”

## Victim / Survivor

- “Not exactly sure what happened”
- “I don’t really know how long it lasted”
- “I kind of just blanked out/I just went somewhere else”

# Trauma

- We do not control how our brain and body respond
- Impact on behavior, demeanor, and emotions during and after the event
- Complex thoughts are impaired
- Affects how memories are stored and retrieved
- **The impact on behavior and memory can be misinterpreted**
- **Responses may change from person to person** and for one person during an incident and from incident to incident

***KEEPING THIS IN MIND, WHAT ARE WE ASKING VICTIMS TO DO FOR US?***

# Why is this Even Important?

- When responding to these calls for service, we must be prepared to work with victims who will not be what we expect
- We must be able to understand what that looks like for reporting and documenting in our reports
- We must be prepared to explain trauma to the victims we are working with to give them the ability to recount the events they experienced

# Victim Centered Approach

The systematic focus on the needs and concerns of a victim to ensure the compassionate and sensitive delivery of services in a nonjudgmental manner.

# How Are We Conducting Our On-scene Interviews?

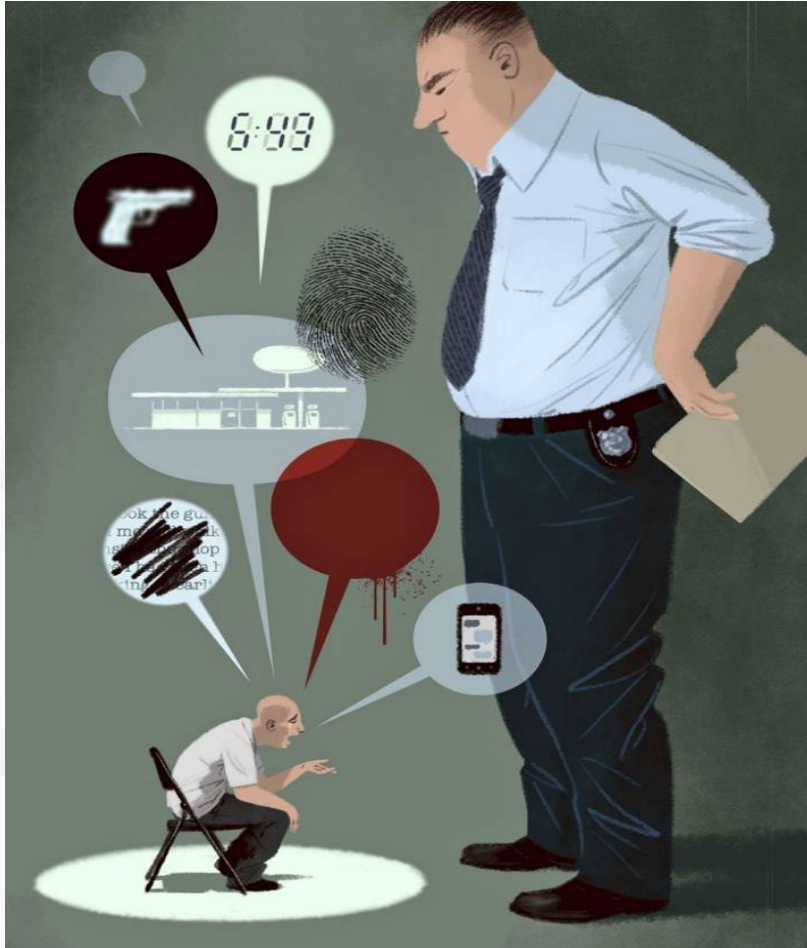
How are you interviewing witnesses, suspects, and offenders?

- Separating them, both ear and eyeshot?
- Tag teaming the interview?
- Switching to compare stories?
- Talking to kids/family members?
- Being trauma-informed?
- Including advocates?

# Offender Focused Investigations

- Investigations that focus on the offender
- Show how offenders use tactics to obtain access to their victim and victim information
- Identify ongoing coercion, tactics of manipulation, and power and control used by the offender
- Document the history of abuse
- Identify grooming by the offender

# Why We Need Offender-Focused Investigations



- Correctly focuses the investigation on the suspect's actions and motives, not the victim's
- Helps to keep personal and societal myths, misconceptions, and bias out of the investigation
- Requires the investigation to be evidence-based

# Why We Need Offender-Focused Investigations



- May increase victim participation; more encouraging for the victim to stay involved
- Helps to ensure cases are investigated appropriately
- More offenders will be held accountable
- Better for our communities



# Defining the Issues

It's NOT

What did the VICTIM do?

It IS:

What did the SUSPECT do?



# How do We Determine Predominant Aggressor?

- Everyone wants the definitive, all-inclusive way to determine predominant aggressor

Sorry it's not that simple!

- How do you determine predominant aggressor?

# Where Are Your Hang Ups?

- “He’s calm, cool, and collected...”
- “She’s all over the place...”
- “He seems like a great guy...”
- “She can’t get her story straight...”
- “It sounds like she is making it up...”
- “She didn’t scream, fight, or run away...”
- “She isn’t acting the way I would expect...”

## **Comprehending Violence**

If we understand abuse only in terms of physical **violence**, *can we fully understand its entire implication?*

# **Dynamics of Domestic and Sexual Violence Experienced by Abused Immigrants**

# What countries do the victims in your jurisdiction come from?

## Texas 2021\*

*\*Source: Migration Policy Institute Data Hub (November, 2023) and Lawful Permanent Resident estimates MPI and DHS (2022)*

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# Texas (2021)

- Total foreign-born population – 5,092,132
- 17.2% of the state's ~ 29.5 million people are foreign-born
  - 41.7% naturalized citizens
  - 32% legal permanent residents (as of 2019)
  - 26.3% temporary visa holders or undocumented immigrants
- 75.6% rise in immigrant population from 2000 to 2021
- Length of time immigrants have lived in the U.S.
  - 44.5% entered before 1999
  - 24.2% entered 2000 - 2009
  - 31.3% since 2010
- 34.4% of children under age 18 have one or more immigrant parents
  - 87.4% of these children are native-born U.S. citizens

# Texas– Countries/Regions of Origin & Limited English Proficiency (LEP)(2021)

- Latin America – 65.3%
  - Mexico (47.9%)
  - Other Central America (6%)
  - South America (5%)
  - El Salvador (4%)
- Asia – 20.2%
  - Southeastern Asia (6.7%)
  - India (6.2%)
  - Eastern Asia (4.5%)
- Africa – 6.1%
- Europe – 4.5%
- Middle East – 2.6%
- Canada – 1.1%
- Oceania – 0.3%
- Language spoken
  - 34.9% of people in the state who speak a language other than English at home
  - 52.3% of foreign-born persons are LEP - speak English less than “very well”



# Texas– Languages Spoken at Home (2021)

- Spanish (7,824,091)
- Vietnamese (232,666)
- Chinese (including Mandarin, Cantonese) (184,592)
- Arabic (114,424)
- Hindi (88,054)
- Yoruba, Twi, Igbo, or Other Languages of Western Africa (85,265)
- Tagalog (including Filipino) (78,507)
- Urdu (77,404)
- French (including Cajun) (71,795)
- Telugu (67,649)
- German (66,379)
- Korean (59,585)
- Malayalam, Kannada, or Other Dravidian Languages (58,875)
- Nepali, Marathi, or Other Indic Languages (58,334)
- Tamil (44,765)
- Persian (including Farsi, Dari) (43,468)
- Amharic, Somali, or Other Afro-Asiatic Languages (40,927)

# Texas– Limited English Proficiency (2021)

- Limited English Proficiency (Speak English less than very well)
  - Naturalized citizens - 39%
  - Noncitizens – 61.9%
- Limited English Proficiency by language spoken at home
  - Vietnamese (54.9%)
  - Korean (50.6%)
  - Chinese (45%)
  - Amharic, Somali, or Other Afro-Asiatic Languages (38.3%)
  - Spanish (37.8%)
  - Malayalam, Kannada, or Other Dravidian Languages (30.6%)
  - Arabic (30.3%)
  - Tagalog (including Filipino) (27.9%)
  - Nepali, Marathi, or Other Indic Languages (27.3%)
  - Urdu (23%)
  - Hindi (21.1%)

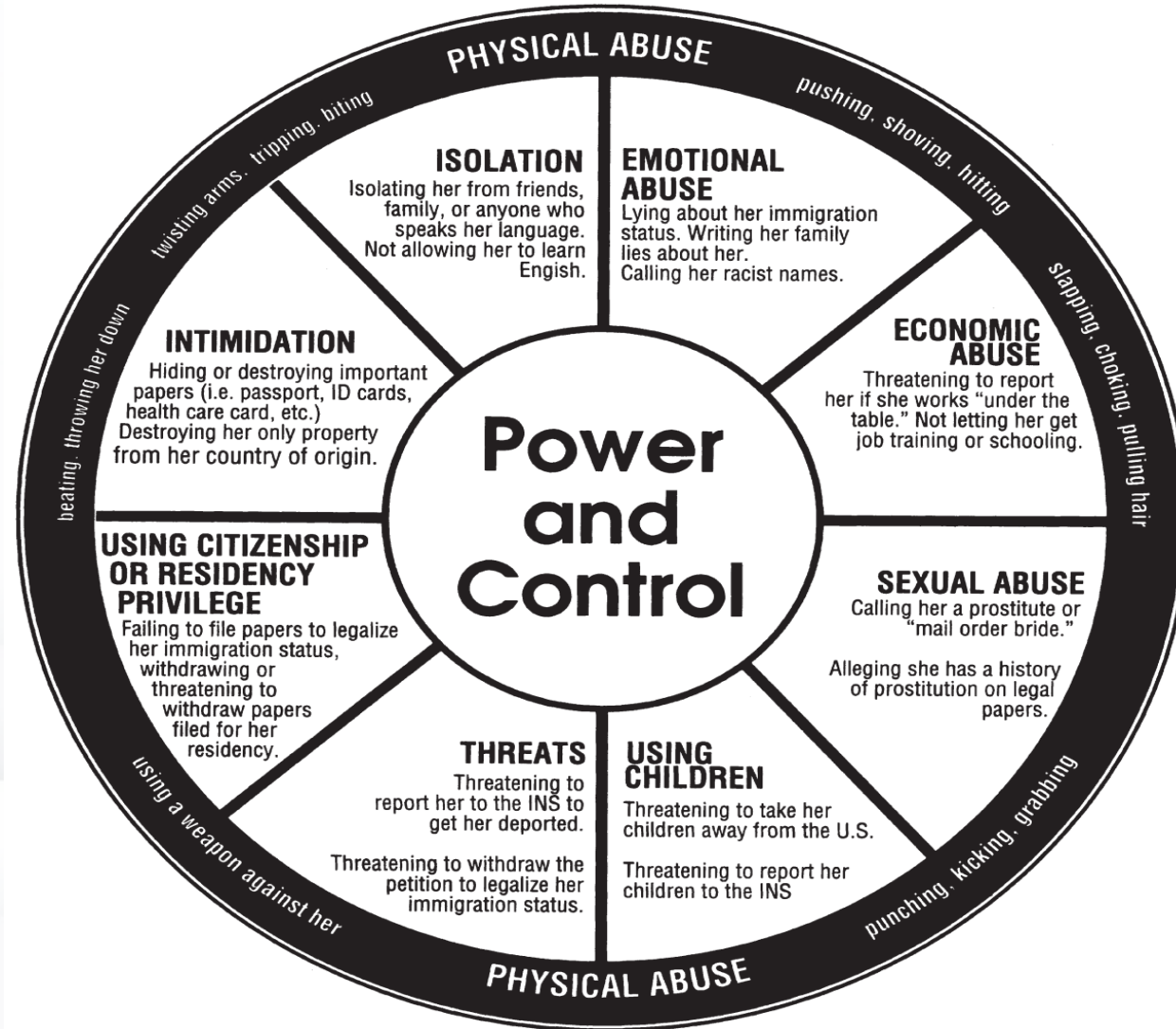
# Large Group Discussion

What are some specific tactics used by offenders seeking to assert power and control over immigrant victims of:

- Intimate partner violence?
- Sexual assault?
- Stalking?
- Child abuse?
- Human trafficking?

# Immigration Power and Control Wheel

Adapted by Futures Without Violence and Ayuda



# Department of Homeland Security (DHS)

- DHS Video 1



# Immigration-Related Abuse

- 65% of immigrant survivors report some form of immigration-related abuse (NIJ, 2003)
- Abuse rates among immigrant women is almost three times the national average\*
  - Lifetime as high as 49.8%
  - Those married to citizens and lawful permanent residents – 50.8%
  - U.S. citizen spouse/former spouse abuse rate rises to 59.5%

Hass, G. A., Ammar, N., Orloff, L. (2006). Battered Immigrants and U.S. Citizen Spouses, Edna Erez and Nawal Ammar, Violence Against Immigrant Women and Systemic Responses: An Exploratory Study (2003)

# Coercive Control Over Immigration Status

Among abusive spouses who could have filed legal immigration papers for survivors:

- 72.3% never file immigration papers
- The 27.7% who did file had a mean delay of **3.97 years**

Mary Ann Dutton, Leslye E. Orloff and Giselle Aguilar Hass, Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications, Georgetown Journal on Poverty Law & Policy Volume VII, Number 2, Summer 2000

# 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 survivors to work with false documents
- Threats/attempts to have them deported
- Calls to DHS to turn them in/have their case denied



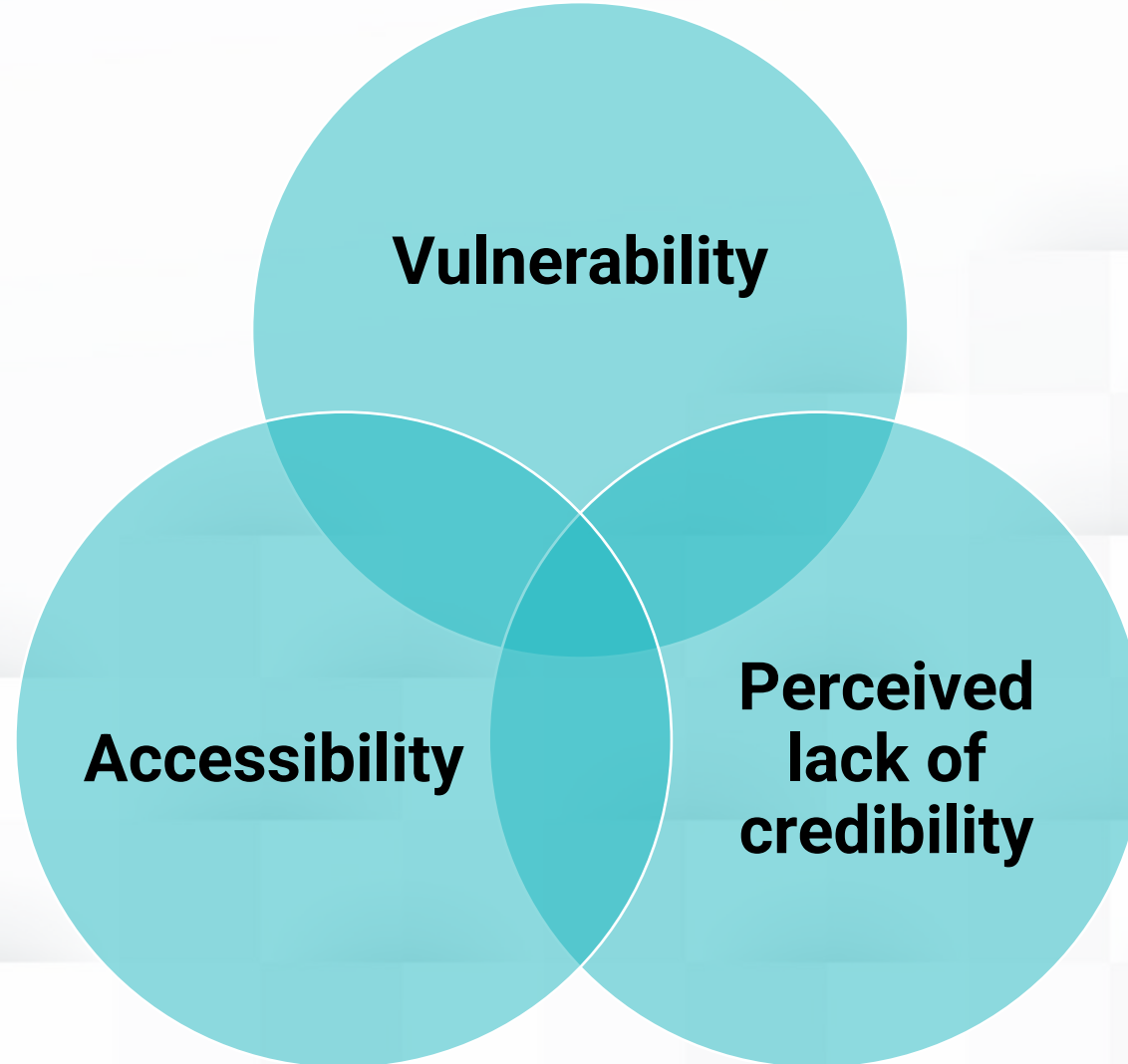
# Perpetrator's Efforts to Have the Victim Deported or Arrested

- 25% of perpetrators actively report the victim for removal
- 36% of perpetrators get immigrant and Limited English Proficient (LEP) victims calling for help arrested for domestic violence
- U visa applicants have higher future crime reporting rates

Krisztina E. Szabo, David Stauffer, Benish Anver, *Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (February 12, 2014) and Rafaela Rodrigues, Alina Husain, Amanda Couture-Carron, Leslye E. Orloff, and Nawal H. Ammar, *Promoting Access to Justice for Immigrant and Limited English Proficient Victims (2017)*

# The Perfect Plan

Domestic Violence, Sexual Assault, and Human Trafficking



# Sexual Assault and Immigrants

- High school aged immigrant girls
  - Twice as likely to have suffered sexual assault as their non-immigrant peers, including recurring sexual assault
  - Decker, M., Raj, A. and Silverman, J., Sexual Violence Against Adolescent Girls: Influences of Immigration and Acculturation, 13 Violence Against Women 498, 503 (2007).
- Latina college students
  - Experience the highest incidents of attempted rape compared to White, African American and Asian college students
  - Kalof, L., Ethnic Differences in Female Sexual Victimization, 4 Sexuality and Culture 75-97 (2000).

# Screening

## Immigration-related abuse

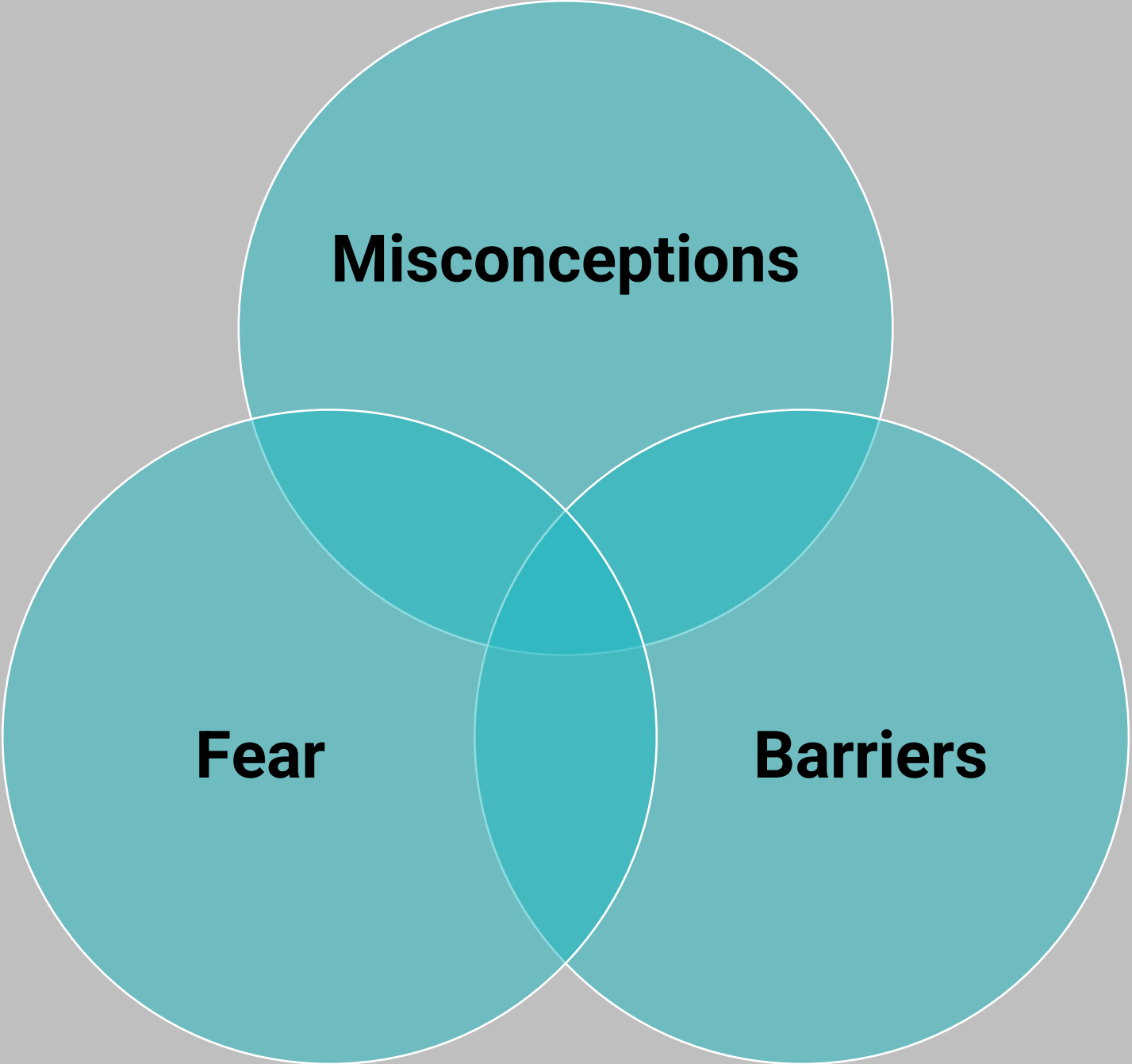
10x higher in relationships with physical/sexual abuse as opposed to psychological abuse\*

May predict abuse escalation

Corroborates existence of physical and sexual abuse

\*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)

**What prevents immigrant victims from reporting crime?**



**Misconceptions**

**Fear**

**Barriers**

# Fears

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

# Misconceptions

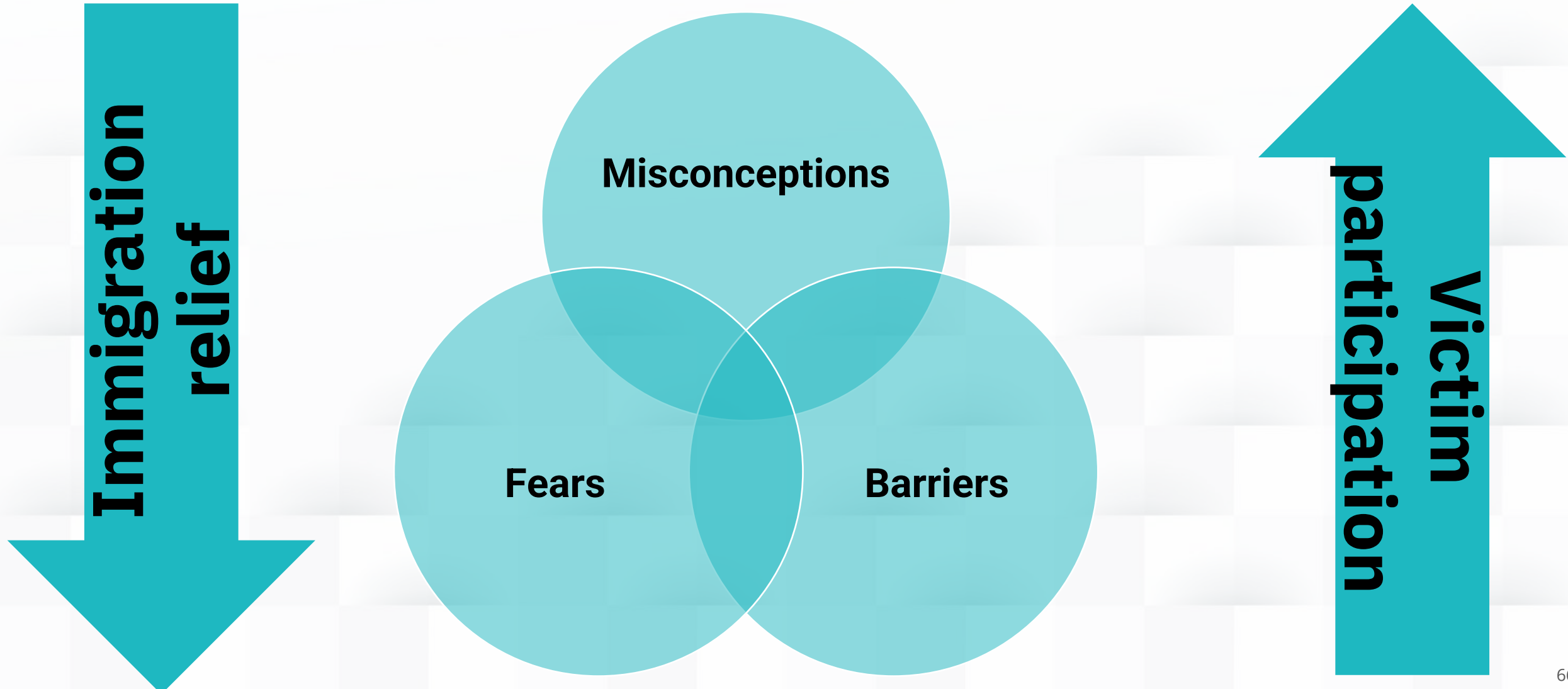
- Lack of knowledge of:
  - Crime victim legal rights
  - Laws regarding domestic violence and sexual assault
- Do not trust the police
- Believe that police will arrest them
- Think that local police are immigration officers
- No services are available to immigrant victims
- Believe that police are corrupt
- Think that the criminal justice system will do nothing



# Barriers

- Do not speak or understand English
- Financial dependence on perpetrator
- Isolation
- Lack of transportation or childcare
- Community pressure
- Family pressure
- Religious factors

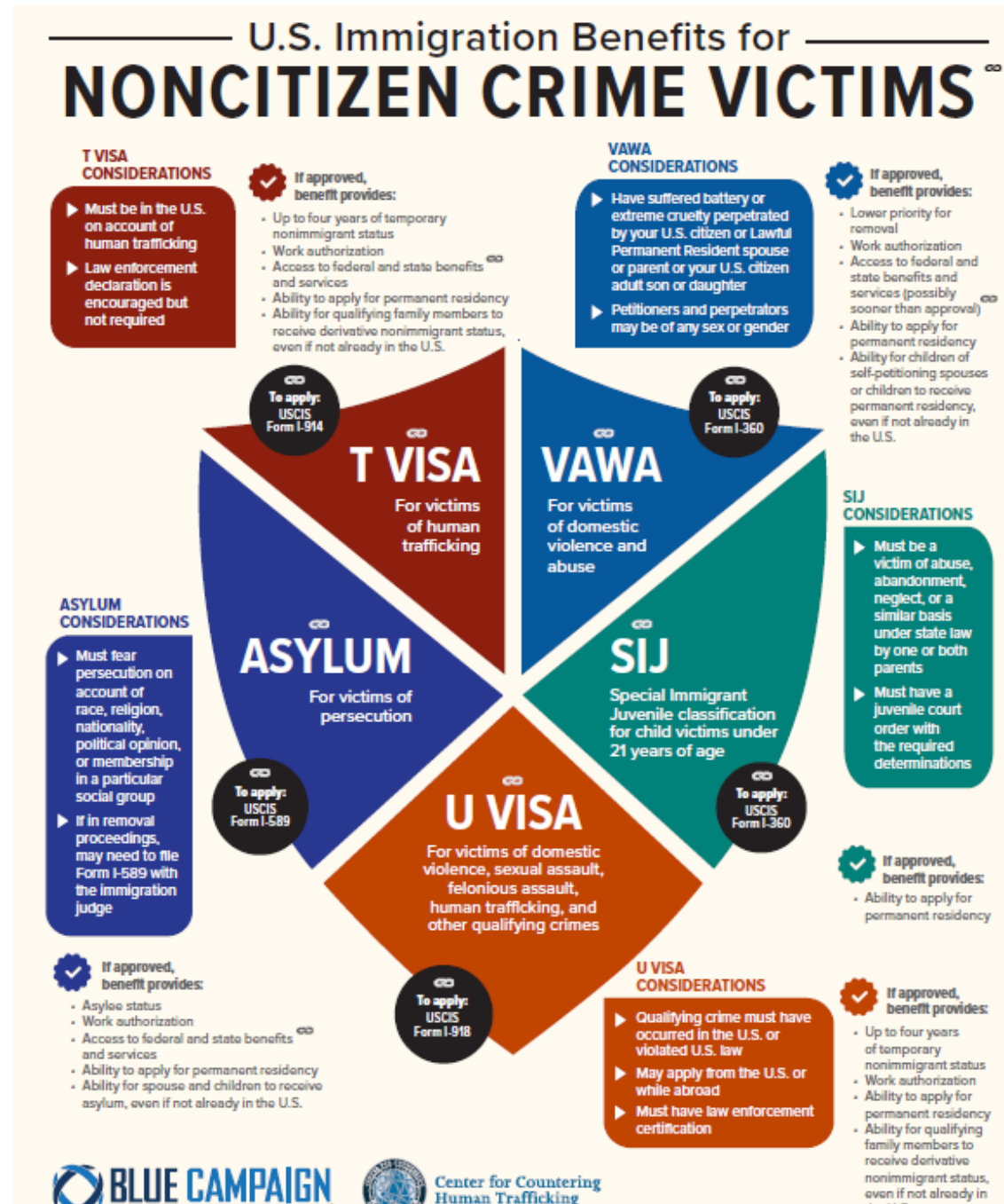
# Lack of Reporting



# **Immigration Relief for Victims of Violent Crimes and How U and T Visa Are Crime Fighting Tools**



# Immigration Protections for Noncitizen Victims of Crime and Abuse



# Immigration Relief Tools

## Law Enforcement Involvement

U Visa

Available to most victims of violent crime

T Visa

Available to victims of human trafficking

Continued Presence

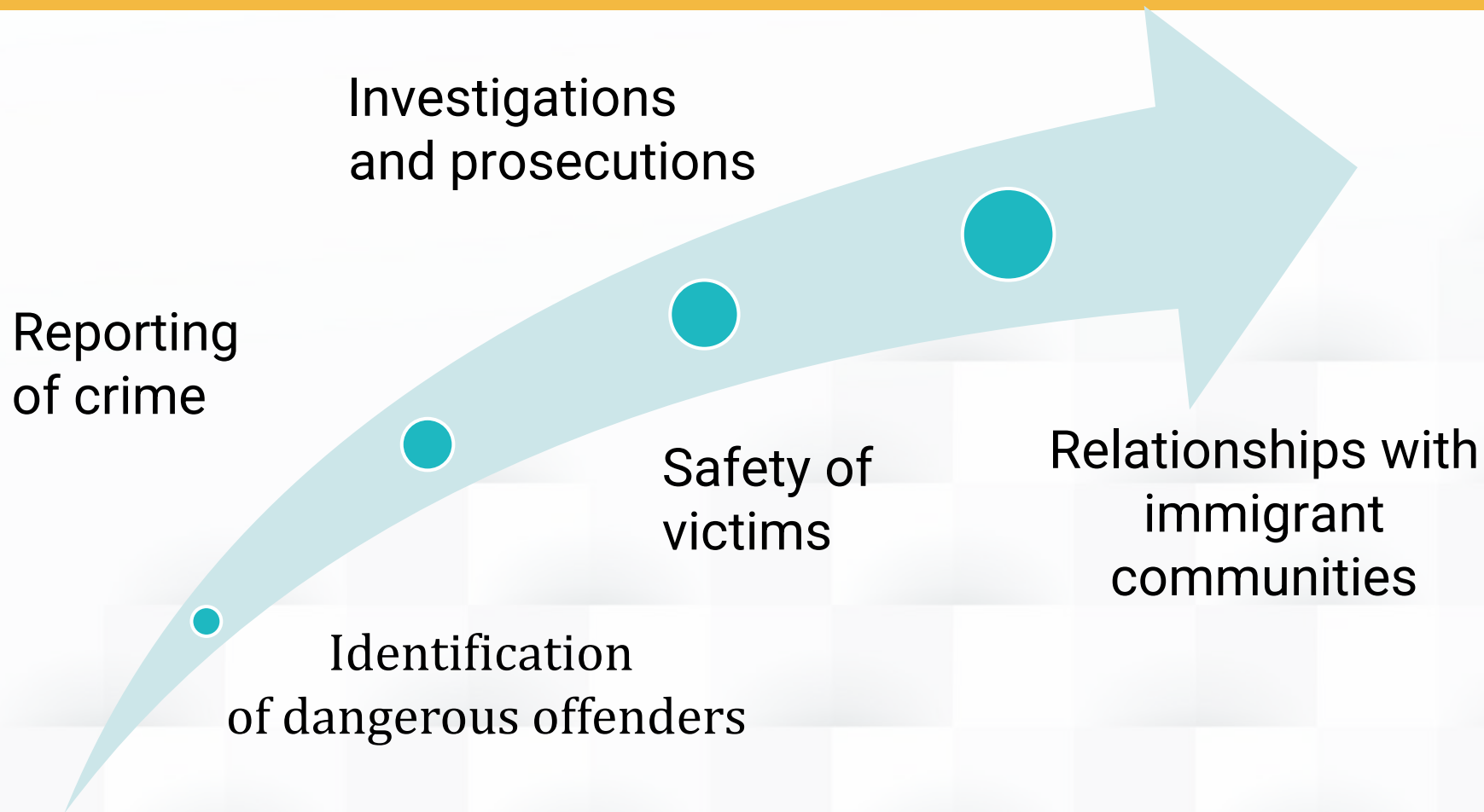
Short-term immigration relief to newly-identified victims of trafficking

**Why do you think these forms of immigration relief exist for victims of crime?**

# Legislative Intent

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

# Immigration Relief as a Crime Fighting Tool That Improves...





# **How Promising Practices in Domestic Violence Investigations Promote Officer Safety**

**How immigration relief and language access promote officer safety**

# International Association of Chiefs of Police 2018 Resolution

- Recognizes U and T visas as significant tools to address crime and using them as best practice
- Supports training, education, communication, and “increased police leadership involvement”
- Committed to increasing collaboration

***U visas are “effective tools for law enforcement agencies that enhance public safety, officer safety, and protection of victims nationwide”***

# **U Visa as a Tool to Address Crime**

Improving the reporting, investigation, and prosecution of violent crime and keeping everyone safer

# How Much Do You Know About

- The U visa
- The T visa
- Continued Presence

# U Visa Basics

- Law enforcement certification is just one part of the overall process; it does not equal citizenship
- Meant to promote the reporting of crime
- Target offenders who prey on the most vulnerable victims
- Offender may be a citizen or noncitizen
- Increases immigrant victim participation in the criminal justice system
- No statute of limitations
- Can be revoked

# U Visa Requirements

## Victim (certification)

- Qualifying criminal activity
- Possesses information about the crime
- Criminal activity occurred in the United States or violated U.S. law
- Admissible to the United States or granted a waiver

## Helpful (certification)

- Has been, is being, or is likely to be
- Detection, investigation, prosecution, conviction, or sentencing

## Harm (victim's application)

Substantial physical or mental harm as a result of having been a victim of criminal activity

This is not a required part of the certification. Information can be provided.

# Immigration Relief Available for Immigrant Victims

- Domestic violence
  - Child abuse
- Sexual assault
- Rape
- Incest
- Prostitution
- Torture
- Felonious assault
- Manslaughter
- Murder
- Female genital mutilation
- Kidnapping
- Abduction
- Trafficking
- Involuntary servitude
- Slave trade
- Being held hostage
- Fraud Foreign Labor Contracting
- Peonage
- False Imprisonment
- Blackmail
- Extortion
- Witness tampering
- Obstruction of justice
- Perjury
- Stalking
- Abusive sexual contact
- Sexual exploitation
- Unlawful criminal restraint

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

# Qualifying Criminal Activity

<b>Abduction</b>	<b>Hostages</b>	<b>Sexual assault</b>
<b>Abusive sexual contact</b>	<b>Incest</b>	<b>Sexual exploitation</b>
<b>Blackmail</b>	<b>Involuntary servitude</b>	<b>Slave trade</b>
<b>Domestic violence (&amp; Child Abuse)</b>	<b>Kidnapping</b>	<b>Stalking</b>
<b>Extortion</b>	<b>Manslaughter</b>	<b>Torture</b>
<b>False imprisonment</b>	<b>Murder</b>	<b>Trafficking</b>
<b>Felonious assault</b>	<b>Obstruction of justice</b>	<b>Witness tampering</b>
<b>Female genital mutilation</b>	<b>Peonage</b>	<b>Unlawful criminal restraint</b>
<b>Fraud in foreign labor contracting</b>	<b>Perjury</b>	<b>Prostitution</b>
<b>Rape</b>	<b>Attempt, conspiracy, or solicitation to commit a crime or similar activity</b>	
	<b>These are general categories and not specific crimes or citations to a criminal code</b>	



# Similar Criminal Activity

- Conviction of criminal activity is not required
  - Also includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes
- Qualifying criminal activity includes any similar activity where the elements of the crime are substantially similar. Examples:
  - Hate crimes
  - Video voyeurism
  - Elder abuse/abuse of adults with disabilities
  - Child abuse
  - Robbery or aggravated robbery could be similar to felonious assault depending on the evidence and state law definition

# U Visa Statistics

## NIWAP 2011 and USCIS 2020

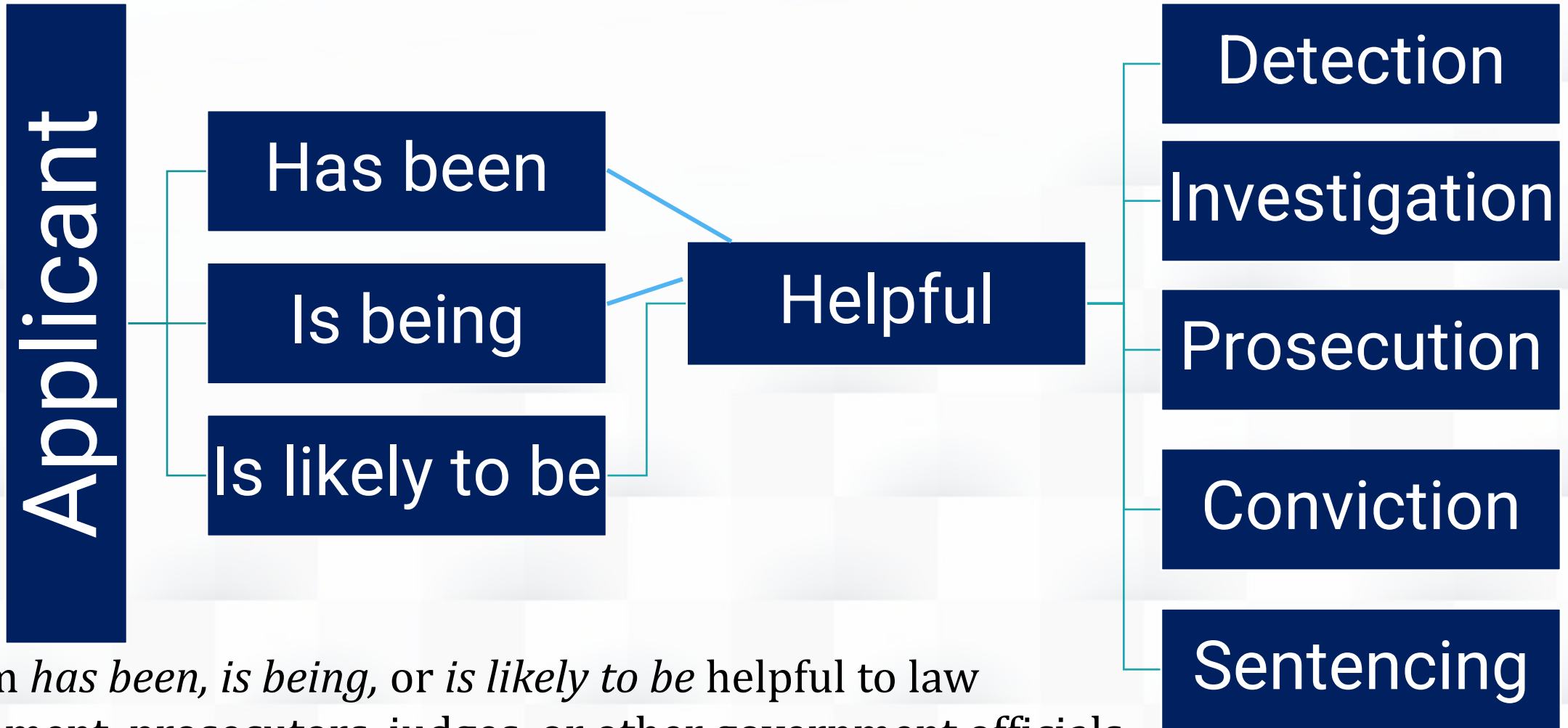
% of U visas	Criminal activity
<b>76.1% = Domestic and sexual violence</b>	
50%	Felony assault, murder, manslaughter
9%	False Imprisonment, kidnapping, being held hostage, unlawful criminal restraint
4% - 5.3%	Torture, stalking, blackmail, extortion, perjury, obstruction of justice, attempts, conspiracy, solicitation

# Who can apply?

- Victim of qualifying criminal activity
- Parents and guardians can apply as an “indirect victim” if demonstrate helpfulness and:
  - The direct victim is a child under 21 years of age
  - The direct victim is incompetent, incapacitated, or deceased due to murder or manslaughter
- Indirect victims must demonstrate that they were, are being, or are likely to be helpful
- When the victim is a child, the helpfulness requirement can be met by a “next friend” or family member being helpful
- Bystander victimization, very limited

# Definition of “Helpfulness”

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



A victim *has been, is being, or is likely to be* helpful to law enforcement, prosecutors, judges, or other government officials

# Who Can Certify?

## *“Law enforcement” and “law enforcement agencies”*

- Federal, state, and local
  - Police, sheriffs, FBI, HIS, or ATF
  - Prosecutors
  - Head of agency or designee
  - Judges, magistrates, commissioners, or other judicial official
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and elder abuse agencies
- Other government agencies with civil, criminal or administrative investigative authority

*Why did Congress design the U visa to authorize multiple agencies to provide U visa certification?*



# **The U Visa Process and How It Promotes Victim Safety, Stability, and Greater Justice System Participation**

# U Visa Facts

- Only 10,000 U visas can be granted annually
  - Cap created a significant wait for the U visa
- Bona fide determination with work authorization and deportation protection four to five years after filing
- The U visa grants a temporary four-year stay
- Only some U visa holders will qualify for lawful permanent residency, no guarantee
- U.S. citizenship can only be attained after lawful permanent residency for five years and proof of good moral character

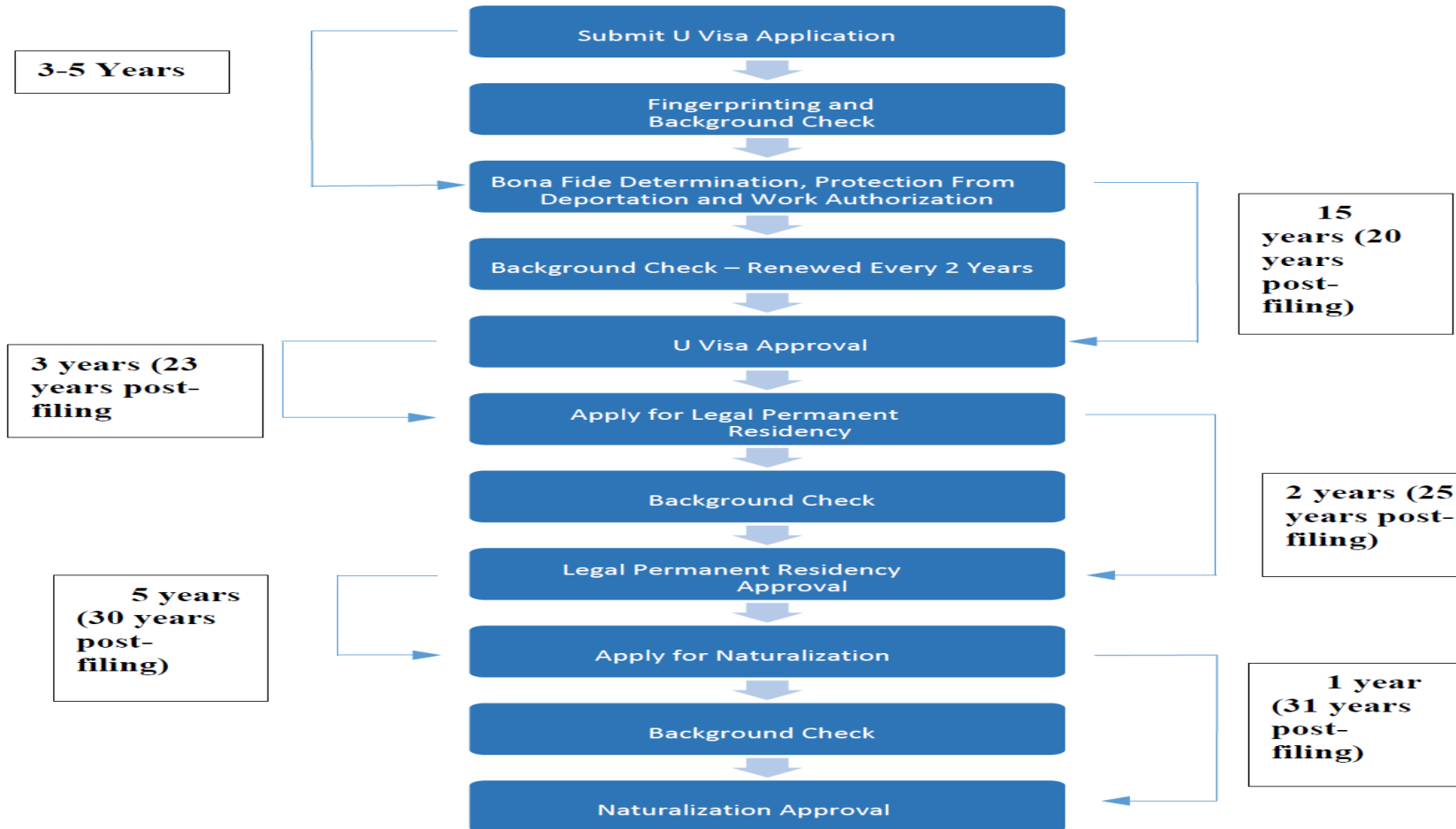


# U Visa Process Timeline



## U Visa Timeline with Background Checks

By Katelyn Deibler, Faiza Chappell, and Leslye E. Orloff  
August 11, 2024



# At Filing Victims “Red Flagged”



- Department of Homeland Security (DHS) computer system “red flags” victims who have filed for victim-based immigration relief
- Reminds DHS staff of legal obligation not to rely on “tips” from perpetrators
- Immigration case brought against a victim can be dismissed for VAWA confidentiality violation
  - 8 U.S.C. 1367
- Practice tip: Victims should always carry documentation with them

# Bona Fide Determination Process

Implemented on June 14, 2021

- USCIS exercises its discretion to grant
  - Employment Authorization
  - Deferred Action
    - Formal protection from deportation
- Applies to victims and qualifying family members with pending, bona fide applications
  - “Bona fide” generally means made in good faith, without fraud or deceit

# After Work Authorization and Deferred Action U Visa Applicants Report Future Crimes At Higher Rates

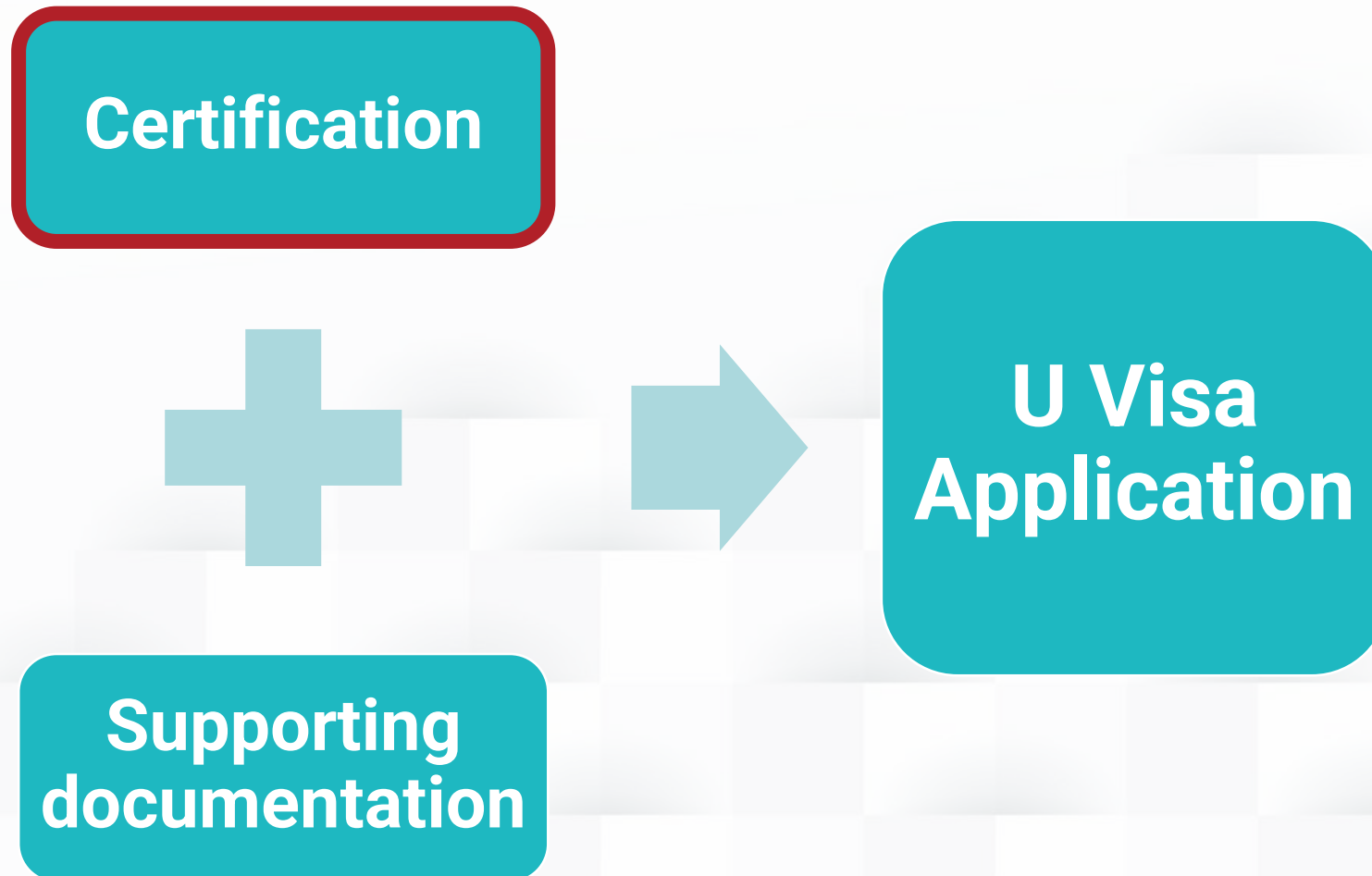
- Increases justice system involvement
  - 114% increase in willingness to trust the police
  - 36% make police reports regarding future crimes
  - 60% seek protection orders and/or custody
  - 22% help other victims report abuse and seek help/justice
- Significantly reduces abusers using the victim's 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

# 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
    - 29% are willing to cooperate if their criminal cases went forward
  - 67% seek protection orders
  - 64% seek custody orders

# **Certification and Helpfulness**

# Role of Certifying Official

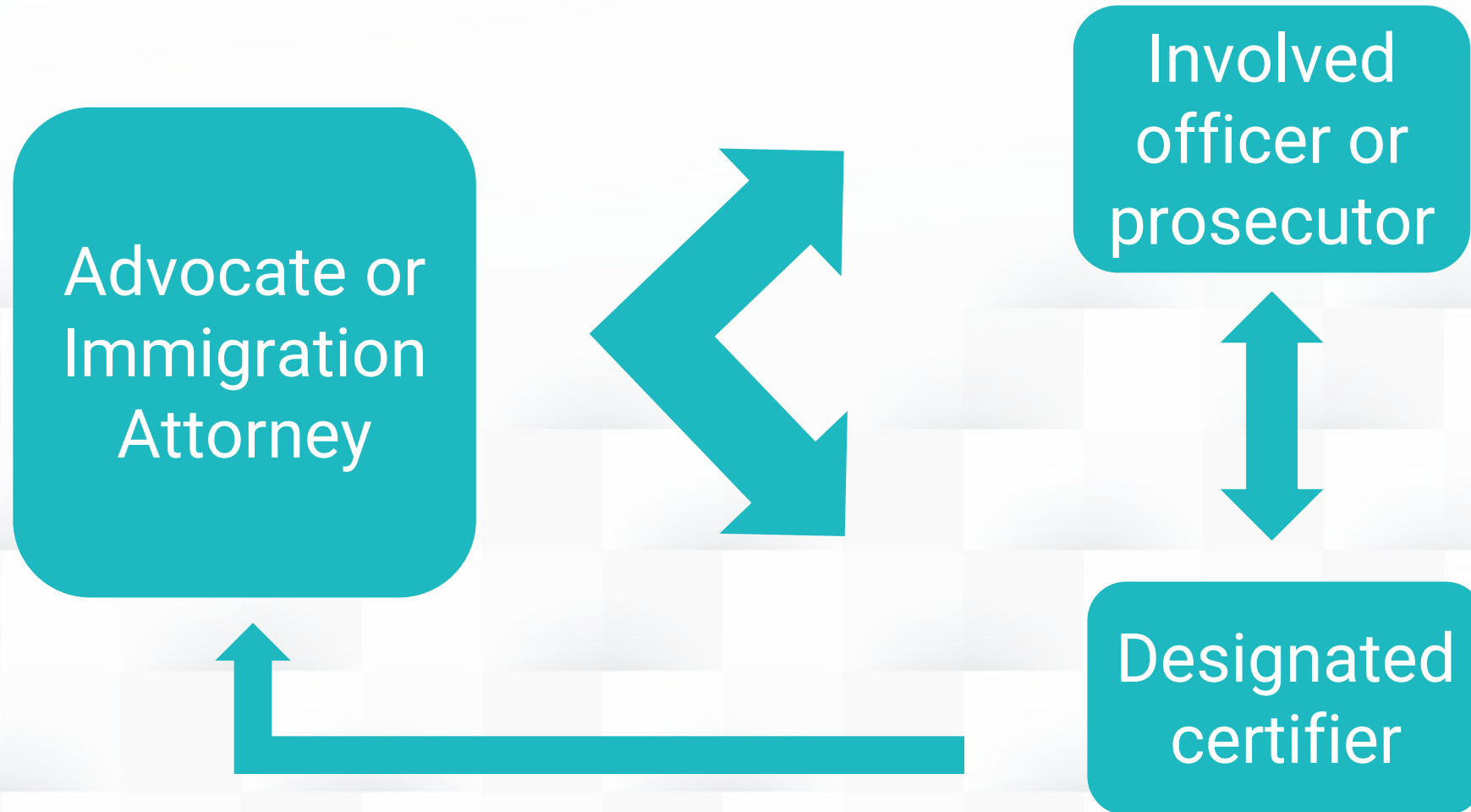


# Large Group Discussion

How are you involved in the certification process?



# Certification Review



# Determining Helpfulness

- Certifying agency determines “helpfulness”
- No degree (or timing) of helpfulness required
  - *DHS adjudicates helpfulness based on the totality of the circumstances*
- Any agency may complete U visa certification as soon as they assess victim’s helpfulness
- The investigation or prosecution can still be ongoing
- Victim’s criminal history does not preclude U visa eligibility, particularly when the crime is connected to the abuse
- Certification can be “revoked”

# Small Group Activity

- Make a list of the types of helpfulness to law enforcement, prosecutors, courts, or the EEOC a victim of the following crimes could offer:
  - Domestic violence
  - Child abuse
  - Sexual Assault
  - Human Trafficking
  - Felonious Assault

# Report Back on Helpfulness By Case Type

- What types of helpfulness did you identify to:
  - Law enforcement
  - Prosecutors
  - Judges
  - Child Protective Services
  - The EEOC

# Example of Helpfulness May Include

Calling 9-1-1

Having a rape kit performed

Providing a description of an offender or their whereabouts

Allowing photographs to be taken

Filing for a protection order

Bringing a minor victim to court

Providing a statement about "other bad acts"

Providing evidence of abuse in a custody, child welfare, or divorce case

Testifying at a bond hearing, trial, or sentencing

# The Following Are *Not Required* to Certify That a Victim Has Been Helpful

- Certification signed within the statute of limitations of the qualifying criminal activity; crime can be long ago
- Conviction
- Charges filed
- Offender arrested/prosecuted
- Victim provides testimony at trial
- Victim is a necessary witness
- Offender is identified
- Offender is alive
- Case involving the offender is open or closed



Victim-  
centered  
approach

# **ACTIVITY: Case Scenarios**

# Hypotheticals

## Small Group Activity

- *Stories handout*





# Small Group Activity

- Review case scenario assigned
- Determine who, if anyone, qualifies for a U Visa
- What are the criminal activities?
- What helpfulness was provided?
- Would you certify or recommend certification?
- What questions do you have or want to be able to answer for the certifier in your agency?

# Small Group Activity Report Back

- Discuss each of the scenarios assigned

# 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
  - Prosecution or conviction
  - Sentencing
- There is no degree of helpfulness required
- Law enforcement may complete U visa certification once they assess a victim's helpfulness
- The investigation or prosecution can still be ongoing

# DHS Promotes a Victim-Centered Approach

- Includes practices that build trust, help stabilize victims, and minimize victimization and additional trauma. Equally values:
  - The identification and stabilization of victims, including providing immigration relief
  - The detection, investigation, and prosecution of perpetrators of serious crimes
- Promoted by use of qualified interpreters

# How does law enforcement and prosecution benefit from the U visa?



# U Visa Benefits to Law Enforcement and Prosecutors

- Encourages victims to report crimes
- Improves investigation and prosecution of violent crimes
- Increases the potential to convict the 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

# **Certifying Early Benefits For Law Enforcement and Prosecutors**

# Large Group Discussion

When should you sign a U Visa Certification or a T Visa Declaration?



# Answer

As soon as you have the information you need to complete the paperwork

# Early Certification

Do you have the information you need to determine if the applicant is a victim of the qualifying criminal activity?

- Standard of proof: “Any credible evidence”

Can you make initial helpfulness determination?

- You do not need to determine ongoing helpfulness when you sign
- You can revoke

# Small Group Activity

- Meet at your tables to discuss how filing a victim's abused-based immigration case (VAWA, T or U visa) can help stabilize victims participating in criminal investigations or prosecutions.
- Report back

# Improved Stability From: Part I

- Receiving protection from deportation
  - Through VAWA confidentiality at filing 8 U.S.C. 1367
  - Formal when receive deferred action
- Improved economic stability & independence
  - Legal work authorization
  - Greater and increasing access to state and federally funded public benefits
  - Office of Trafficking in Persons (OTIP) benefits and support

# Improved Stability From: Part II

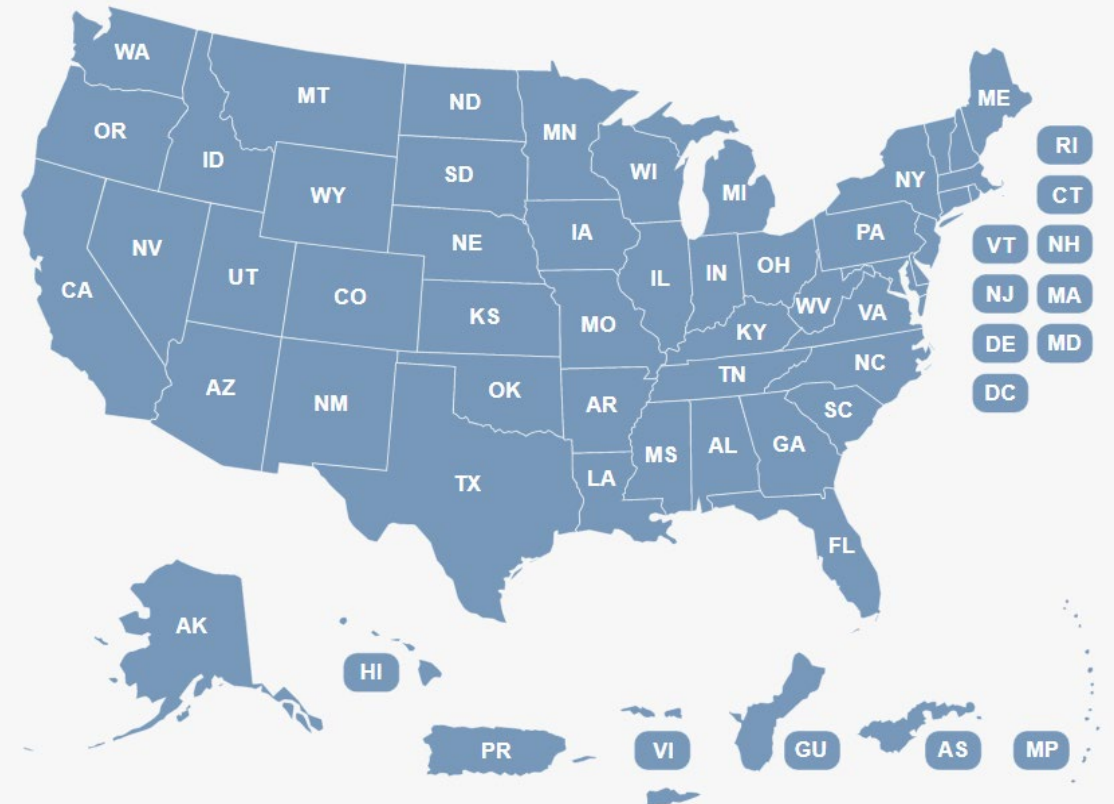
- Improved justice system trust
  - Law enforcement, prosecutors, judges, and courts
- Being connected and working with victim advocates and attorneys
  - Safety planning and support

# Interactive Public Benefits Map State-By-State

<input type="checkbox"/>	Ben... ▾	STATE & TERRITORY ▾	Benefit Name ▾	VAWA Self-Petitioner ▾
1	309	Florida Public Benefits	Child Care - TANF Funded	Eligible for TANF funded child care if receiving TANF.
2	308	Florida Public Benefits	Child Care: Child Care Development Fund (CCDF)	Eligible for CCDF
3	310	Florida Public Benefits	Children's Health Insurance Program (CHIP)	Eligible up to age 19 upon prima facie determination. ...
4	311	Florida Public Benefits	Earned Income Tax Credits (EITC)	Eligible with conditions upon receipt of work ...
5	313	Florida Public Benefits	Emergency Medicaid	Eligible.
6	315	Florida Public Benefits	Family Medical Leave Act - State Law	No state law, federal law applies.
7	316	Florida Public Benefits	Federal Education Student Aid, Grants, and Loans	Eligible upon prima facie determination.

## BENEFITS MAP

Welcome to NIWAP's Interactive Public Benefits Map (October 24, 2022)



<https://niwaplibrary.wcl.american.edu/benefits-map>

# Benefits Map On-Line Demonstration

How to look up by state, by immigration status, and by benefits program what an immigrant survivor and their children qualify for

- What all victims qualify for without regard to immigration status
- State-funded public benefits
- Federally funded public benefits

**Immigration Relief and Human  
Trafficking and Human  
Trafficking Co-Occurring With  
Domestic Violence**



# T Visa for Trafficking Victims

Applicant is a victim of severe form of human trafficking

- Refers to the federal definition of human trafficking

Applicant is in the U.S. because of trafficking

- Not necessary that the victim came to the U.S. because of trafficking; can be in the U.S. for the investigation

Responds to “reasonable requests for collaboration”

- Age exemption & Trauma exception in specific cases

Extreme Hardship upon return to home country

# T Visa Facts

- T Visa is a temporary visa for 4 years
- May apply for lawful permanent residence after either 3 years or after the investigation or prosecution is concluded
- Applicants are encouraged to submit a Law Enforcement Declaration along with their application, *but it is not required*

# Sex Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1591

## Process: Act

- Recruits
- Entices
- Harbors
- Transports
- Provides
- Obtains
- Advertises
- Maintains
- Patronizes
- Solicits
- Benefits, financially or by receiving anything of value

## Means

- Force
- Fraud
- Coercion
- **Proof of force, fraud, or coercion not required for sex trafficked children under 18**

## Purpose: End

- **Commercial sexual activity**
- **A commercial sex act is any sexual act for which something of value is given or received**
  - Money
  - Drugs
  - Food
  - Shelter
  - Clothing
  - Transportation

# Labor Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1590

## Process: Act

- Recruits
- Harbors
- Transports
- Provides
- Obtains
- Benefits, financially or by receiving anything of value

## Means

- Force
- Restraint
- Threats of harm
- Abuse or threatened abuse of the legal system
- Any scheme, plan, or pattern intended to cause the person to believe that if they did not perform labor, they would suffer serious harm or restraint
- **No federal exception for minors**

## Purpose: End

- Involuntary servitude
- Peonage
- Debt bondage
- Slavery

# Definition Includes “Attempted Trafficking”

The preamble to the 2024 T Visa Rule and DHS policy manual include protections for victims of attempted trafficking

- Cases where the applicant has not performed labor or services or a commercial sex act
- When the victim can prove they are otherwise eligible for a T visa and
- But/for some intervention or victim’s escape the perpetrator would have trafficked them

2016 Preamble: 81 Fed. Reg. 92266, at 92271

# Large Group Discussion

What are common tactics used by traffickers to assert “force, fraud, and coercion”?

# Coercion

22 U.S.C. § 7102(3)

**Threats of serious harm to or physical restraint against any person;**

**Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person;**

**The abuse or threatened abuse of the legal process.**

# Serious Harm Means

- Any harm whether physical or nonphysical, including psychological, financial, or reputational harm,
- That is sufficiently serious,
  - Under all the surrounding circumstances,
  - To compel a reasonable person of the same background and in the same circumstances
  - To perform or to continue performing labor or services
  - To avoid incurring that harm.

8 C.F.R. § 214.201



# Totality of the Circumstances

## Serious Harm

- Physical or nonphysical
- Psychological
- Financial
- Reputational

## Circumstances

- The surrounding circumstances

## Victim

- Same background
- In the same circumstances

***The victim's vulnerabilities are relevant in determining whether the physical or legal coercion or threats thereof could plausibly have compelled the victim to serve.***

United States v. Kozminski, 487 U.S. 931, 933, 108 S. Ct. 2751, 2755, 101 L. Ed. 2d 788 (1988)

# Updated Involuntary Servitude Definition

- A condition of servitude
  - Induced by means of any scheme, plan, or pattern
  - Intended to cause a person to believe or to fear that
    - If the person did not enter into or continue in such condition or undertake the forced work
    - That person or another person would Suffer serious harm, physical injury, physical restraint, or legal coercion.
- A condition of servitude induced by the abuse or threatened abuse of the law or legal process.

8 C.F.R. § 214.201

# Abuse Or Threatened Abuse Of The Legal Process

Is the use or threatened use of a law or legal process whether administrative, civil, or criminal,

- In any manner or for any purpose for which the law was not designed,
- In order to exert pressure on another person to cause that person
- To take some action or refrain from taking some action.

8 C.F.R. § 214.201

# Large Group Discussion

What are examples of legal coercion you have seen in domestic violence, sexual assault, child abuse, and human trafficking cases?

# Small Group Discussion

Make a list of tactics a domestic violence perpetrator or child abuser could use or facts of a case that would indicate that human trafficking (sex or labor) is co-occurring in an intimate partner or family relationship.

# Report Back

- Examples of facts that would indicate labor trafficking
  - Of intimate partner
  - Of children
- Examples of facts that would indicate sex trafficking
  - Of intimate partner
  - Of children

# Involuntary Servitude in a Domestic Violence Relationship

- Abuser/trafficker controls victim's liberty creating conditions of servitude
- Expectation that the victim's life fulfills the trafficker's orders
  - E.g., demand from the trafficker to perform domestic labor at an unreasonable level, including unreasonable working hours, and/or constant availability to labor regardless of health or energy;
- Lack of control over the victim's own wages (or not paid) despite laboring under the trafficker's demands; or
- The imposition of unequal living arrangements as part of a campaign of force, fraud, and coercion
  - E.g., unequal sleeping arrangements, living arrangements, or access to nourishment.

<https://www.uscis.gov/policy-manual/volume-3-part-b-chapter-2>



# T Visa Process Includes Bona Fide Determination

- USCIS will deem an application *bona fide* if:
  - The I-914 is properly filed and complete;
  - The applicant has included a signed personal statement; and
  - Initial background check results are complete and do not present national security concerns. 8 C.F.R. § 214.205(a)(2)
- After T applicant is deemed *bona fide*
  - USCIS will conduct a *bona fide* review of applications of family members.  
8 C.F.R. § 214.240(m)

# Continued Presence (CP)

- Temporary immigration status for any victim of human trafficking *who may be a potential witnesses*
  - Sex and/or labor trafficking
- Victim (and certain family) remain lawfully in the United States during investigation or prosecution into human trafficking
- Granted for two years, can be renewed
- Receive work authorization, public benefits, and services
- Does not guarantee long-term immigration relief
- T Visa application typically filed while the victim has CP

# Continued Presence – Law Enforcement Role

- **Officers should refer victims to federal authorities** who are authorized to file continued presence applications for trafficking victims with the DHS
- Trafficking victims must be “**sponsored**” by **federal law enforcement**”
- Law enforcement initiates application immediately after identifying victim; cooperation is not required
- Can be revoked

# Federal Continued Presence Sponsors

- Homeland Security Investigations
- Federal Bureau of Investigations
- State Department Diplomatic Security Services
- DOJ – U.S. Attorneys Offices, Civil Rights Division, Criminal Section
- U.S. Marshall's Services
- U.S. Department of Labor
- Equal Employment Opportunity Commission

# Labor-Based Deferred Action


- Decision to defer removal as an act of prosecutorial discretion
  - DHS makes determinations on a case-by-case basis, and it can be terminated at any time
- No statutory or regulatory limit to the length of time
  - Historically, deferred action has been granted for periods of two to three years.
- Individuals with deferred action are eligible for an employment authorization document with a basic showing of economic necessity.

# To Qualify, a Worker Must...

**(1) Witness or experience a violation of labor or employment law or other labor dispute;**



**(2) File a complaint with a federal, state, or local labor or employment agency or identify an existing agency investigation related to the violation; and**



**(3) Obtain a Statement of Interest from labor or employment agency; e.g., NLRB, USDOL, EEOC**

# U.S. Department of Labor

- Deferred action available to victims and witnesses of forced labor and labor exploitation
- OSHA and wage and hour U visa certifications

# Moving Forward

Provide meaningful access to immigration relief to qualified applicants

Be prepared to explain why immigration relief exists for victims of crime



# End of Day One

# **Completing the U Visa Certification Form**

# Office on Violence Against Women (OVW)

## National Violence Against Women

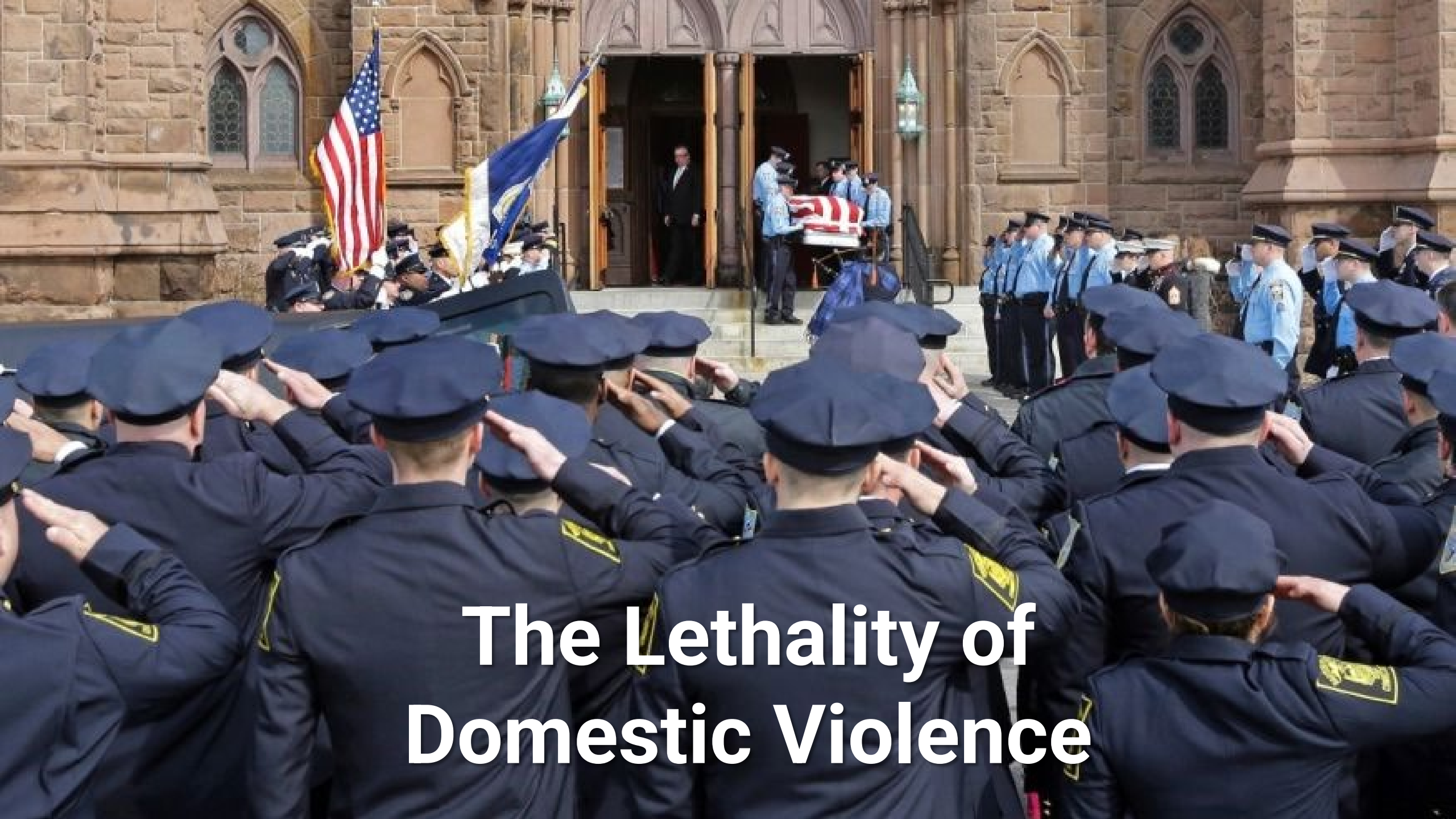
## Law Enforcement Training and Technical Assistance Consortium (LETTAC)

September 5-6, 2024

### Investigating and Prosecuting Cases of Intimate Partner Violence Involving Immigrant Crime Victims and Leveraging U and T Visa Programs

*This project was supported by Grant No. 2020-TA-AX-K033 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.*

**LETTAC**



# The Lethality of Domestic Violence





**Officer Christopher Wells**

**Officer Joseph Murphy**

# Dangers of Domestic Violence

- Uniform Crime Reporting (UCR) stats
- Parties expecting and waiting for officers to arrive
- Firearms typically present
- Drugs and alcohol may be involved
- Familiarity can lead to complacency

# FBI Releases 2016 Statistics for Law Enforcement Officers Killed

**Circumstances:** At the time the 66 law enforcement officers were feloniously killed:

- 17 were ambushed (entrapment/premeditation);
- 13 were answering disturbance calls (seven were domestic disturbance calls);
- nine were investigating suspicious persons/circumstances;
- six were engaged in tactical situations;
- five were performing investigative activities (such as surveillances, searches, or interviews);
- four were conducting traffic pursuits/stops;
- three were investigating drug-related matters;
- three were victims of unprovoked attacks;
- one was answering a burglary in progress call or pursuing a burglary suspect(s);
- one was answering a robbery in progress call or pursuing a robbery suspect(s); and
- four were attempting other arrests.



May 14, 2024

## FBI Releases *Officers Killed and Assaulted in the Line of Duty, 2023 Special Report* and Law Enforcement Employee Counts

- The study of the data reveals, from 2021 to 2023, more officers were feloniously killed (194) than in any other consecutive three-year period in the past 20 years (73 officers in 2021, 61 officers in 2022, and 60 officers in 2023).
- Agencies reported 79,091 officers were assaulted in 2023, marking the highest officer assault rate in the past 10 years.
- Most officer assaults occurred when responding to simple assaults against a non-officer (6,783 incidents), followed by drug/narcotic violations (4,879).





**OFFICER BREANN LEATH**  
**EOW 4/9/20**

# *REST IN PEACE*

*Officer Justin Putnam  
San Marcos Police Department, Texas*



*End of Watch  
April 18th, 2020*





# *In Memoriam*



*Lieutenant Glenn Dale Hutto, Jr.  
Baton Rouge Police Department, Louisiana  
End of Watch: April 26, 2020*



OGDEN CITY P.D.

OFFICER  
**NATE LYDAY**

EOW: 5.28.2020





**Ismael Chávez Jr.**  
End of Watch  
July 11, 2020

**5**  
NEWS



**Edelmiro Garza Jr.**  
End of Watch  
July 11, 2020

**5**  
NEWS





# *In Memoriam*



*Police Officer Jacob Hancher  
Myrtle Beach Police Department, SC  
End of Watch: October 3, 2020*

**NYPD**



**SERGEANT  
HAROLD PRESTON**

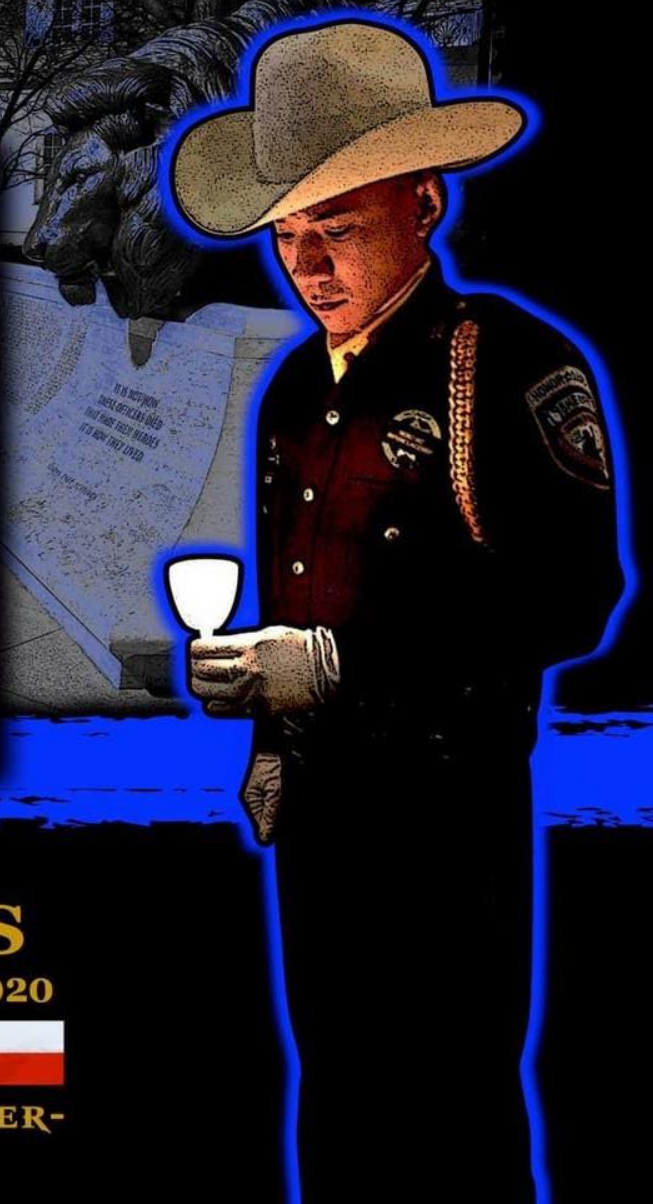
Houston Police Department  
Houston, Texas

End of Watch October 20, 2020

*The Unrecognized  
Lethality of Domestic  
Violence Offenders*



ROSE BORISOW GRAFX



SERGEANT  
**SEAN RIOS**

END OF WATCH-NOV 9TH, 2020



-REST IN PEACE, BROTHER-

ROSE BORISOW GRAFX



**DETECTIVE BENJAMIN MARCONI**

**END OF WATCH : NOVEMBER 20TH, 2016**



**IN VALOR THERE IS HOPE  
-REST IN PEACE, BROTHER-**



# ARRESTED



Case	Name / Business	Court	Date	Status	Description
2011CI08878	MCKANE, OTIS T	407	05/27/2011	DISPOSED	OTHER PARENT-CHILD
2012CI01103	MCKANE, OTIS	407	01/25/2012	DISPOSED	PROTECTIVE ORDER/DA
382843	MCKANE, OTIS, T	CC7	01/22/2012	CLS	ASSAULT BODILY INJURY-MARRIED/

# Mass Shootings and Domestic Violence

## The role of domestic violence in fatal mass shootings in the United States

59.1% of mass shootings between 2014 and 2019 were DV-related

68.2% of mass shootings, the perpetrator either killed at least one partner or family member or had a history of DV

*May 31, 2021; National Institutes of Health; Lisa B. Geller, Marisa Booty, Cassandra K Crifasi*

# Notable Texas Mass Shootings and DV

## 1966 – University of Texas Tower Shooter

- Shooter shot 32 people, killing 15 before being shot himself by Austin Police officers. Prior to that, he had stabbed to death his wife and mother. Letters recovered after wife's murder detail a long history of DV.

## 2017 – First Baptist Church in Southerland Springs

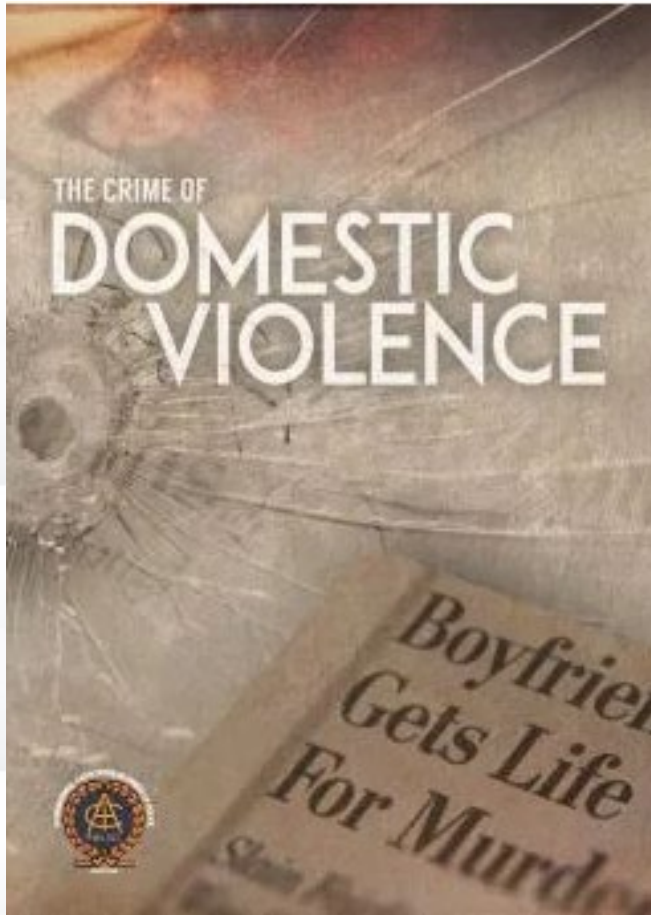
- Shooter shot and killed 26 people and wounded 22 others. He was court-martialed for assaulting his wife and their young child in 2012.

## 2022 – Robb Elementary

- Shooter shot his grandmother and left her for dead before going to school and murdering 19 children and 2 adults.



# Officer Safety and Domestic Violence

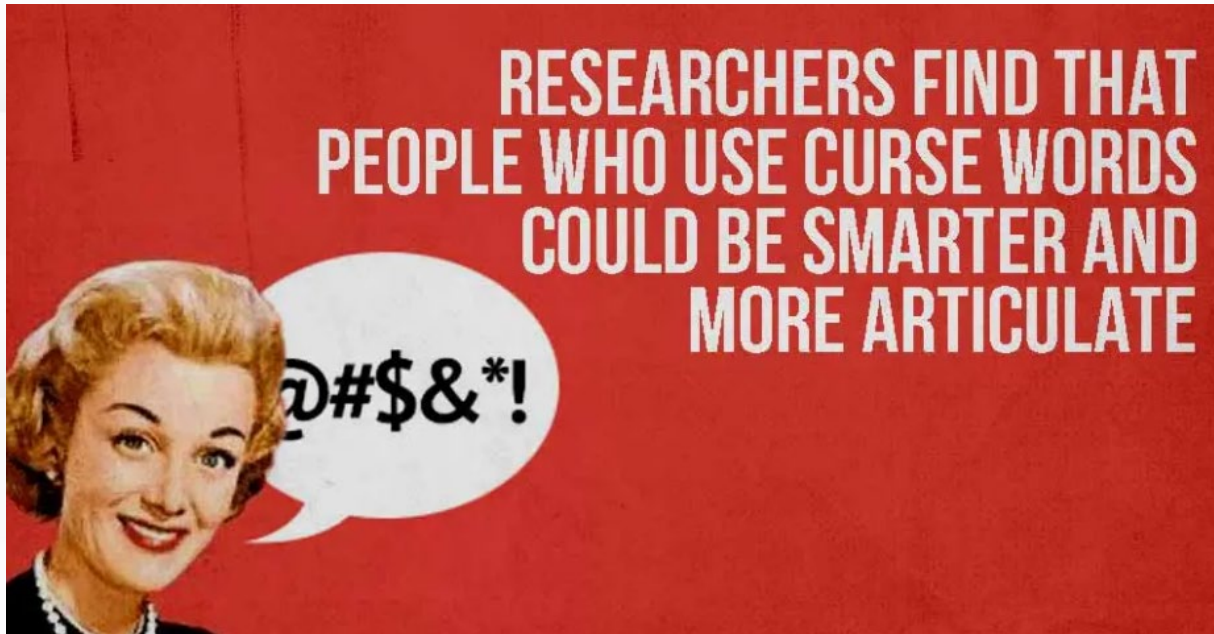


- International Association of Chiefs of Police, *The Crime of Domestic Violence*
- Segment 3: Offender Realities and Threats to Officers

<https://www.theiacp.org/resources/video/the-crime-of-domestic-violence-roll-call-video>

# Apologies Extended Here..

If you are easily offended, please accept my apologies now because there may be four-letter words used here today!



Why do you  
do this every  
single day?

# The Basics of Trauma and Its Impact

Trauma is all around us.

Trauma can affect any individual with whom you come into contact.

Crucial to know what trauma involves.

Crucial to know how it affects individuals and communities.

# Realities of these cases

*“The expectation that we can be immersed in suffering and loss daily and not be touched by it is as unrealistic as expecting to be able to walk through water without getting wet.”*

R. N. Remen, M.D. 1996



# The Basics of Trauma and Its Impact

## Post-Traumatic Stress Disorder

- Directly experiencing the traumatic event
- Witnessing, in person, the event as it occurred to others
- Learning that the traumatic event occurred to a close family member or friend
- Experiencing repeated or extreme exposure to aversive details of the traumatic event (i.e., dispatchers and 911 call takers exposed to numerous recounts of traumatic events over a long period of time)

# The Basics of Trauma and Its Impact

## Complex Trauma



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# The Basics of Trauma and Its Impact

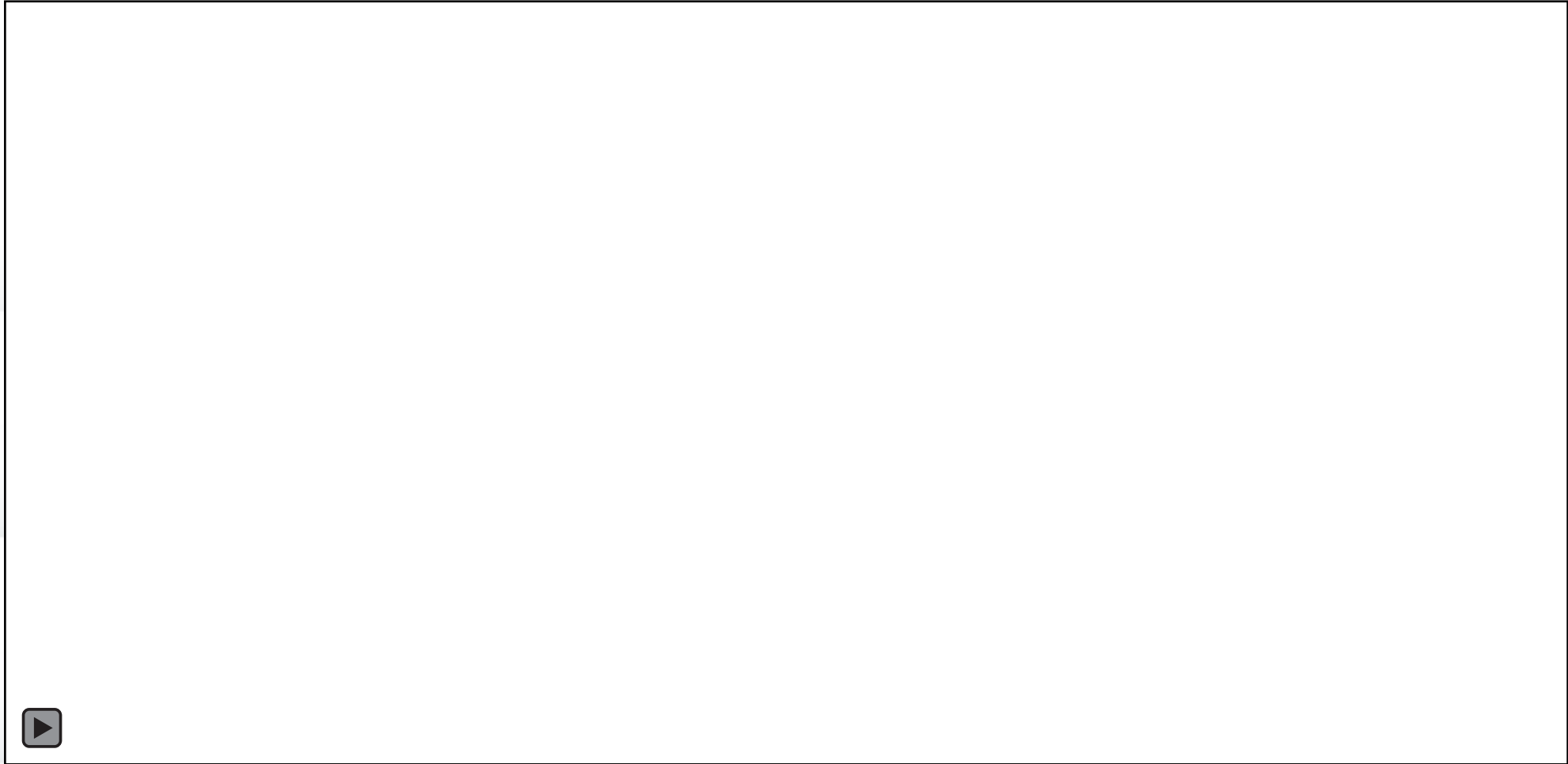


This Photo by Unknown Author is licensed under [CC BY-ND](https://creativecommons.org/licenses/by-nd/4.0/)

Secondary  
or  
Vicarious  
Trauma



# Resilience Man



# Negative Impacts on Physical and Mental Health

- The life expectancy of a police officer is 20 years less than their civilian counterpart
- The average age of a law enforcement officer (LEO) who has suffered a heart attack is 49 years, compared to 67 years of age for the general population
- LEOs are 25 times more likely to suffer death and disability from heart disease than from a violent action of a suspect
- LEOs have a **54%** increase in suicide risk compared to civilians.

\*American College of Emergency Physicians – Law Enforcement Officer Suicides: Risk Factors and Limitations on Data analysis (January 10, 2022)

# Death by Suicide

Year	In the Line	Suicide
2019	171	255
2020	457* (285 COVID deaths) <u>172 (adjusted)</u>	198
2021	719* (502 COVID deaths) <u>217 (adjusted)</u>	199
2022	274* (83 COVID deaths) <u>191 (adjusted)</u>	221
2023	139	167

# Why Don't We Get The Help We Need?

## **Only another cop can understand what I'm going through**

There is no question that to help law enforcement it's critical to have a deep understanding of work and the police culture

**Distrust of mental health professionals** (and just about everyone else who is not law enforcement)

## **Cops don't want to take medication**

We may have horrible diets, disrupted sleep, drink caffeine drinks until we shake, and abuse alcohol and tobacco, but we do not want to take medication

## **The police culture of stoicism**

Which can be defined as the endurance of pain or hardship without a display of feelings and without complaint



# How Does Trauma Affect Individuals and Communities?

## Here's the truth

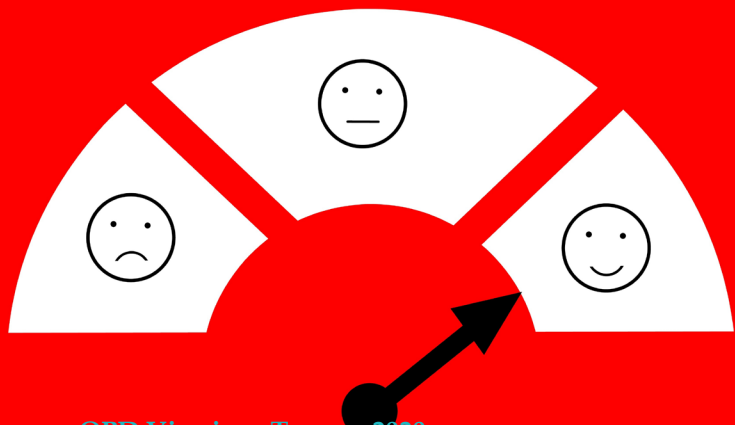
- Trauma exposure is inevitable, **BUT**
- Vicarious trauma, secondary traumatic stress, compassion fatigue, and burnout are **normal, BUT not inevitable**
- Highest rate of burnout: first year
- Not caused by exposure to intense feelings
- Dependent on the sense of high **emotional mastery** or **intensity overwhelm**

# How Does Trauma Affect Individuals and Communities?

## Remaining or staying open (Experiential Engagement)

People who are open to the full range of emotional experiences, including the negative, “enjoy better mental health and do better at work over time.”

Donaldson & Bond, 2004



# Protective vs. Risk Factors

- The more protective factors you have in your life the less likely you are to commit suicide
- The more risk factors in your life vs. protective factors = the higher the risk of committing suicide
- Biggest protective factor is **CONNECTION** (*will it matter if I die?*)

# Protective vs. Risk Factors

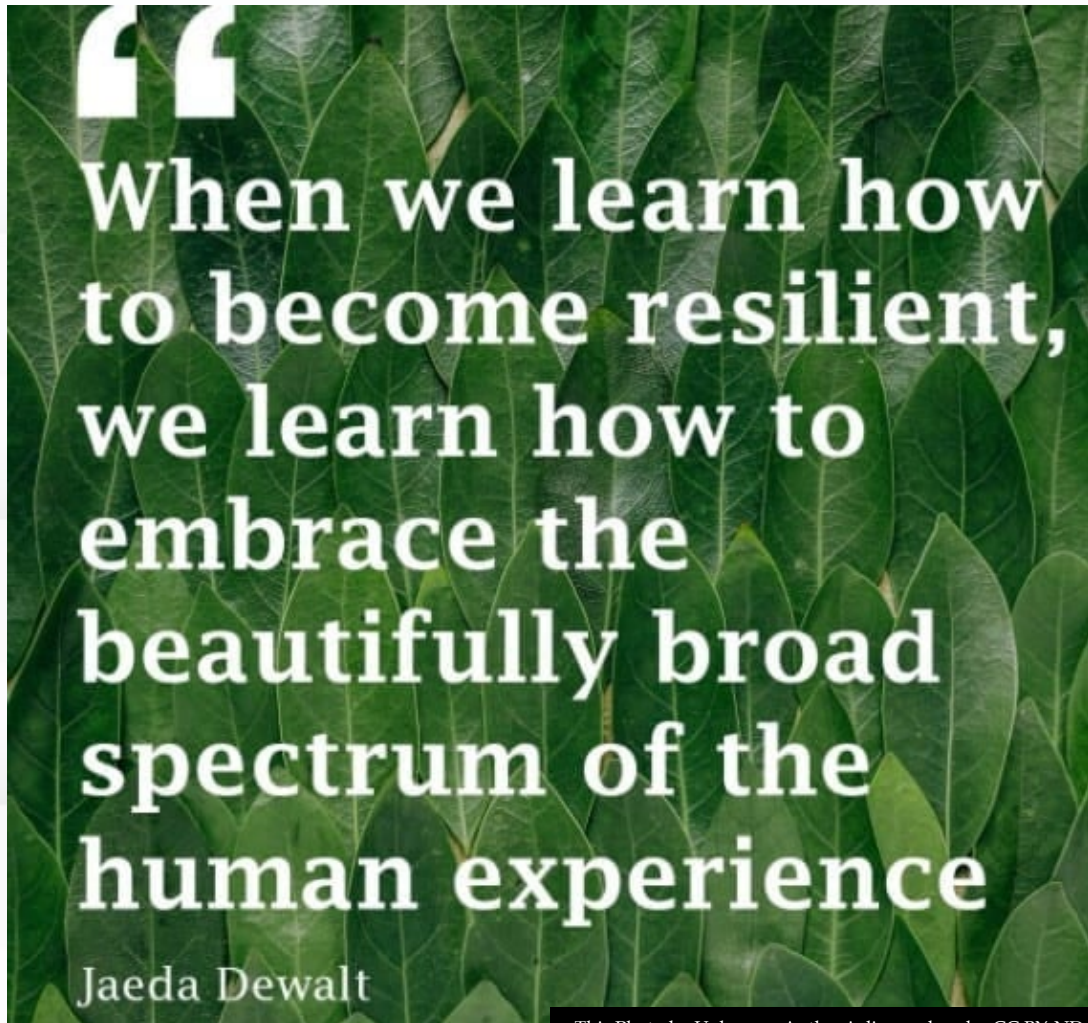
- Being a part of the criminal justice profession is a risk factor
- Being a member of a marginalized community, we have more risk factors. *A lifetime of trauma experiences*
- Both communities are exposed to trauma routinely. *Intersectionality.*
- Substance abuse substantially increases risk factors



# Two Biggest Protective Factors

- **Being part of a community, (family) that feels safe and inclusive**
  - Are there safe places for you and your community?
  - Creates a sense of community and connection
- **Routinely getting body-based therapy (nervous system)**
  - Eye Movement Desensitization and Reprogramming (EMDR)
  - Prolonged exposure therapy
  - Somatic experiencing therapy

# How Does Trauma Affect Individuals and Communities?



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- Individuals can, and do recover from trauma
- Hold a strengths-based perspective
- Be person-centered

# Post-Traumatic Growth

## Self Care

1. Construct new narratives that hold meaning and assist in making sense of emotions, role, and relationships
2. Meditation
2. Rest, relaxation, and rejuvenation

# Post-Traumatic Growth

## Low Impact Debriefing

Self Awareness

- Is this something I need to share? With whom?

Fair Warning

- “...this story contains some traumatic content”

Consent

- Can I debrief with you? Is this a good time?

Limited Disclosure

- Decide how much is needed to share – start with the least traumatic

# Post-Traumatic Growth

- **Ensure physical safety:** Walk together (away from area)
- **Set a brisk pace:** Slow as they calm down
- **Message:** Safety, support, normalize
- **Encourage their story:** What happened? Tell me more.
- **Deep breaths.** What would be helpful now? Give choices, but not to overwhelm
- **Remain available**

## Mindful Walk and Talk



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*Adapted from TEND Academy, P. Fisher, F. Mathieu* [OPD Vicarious Trauma 2020](#)

# Post-Traumatic Growth



## Humor

- Smile
- Have some jokes ready
- Plan silly times
- Be a good sport
- Celebrate success and fun

# Post-Traumatic Growth

**Beware of  
Dark  
(Gallows)  
Humor**



# Post-Traumatic Growth



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## Acceptance

- Self-reflection
- Finding acceptance of the multitude of trauma and death you encounter is a difficult and necessary process



# Post-Traumatic Growth

## Research on gratitude...

Exercise more regularly, fewer physical symptoms, felt better about their lives, were more optimistic

Made more progress toward important personal goals

Higher levels of alertness, enthusiasm, determination and energy

More likely to help someone with a problem.

Higher energy positive moods, felt more connected to others, more optimistic, better sleep

Highlights from the Research Project on Gratitude and Thankfulness  
*Dimensions and Perspectives of Gratitude* Co-Investigators: Robert A. Emmons, University of California, Davis

# Post-Traumatic Growth

Gratitude is contagious!

Gratitude + expression  
= appreciation

“Staff who receive frequent appreciation at work from coworkers and supervisors are also more likely to recognize and appreciate others.”

-U.S. Surgeon General



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# Scenarios and Group Discussions

## U Visa Qualifying Criminal Activities and Range of Eligible Victims

# Small Group Exercise

- Each group is assigned two scenarios
- For each scenario, the group will
  - Identify all the U visa listed criminal activities and similar criminal activities present in the case scenario
  - Identify other crime present in the case that would not be considered qualifying U visa criminal activities

# Small Group Report Back

- Report back on the 6 scenarios assigned
- Groups list and discuss each scenario separately
  - Identify all of the U visa listed criminal activities and similar criminal activities present in the case scenario
  - Identify other crime present in the case that would not be considered qualifying U visa criminal activities
- Large group weighs in and asks questions

# Small Group Exercise

- Working with the same 2 scenarios
- For each scenario the group will
  - Discuss which persons in each scenario would be an eligible U visa victim
  - Groups identify who could be included in the victim's U visa application

# Small Group Report Back

- Report back on the 6 scenarios assigned
- Groups list and discuss each scenario separately
  - Discuss which persons in each scenario would be an eligible U visa victim
  - Groups identify who could be included in the victim's U visa application
- Large group weighs in and asks questions



# **U Visa Certification and T Visa Declaration Forms**

## **Signing and Declining Certifications, Challenges, and Best Practices**

# **Completing the U Visa Certification Form**

# U Visa Certification Form Highlights



## Supplement B, U Nonimmigrant Status Certification

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

USCIS  
Form I-918  
OMB No. 1615-0104  
Expires 02/28/2026



Certification form is available to download at  
<https://www.uscis.gov/sites/default/files/document/forms/i-918supb.pdf>

► **START HERE - Type or print in black or blue ink.**

**Part 1. Victim Information**

1. Alien Registration Number (A-Number) (if any)

► A-

--	--	--	--	--	--	--	--	--	--	--	--	--	--

2.a. Family Name  
(Last Name)

--

2.b. Given Name  
(First Name)

--

2.c. Middle Name

--

**Other Names Used** (Include maiden names, nicknames, and aliases, if applicable.)

If you need extra space to provide additional names, use the space provided in **Part 7. Additional Information.**

3.a. Family Name  
(Last Name)

--

3.b. Given Name  
(First Name)

--

3.c. Middle Name

--

4. Date of Birth (mm/dd/yyyy)

--

5. Gender     Male     Female

**This section is sometimes filled out by the victim's immigration attorney or advocate**





**In addition to the head of the agency, one or more certifying officials can be designated as a “Certifying Official”**

**All judges can sign**

## Part 2. Agency Information

1. Name of Certifying Agency

Name of Certifying Official

2.a. Family Name  
(Last Name)

2.b. Given Name  
(First Name)

2.c. Middle Name

3. Title and Division/Office of Certifying Official

Name of Head of Certifying Agency

4.a. Family Name  
(Last Name)

4.b. Given Name  
(First Name)

4.c. Middle Name

### Part 3. Criminal Acts

If you need extra space to complete this section, use the space provided in **Part 7. Additional Information**.

1. The petitioner is a victim of criminal activity involving a violation of one of the following Federal, state, or local criminal offenses (or any similar activity). (Select **all applicable** boxes)

- |                                                                       |                                                                         |
|-----------------------------------------------------------------------|-------------------------------------------------------------------------|
| <input type="checkbox"/> Abduction                                    | <input type="checkbox"/> Manslaughter                                   |
| <input type="checkbox"/> Abusive Sexual Contact                       | <input type="checkbox"/> Murder                                         |
| <input type="checkbox"/> Attempt to Commit Any of the Named Crimes    | <input type="checkbox"/> Obstruction of Justice                         |
| <input type="checkbox"/> Being Held Hostage                           | <input type="checkbox"/> Peonage                                        |
| <input type="checkbox"/> Blackmail                                    | <input type="checkbox"/> Perjury                                        |
| <input type="checkbox"/> Conspiracy to Commit Any of the Named Crimes | <input type="checkbox"/> Prostitution                                   |
| <input type="checkbox"/> Domestic Violence                            | <input type="checkbox"/> Rape                                           |
| <input type="checkbox"/> Extortion                                    | <input type="checkbox"/> Sexual Assault                                 |
| <input type="checkbox"/> False Imprisonment                           | <input type="checkbox"/> Sexual Exploitation                            |
| <input type="checkbox"/> Felonious Assault                            | <input type="checkbox"/> Slave Trade                                    |
| <input type="checkbox"/> Female Genital Mutilation                    | <input type="checkbox"/> Solicitation to Commit Any of the Named Crimes |
| <input type="checkbox"/> Fraud in Foreign Labor Contracting           | <input type="checkbox"/> Stalking                                       |
| <input type="checkbox"/> Incest                                       | <input type="checkbox"/> Torture                                        |
| <input type="checkbox"/> Involuntary Servitude                        | <input type="checkbox"/> Trafficking                                    |
| <input type="checkbox"/> Kidnapping                                   | <input type="checkbox"/> Unlawful Criminal Restraint                    |
|                                                                       | <input type="checkbox"/> Witness Tampering                              |

**You can and should certify multiple offenses when present in the case, even if not charged**

# Dates do not have to be precise – you can use months, seasons, or years



Provide the dates on which the criminal activity occurred.

2.a. Date (mm/dd/yyyy)

2.b. Date (mm/dd/yyyy)

2.c. Date (mm/dd/yyyy)

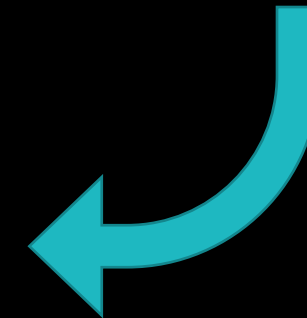
2.d. Date (mm/dd/yyyy)

3. List the statutory citations for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

---

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## Attaching state statutory language is helpful



6. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the petitioner named in **Part 1**. Attach copies of all relevant reports and findings.

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**Discuss the victim's helpfulness.**

**Make copies of all reports and photographs and attach.**

**Be as specific as possible, highlighting visible injuries observed and if you are aware of mental injury**

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

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## Part 4. Helpfulness Of The Victim

For the following questions, if the victim is under 16 years of age, incompetent or incapacitated, then a parent, guardian, or next friend may act on behalf of the victim.

1. Does the victim possess information concerning the criminal activity listed in **Part 3.**?  Yes  No
2. Has the victim been helpful, is the victim being helpful, or is the victim likely to be helpful in the investigation or prosecution of the criminal activity detailed above?  Yes  No
3. Since the initiation of cooperation, has the victim refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity detailed above?  Yes  No

If you answer "Yes" to **Item Numbers 1. - 3.**, provide an explanation in the space below. If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**



We will  
talk about  
this next

**Because many applications will include domestic violence, this may likely be the defendant**



**Part 5. Family Members Culpable In Criminal Activity**

1. Are any of the victim's family members culpable or believed to be culpable in the criminal activity of which the petitioner is a victim?  Yes  No

If you answered "Yes," list the family members and their criminal involvement. (If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**)

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

2.d. Relationship

2.e. Involvement

## 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

***"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"***

**REMEMBER: This certification only means that you believe they were a victim of a crime. This does not automatically mean that the victim will be granted immigration relief.**

# Small Group Activity

- Work together at your tables to complete a U visa certification from
  - For Clara – Assigned to  $\frac{1}{2}$  of the tables
  - For Miguel – Assigned to  $\frac{1}{2}$  of the tables
- Read the Clara and Eduardo handout
- You are provided a blank certification form

# Clara and Eduardo Case Scenario Handout

Clara met Eduardo a lawful permanent resident when he came back to his hometown to visit his family in El Salvador. Eduardo started dating Clara who was raising her 9 year old son Miguel. After Clara became pregnant and gave birth to a baby girl Lupe, Eduardo decided to bring Clara, Miguel and Lupe to the U.S. to live with him. When they arrived in the U.S. Eduardo took Clara, Miguel and Lupe's passports and became physically and sexually abusive of Clara and abusive of Miguel who tried to protect his mother from Eduardo's abuse. Eduardo also physically beat Lupe when he said she "misbehaved". Within a year following their arrival in the U.S. Eduardo forced both Clara and Miguel to work for his family's business and never paid them for their labor. One night when Miguel was 13 and Lupe was 5, Eduardo's rage led to severe beatings with a belt of Miguel and of Lupe. When Clara intervened to protect the children, Eduardo strangled her until she passed out. The neighbors call the police for help, Clara talked to police when they arrived. The police arrested Eduardo for attempted murder and child abuse, took Clara to the hospital and placed the children in the care of the state.

# Report Back

- What criminal activities did you identify for
  - Clara
  - Miguel
- What helpfulness did you describe for
  - Clara
  - Miguel
- Might this be a case where the certifying agency can also report on injuries observed?

# **Obligation to Provide Ongoing Cooperation or Assistance and Exceptions**

# Ongoing Assistance

Helpfulness

Filing

Bona fide or wait  
list  
determination

Approval  
and  
reception of  
U visa

Lawful permanent  
residency

**Continuing obligation to provide assistance when  
reasonably requested**



# 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 and 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)

# Unreasonable Requests

- Subjective, but consider if the request:
  - Endangers victim, witnesses, family members, or others
  - Subjects the victim to greater harm
  - Increases trauma to victim
  - Negatively affects the victim's ability to support their family
  - Is reasonable in light of the perpetrator's force, fraud or coercion of the victim

# Was the Refusal Unreasonable?

Unreasonable refusals are subjective, but consider if it is reasonable to refuse a request if the victim is:

- In danger
- Unaware of the request
- Being intimidated
- Being threatened
- Concerned about the safety of her family
- Under the belief that participating is more dangerous than not

# Evaluating Unreasonableness

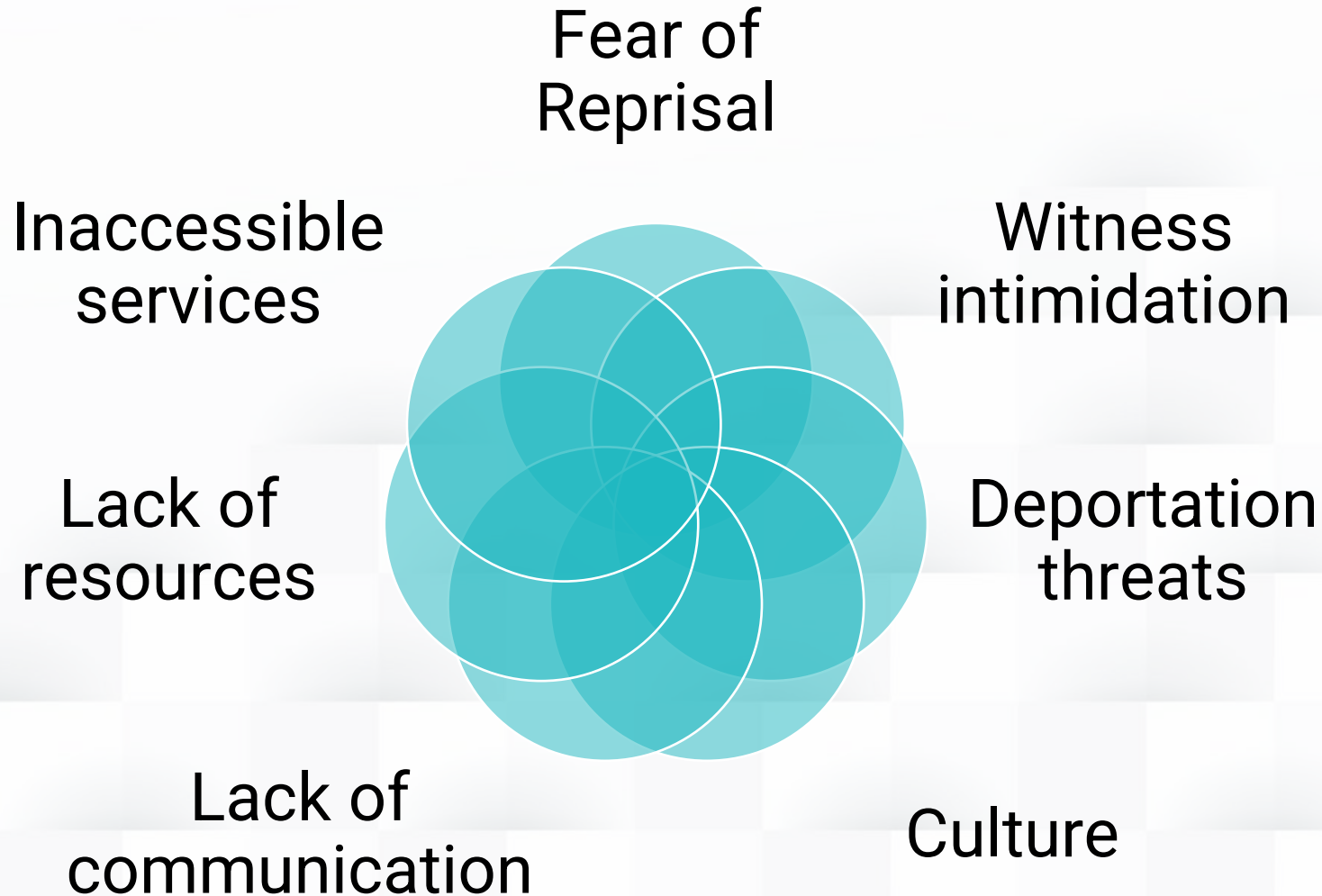
DHS regulations require affirmative evidence and consideration of:

- Totality of the circumstances
- The nature of the victimization
- Applicable guidelines for victim/witness assistance
- Victim's fear of the abuser
- Trauma suffered (both mental and physical)
- Force, fraud, or coercion
- Age, maturity, and capacity of the applicant
  - 8 C.F.R. 245.24(a)(5)
- Also look for witness tampering

# Large Group Discussion

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

# Factors that Impede Victim's Ability to Safely Participate



# Reasons for Refusing to Participate

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



# DHS Approach

- DHS promotes a victim-centered approach
  - Implement practices that build trust, help stabilize victims, and minimize re-victimization and additional trauma.
- DHS **equally values** the identification and stabilization of victims, including providing immigration relief, and the detection, investigation, and prosecution of perpetrators of serious crimes.
- DHS promotes the use of qualified interpreters

# Practice Tips

- Proactively investigate witness intimidation
- Collaborate with systems-based and community-based victim service professionals
- Establish safe points of contact with victim's friends and family
- Conduct trauma-informed assessments of reasonableness

**What if after conducting a trauma-informed analysis, you still believe the victim is unreasonably refusing to comply with reasonable requests?**

# Certification Form

Since the initiation of cooperation, has the victim refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity detailed above?

Yes  No

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

# FAQs

What if the victim has a criminal history?

This is not a part of the certification process, but USCIS fully reviews applicants' history

What if the victim later commits a crime?

The certifying is not held liable for the applicant's actions

What if I later find out the victim lied?

Ensure you are conducting a trauma-informed analysis, but the certification is revokable

How long does it take to get a U Visa?

There is currently a waiting list, so qualified applicants can wait 20+ years for their visa, but with work authorization

## Part 6. Certification

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1. Signature of Certifying Official (sign in ink)



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

3. Daytime Telephone Number

4. Fax Number

*"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"*

# Challenges and Best Practices

# Small Group Discussion

- What are the challenges do you see with U visa certification in your agency?
- What outstanding questions do you want to be prepared to respond to?
- What are best practices that you have learned about today or you have seen in practice that you would like to share with the group



# Report Back to Large Group

- What are the challenges do you see with U visa certification in your agency?
- What outstanding questions do you want to be prepared to respond to?
- What are best practices that you have learned about today or you have seen in practice that you would like to share with the group

Break

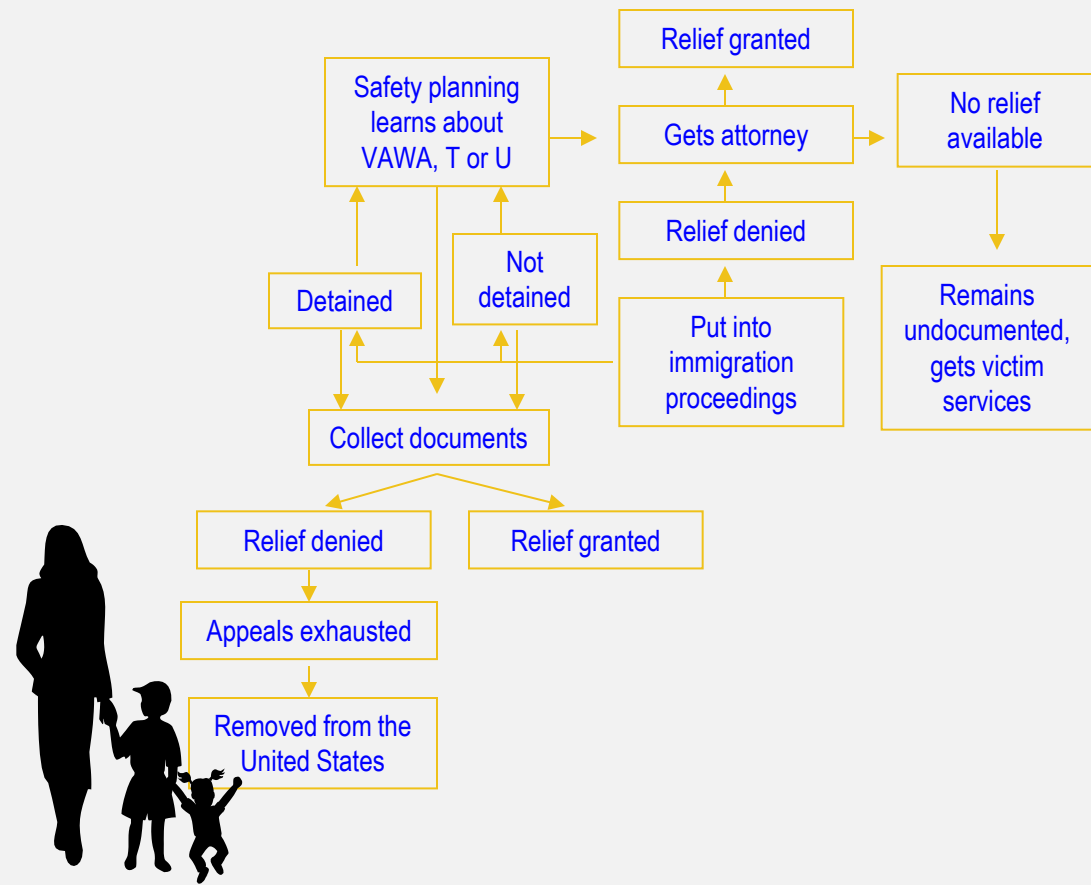
**What does this mean for  
law enforcement and  
prosecutors?**

# Language Access and Title VI

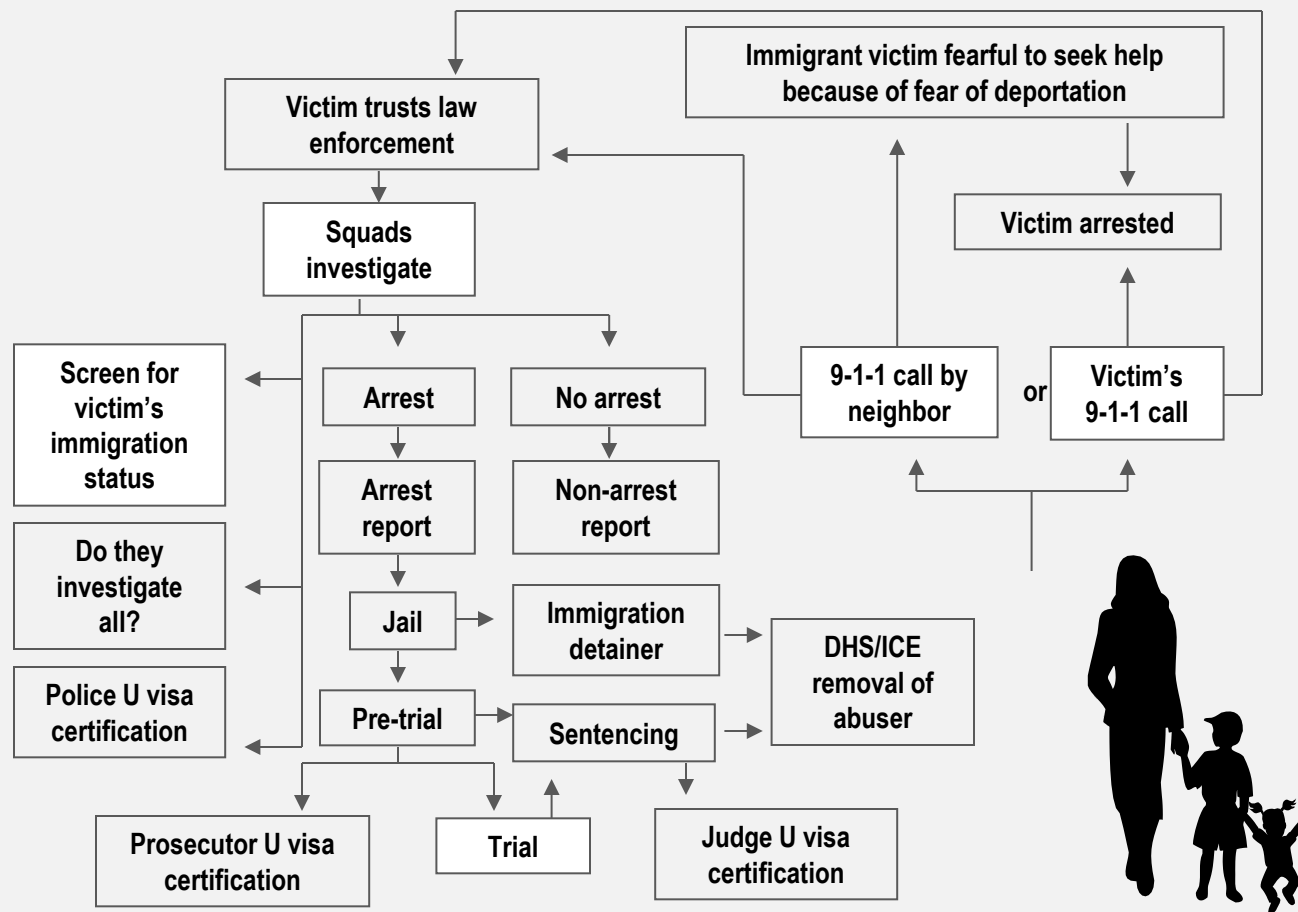
# Why We Are Talking About Language Access



**Complexity of battered women's lives, Praxis International, and Ellen Pence**

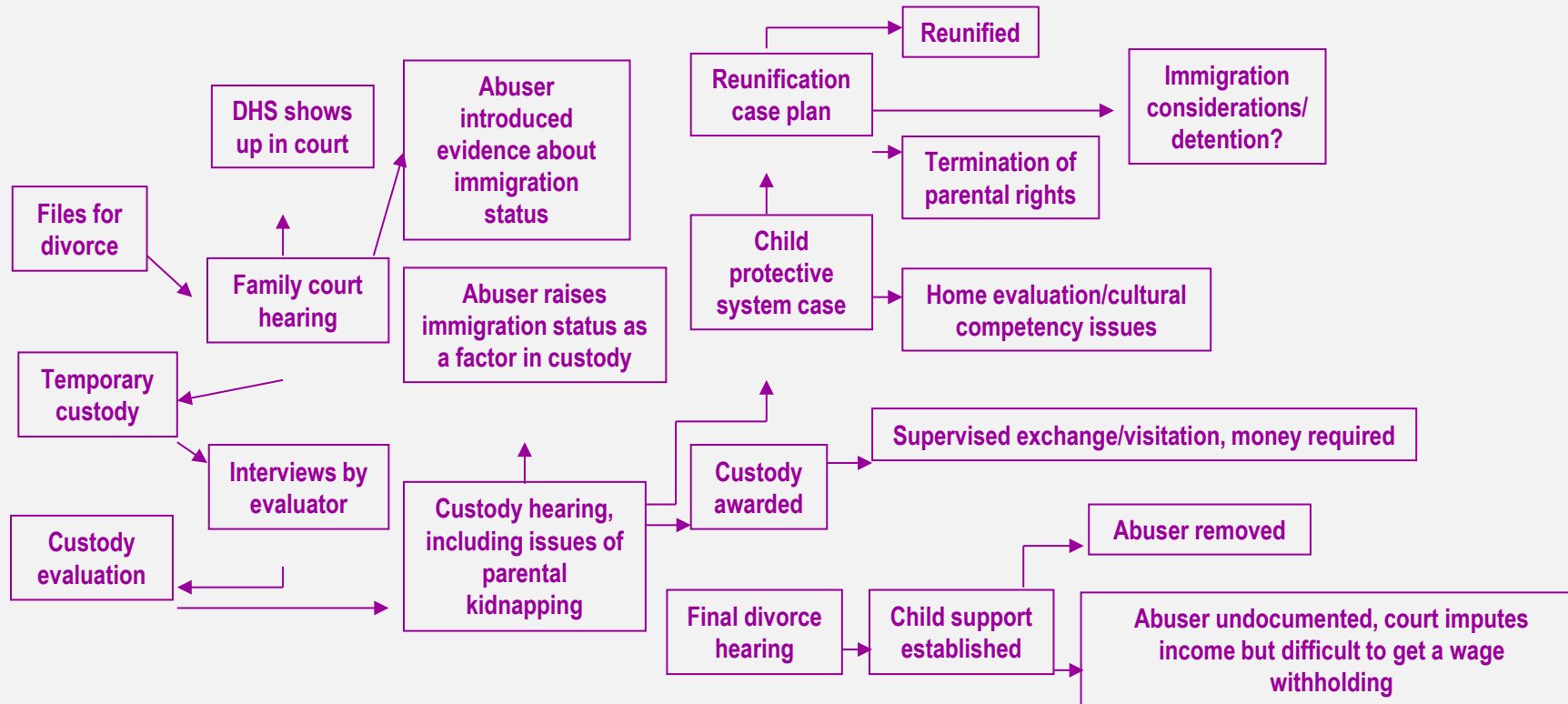


**IMMIGRATION MAP**



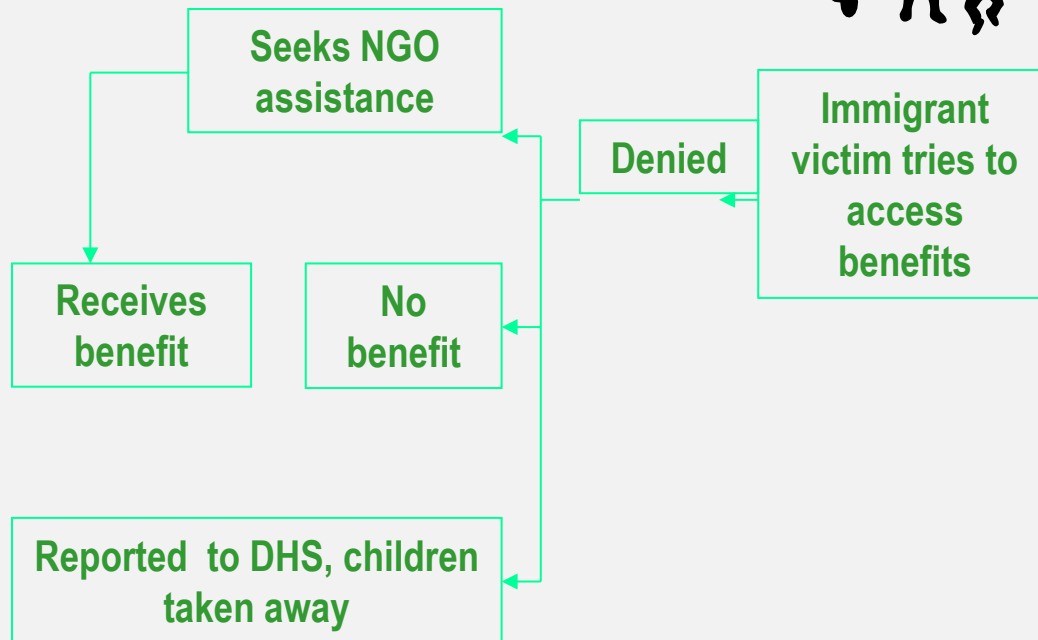
**DOMESTIC VIOLENCE/ ARREST INCIDENT**

# FAMILY COURT

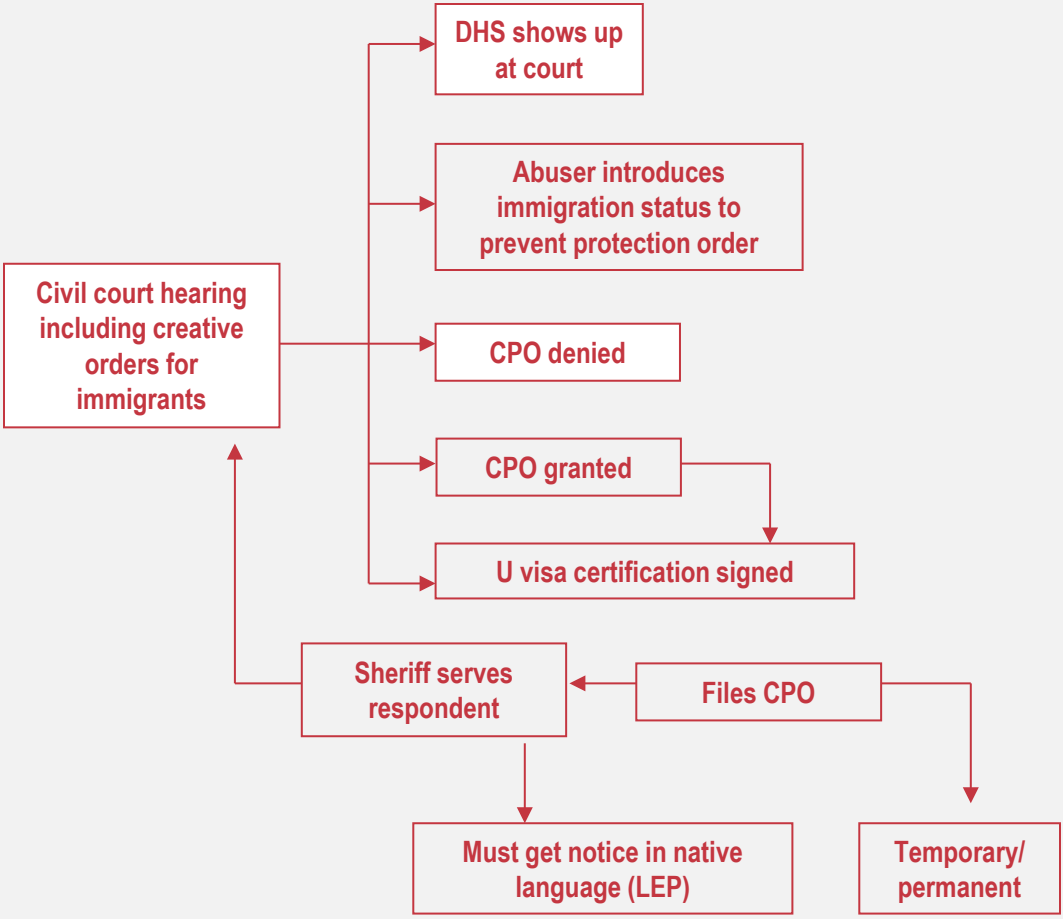


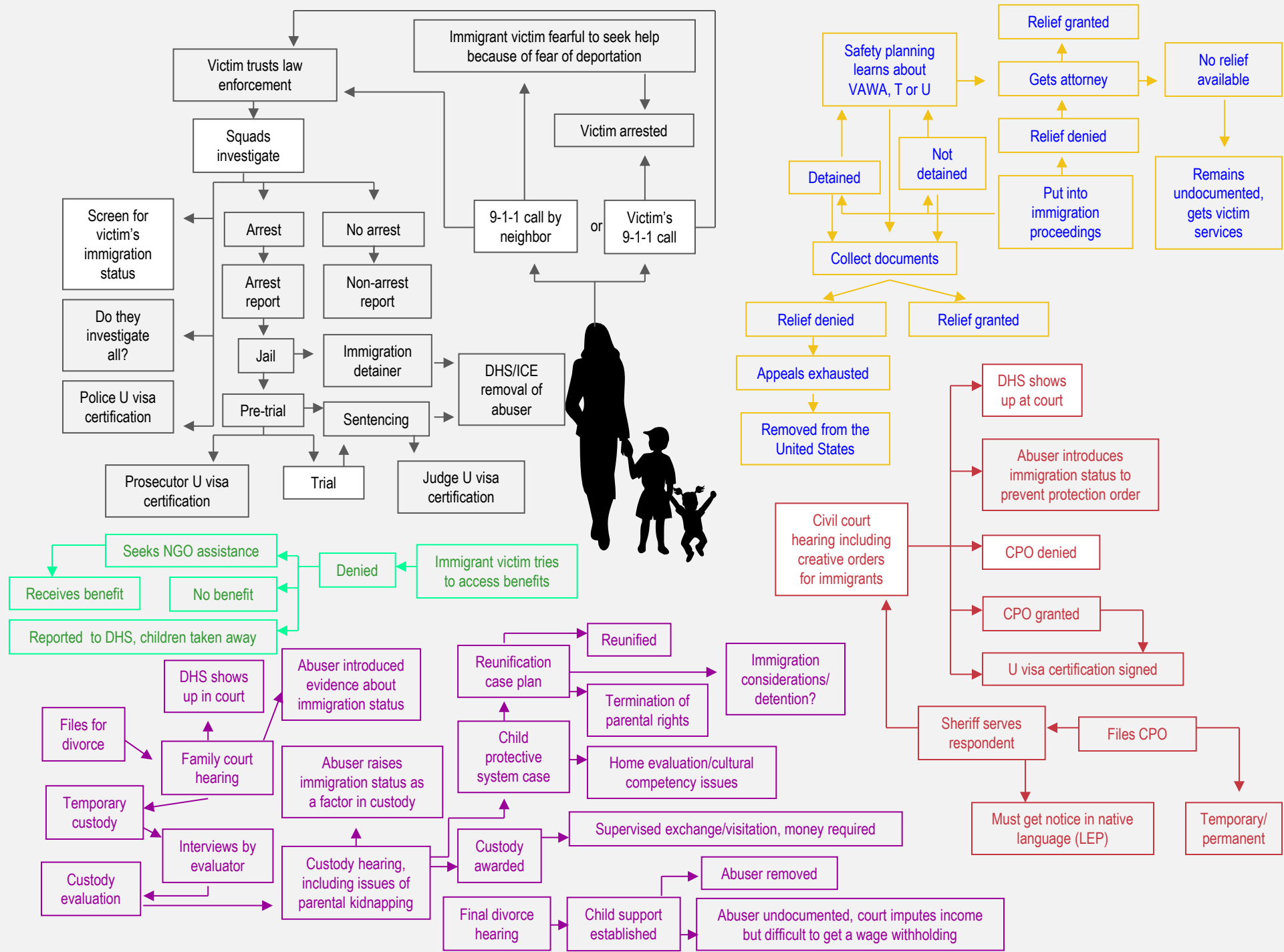


# BENEFITS MAP



# PROTECTION ORDER: CIVIL COURT PROCESS





# Consequences of Lack of Language Access: Victims

If programs are not accessible, survivors will not seek help

Perpetrators are rewarded: cycle of victimization continues and worsens

Risk to the life and safety of the victim

Lack of community trust in your organization

Re-victimization



# Consequences of Lack of Language Access: Police and Prosecutors

Risks to officer and  
community safety

Perpetrator not  
held accountable

Arrest of the victim  
instead of the perpetrator

Perpetrator  
reoffending

No conviction



# Title VI

- Any recipient of federal financial assistance has a responsibility to ensure access/understanding to LEP persons
- The U.S. Department of Justice (DOJ) strongly suggests, but does not require, a written language assistance plan be put in place (this does not preclude the obligation of the recipient)
- The DOJ discourages the use of informal interpreters (e.g., family members, guardians, caretakers, friends) except in limited or emergency situations
- The DOJ leaves the determination of what documents need to be translated for the benefit of the LEP persons up to the recipient

\*\*\*\**We can't afford language access:* This is not an acceptable excuse\*\*\*\*

# Difference Between

- Securing the scene
- Interviewing victims and witnesses



# DOJ Requirements for Investigations and Interrogations

“A qualified interpreter shall be used for any interrogation or taking of a formal statement where the suspect or witness’ legal rights could be adversely impacted”

- Criminal interrogations
- Crime witness interviews

Vital written materials translated into the primary language

- Miranda warnings



# DOJ Model Guidance

- Law enforcement provide free language access to:
  - LEP persons who request it
  - When an officer decides it is helpful to the criminal investigation or prosecution
- Law enforcement will inform members of the public that language assistance is available free of charge
- Language access provided in the person's primary language

# “Meaningful Access”

*“Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior, as compared to programs or activities provided to English proficient individuals”*

LEP: A Federal Interagency Website, <https://www.lep.gov>

# DOJ and Exigent Circumstances

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

# DOJ Requirements For Investigations and Interrogations

- “A qualified interpreter shall be used for any interrogation or taking of a formal statement where the suspect or witness’ legal rights could be adversely impacted”
  - Police reports
  - Criminal interrogations
  - Crime witness interviews
- Vital written materials translated into the primary language
  - Miranda warnings and “know your rights” brochures

# Qualified Interpreter

*“When considering whether an interpreter is qualified, the LEP plan discourages use of police officers as interpreters in interrogations except under circumstances in which the LEP individual is informed of the officer’s dual role and the reliability of the interpretation is verified, such as, for example, where the officer has been trained and tested in interpreting, and tape recordings are made of the entire interview”*

# Definitions

**Interpretation:** Process of orally rendering communication from one language to another language (interpreter)

**Translation:** Preparation of a written text from one language into an equivalent form in another language (translator)

# Definitions

**Qualified bilingual member interpreter:** Department members who identify themselves as “bilingual” must demonstrate, through a formal procedure which has been established by the city or department, competency to communicate in the source language by demonstrating the ability to listen to a communication in one language (source language) and orally convert it to another language (target language) while retaining the same meaning

# Definitions

**Qualified bilingual member interpreter:** The department will provide all members with training in interpreting techniques, roles, and ethics so that they may understand and follow confidentiality and impartiality rules for interpreters. This also includes qualified bilingual members from other police departments



# Modes of Interpretation

**Simultaneous:** The process of orally rendering one language into another language virtually at the same time that the speaker is speaking

**Consecutive:** The process of orally rendering one language into another language after the speaker has completed a statement or question

**Sight translation:** The rendering of material written in one language into spoken speech in another language

# Interpretation Exercise

1. Person A will read the paragraph out loud, and Person B will attempt to reiterate/interpret the entire paragraph consecutively, in either English or in the target language
2. Person B should not look at the material being read by Person A
3. Person A should read the paragraph without pausing, and Person B will not be able to ask Person A to repeat the sentences or utterances. Person B, however, can take notes as Person A is reading
4. When Person B has finished, Person A will then be the interpreter, and Person B will read a different paragraph or exercise with the same rules as #2

# Summary Interpretation

Summarization is NOT interpretation

- Not allowed in legal and medical settings due to professional standards
- Can cause crucial information in interviews or interrogations to be excluded
- Untrained interpreters resort to this mode because they lack the skills for simultaneous or consecutive interpretation and cannot accurately reproduce rate of speech and density of information
  - Using a bilingual individual who may use their discretion to say what is important
  - Using a bilingual staff or member who has not been qualified, instances in an interrogation where a bilingual member does not accurately and completely interpret

# Bilingual Staff vs. Interpreter

- Bilingual staff
  - When they are interpreting, they are not investigating
- Biculturalism vs bilingualism
  - Different words have different meanings:
    - For example, variations of the word “highway” depending on what state you are from
    - Intoxication vs intoxicar

# Bilingual vs. Interpreter

## **Bilingual staff**

- Fluent in English and native language
- Not a conduit or neutral party
- No government standard, but recommends assessment
- Qualified

## **Interpreters**

- Spoken language from one language to another
- Training
- Neutral party
- Fluency in English and native language
- Conduit to communicate

# Bilingual Staff as Interpreter

1. Are you fluent in English and the foreign language?
2. Are you able to interpret in the consecutive or simultaneous mode accurately?
3. Are you familiar with specialized terminology of domestic violence and sexual assault in the source language?
4. Can you avoid a conflict of interest?
5. Can you stay in the interpreter's role and avoid functioning in the police role?

# Bilingual Staff as Interpreter

6. Will there be confusion by your change of roles?
7. Could you be a potential witness in the case?
8. Will you be interpreting for the victim and not the abuser/offender?
9. Will waiting for a qualified interpreter negatively affect the victim's immediate safety?

# Meza Case: 2008

- Charged with first-degree murder; charge was dropped to manslaughter
  - Baby died after Meza shook his son so violently that the child's brain began to swell, ultimately killing him
  - Detectives used a Spanish-speaking officer to assist with the interview
  - A review of the tapes revealed that the officer interpreting left out some of the information and misinterpreted several statements made by the suspect and the detective



# Qualified Interpreter

- Proficiency in English and the interpreted language
- Can interpret using either the consecutive or simultaneous modes of interpretation
- Knowledge and use of a broad range of vocabulary, subject-specific terminology, and slang
- Knowledge and use of cultural nuances, regional variations, idiomatic expressions, and colloquialisms in all working languages

# Qualified Interpreter

- Speak with proper pronunciation, diction, and intonation in all working languages
- Ability to listen to and comprehend various regional accents and/or dialectical differences in all working languages
- Following interpreter ethical standards

# Code of Ethics and Professional Conduct

- Accuracy and completeness
- Representation of qualifications
- Impartiality and avoidance of conflict of interest
- Professional demeanor
- Confidentiality
- Restriction of public comment

# Code of Ethics and Professional Conduct

- Scope of practice
- Assessing and reporting
- Impediments to compliance
- Duty to report ethical violations
- Professional development

# **Strengthening Response to Gender-Based Violence**

Identifying and using effective interpreters

# Working Effectively With an Interpreter

- Tell the interpreter the circumstances/conditions
  - Speakerphone vs. passing the phone, ensuring telephonic interpreter pauses
- Tell the interpreter and LEP individual that everything will be interpreted (false starts, mumbling, cursing, and thinking out loud)
- Maintain pauses/hand signals to regulate the speaker
- Be attentive to extraneous noise

# Working Effectively With an Interpreter

- Conduct team interpreting for events lasting more than two hours
- Be aware of a LEP individual's education level, the interpreter will NOT adjust
- Explain and break down the system and legal concepts
- Do not give the interpreter any explanatory responsibilities

# Working Effectively With an Interpreter

- Use straight, simple, direct language; short phrases; and first and second person
- Speak slower not louder; go sentence by sentence and pause
- Talk through, not *to*, the interpreter; continue to speak to the LEP individual and maintain eye contact as if the interpreter is not present



# Working Effectively With an Interpreter

- Do not ask the interpreter for their opinion about the LEP individual
- Have patience; interpreted interviews will take longer
- Be aware of interpreter fatigue
- Check and recheck to be sure that the client understands using open-ended questions
- Do not be afraid to step in if you see something amiss
- Thank the interpreter!

# Telephonic Interpreter: Language Access Protocol

Ensure that patrol officers can access the telephonic interpretation service

- Smart phone
- Need to radio to have a phone brought to them
- Personal cellphone

# Telephonic Interpreter: Language Access Protocol

Provide training for officers and prosecutors to recognize bad interpretation and to ask for a new interpreter

- Factor in circumstances such as time, emergency, and necessity
- Inform the interpreter that you will be requesting another interpreter, then tell the client via an interpreter, “I will be requesting a new interpreter; please wait as I call in again for a new interpreter”
- A good practice is to record the bad interpreter’s identification number

# Vetting and Preparing Noninterpreters

- In some emergencies and exigent circumstances, it may be necessary to use a third-party bilingual individual until a phone, interpreter, or qualified bilingual member arrives
- Qualifying questions
  - Ask for experience or credentials: Is the person educated in both languages?
  - Have they worked in both languages?
  - How did they learn the language?
  - Relationship to the party?
- Review the interpreter role
  - Complete
  - Accurate
  - Neutral
- Record the use of a third-party bilingual speaker

# Spotting a Bad Interpreter

- Can you understand the interpreter?
- Does the individual look confused?
- Does the interpreter appear confused?
- Is the interpreter engaging in side conversations?
- Is the interpreter engaging in conversations with the individual before/after the interpretation meeting?
- Is the interpreter summarizing?
- Is everything being interpreted?
- Is there a change in the individual's demeanor?

# Relay Interpreting

Individual speaks  
Mixteco



Mixteco  
interpreter  
interprets into  
Spanish



Spanish and  
English-speaking  
interpreter  
interprets into  
English



Police/victim  
services  
personnel

# “Confirming Our Meeting”

A word about Google  
Translate and other forms of  
mechanized translation

Break



# **Complexities of Gender-Based Violence: Strategies for Enhancing Community Trust and Collaboration**

# What Defines a Vulnerable Population?

**(a) The term “vulnerable populations” refers to individuals or groups who, by virtue of their age, identity, status, disability, or circumstance, may be particularly susceptible to criminal victimization and may face special challenges in their interactions with the police.**

Principles in policing.org  
<https://www.policingprinciples.org/chapter-1/1-12-interacting-with-vulnerable-populations/>

# Examples of Vulnerable Populations

- People experiencing mental illness or psychiatric crisis
- People with developmental disabilities
- People who are deaf or hard of hearing, blind or visually impaired, or have other physical impairments
- People experiencing addiction or substance-related impairment
- Minors and the elderly
- People who are unhoused/lack safe housing
- **People with limited English proficiency**
- People who are lesbian, gay, bisexual, transgender, queer, intersex
- **Recent immigrants and undocumented persons**
- People involved in the sex trade

# Vulnerability

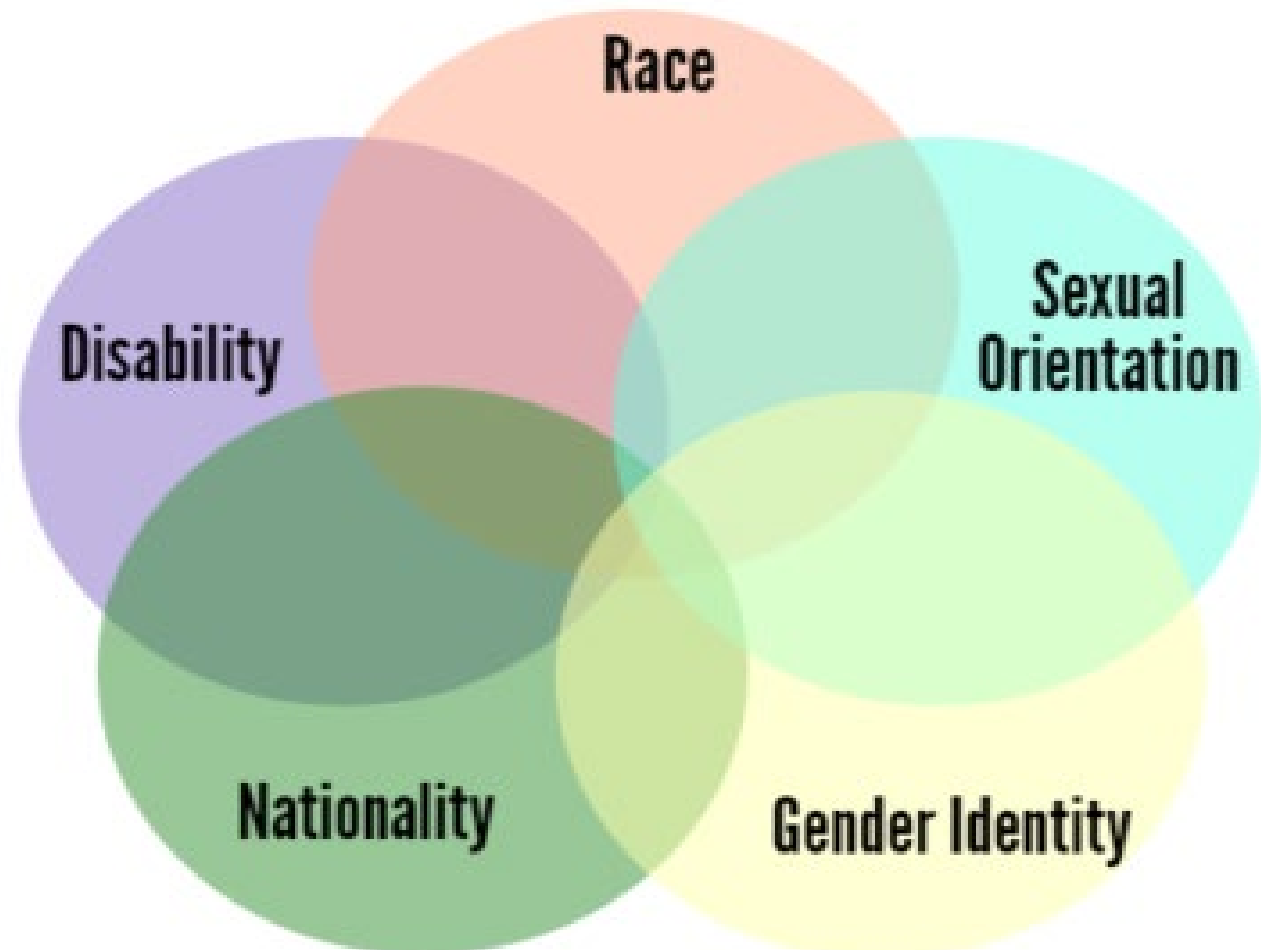
- A vulnerability may derive from a person's temporary or permanent condition, circumstances, or an inherent characteristic of the person
- Individuals may be members of more than one vulnerable group

# What Defines a Marginalized Community?

Marginalized communities include those who have been historically excluded from involvement in our cities, as well as those continuing to face other barriers to civic participation

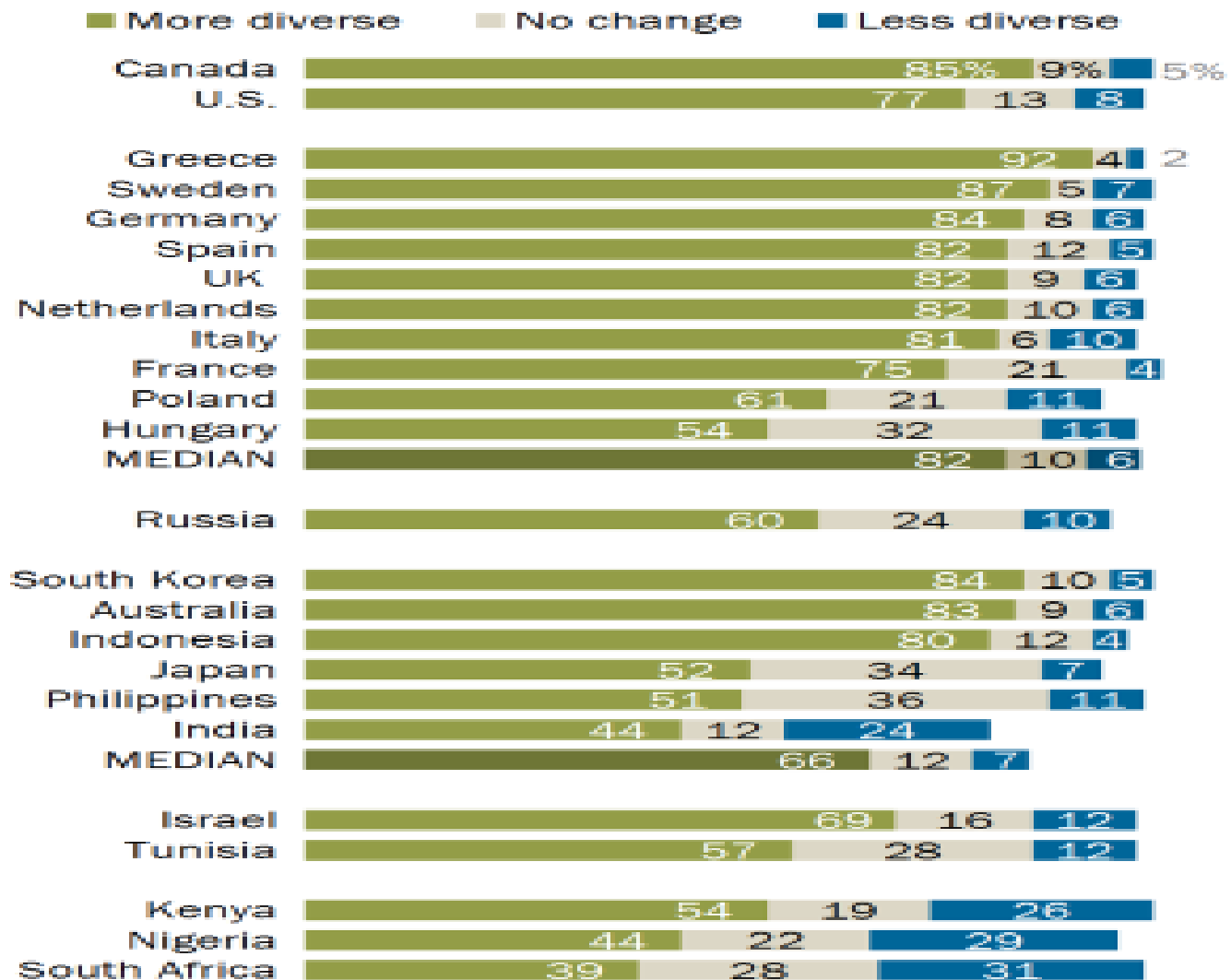
# Intersectionality

The interconnected nature of social categorizations such as race, class, and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage



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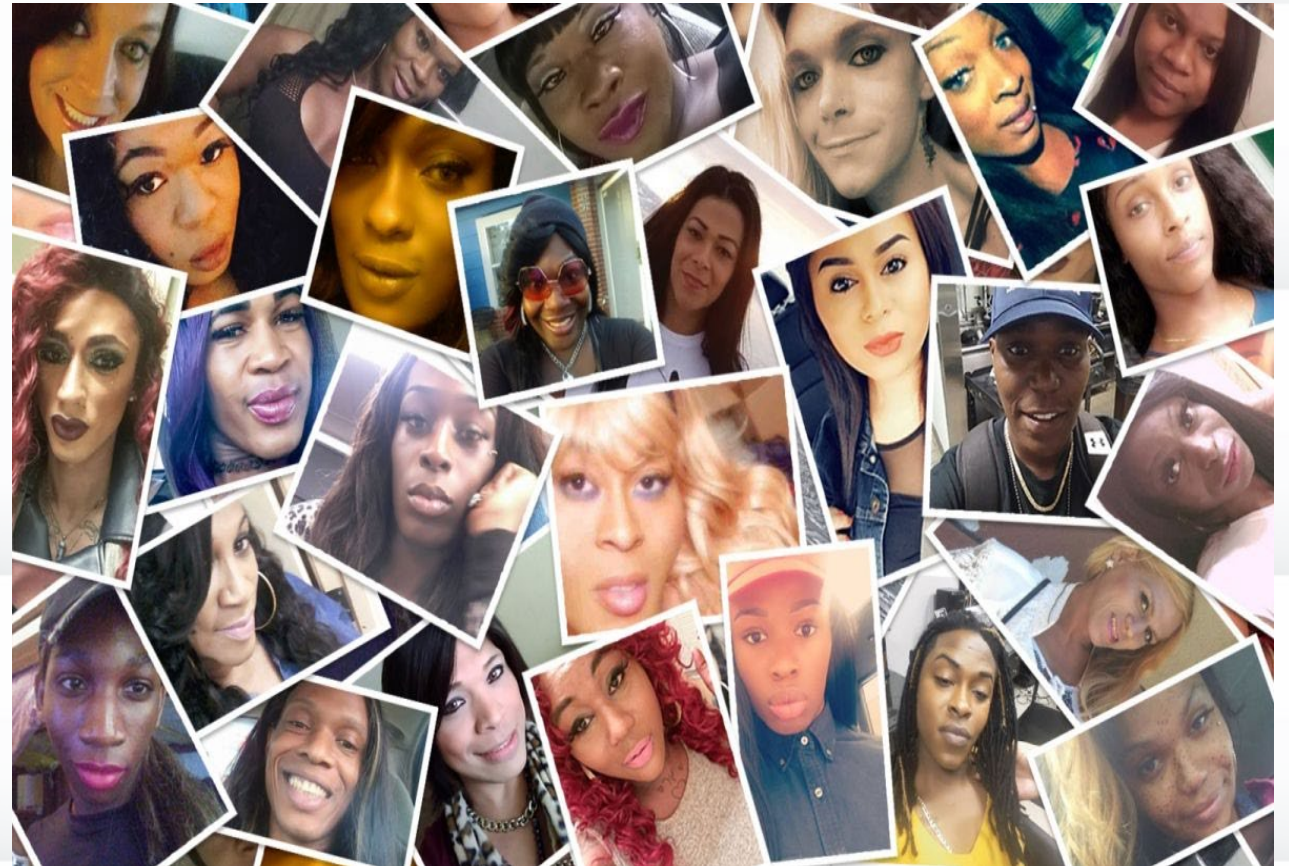
# The World Continues to Be More Diverse



<https://www.pewresearch.org/global/2019/04/22/how-people-around-the-world-view-diversity-in-their-countries/>

# Census Release Shows America is More Diverse and More Multiracial Than Ever

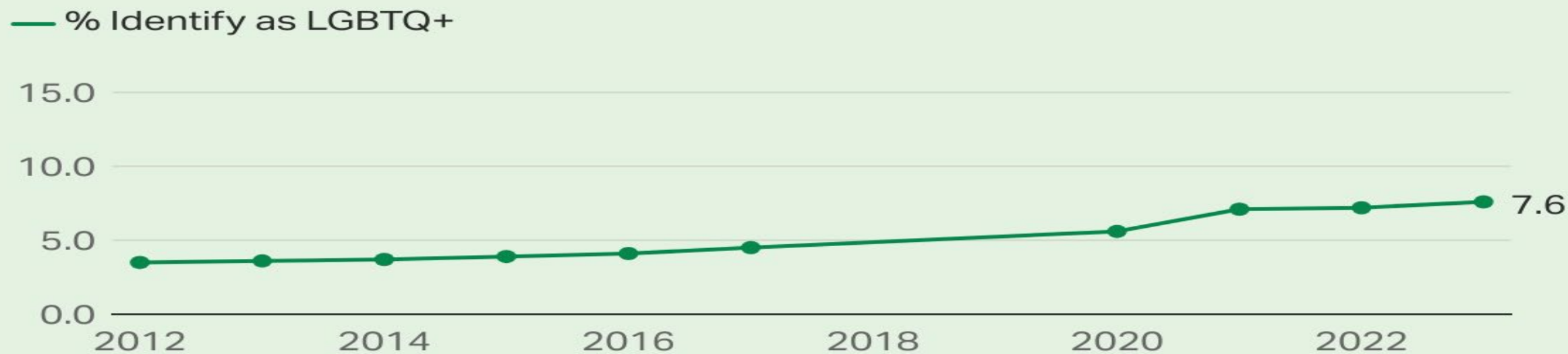
**While the under-18 population decreased during the last decade, it is rapidly diversifying. Non-White U.S. residents younger than 18 now make up 53% of the population among minors, up from 47% in 2010.**





# Americans' Self-Identification as Lesbian, Gay, Bisexual, Transgender, or Something Other Than Heterosexual, 2012-2023

Which of the following do you consider yourself to be? You can select as many as apply. Straight or heterosexual; Lesbian; Gay; Bisexual; Transgender



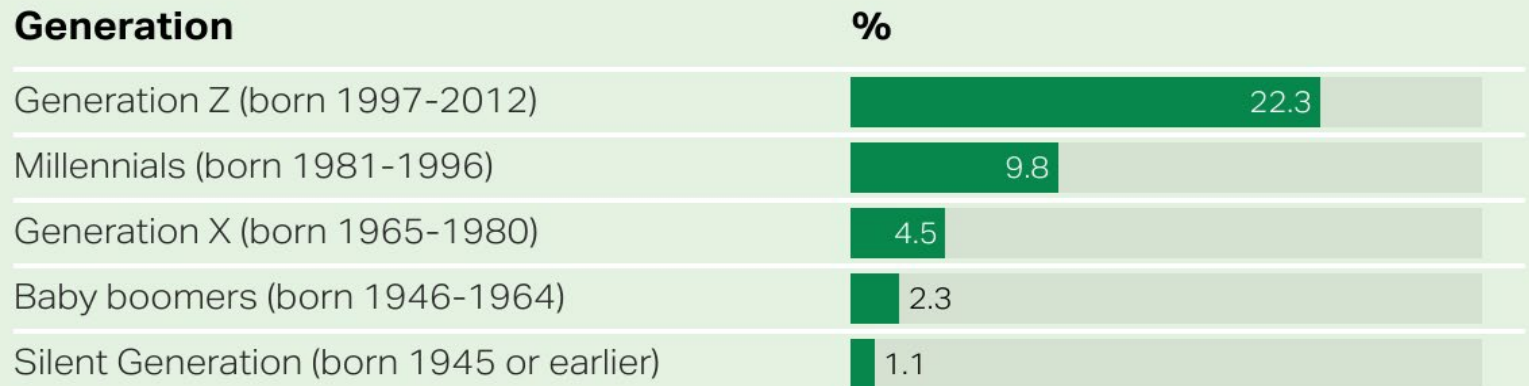
Respondents who volunteer another identity (e.g., queer; same-gender-loving; pansexual) are recorded as "Other LGBTQ+" by interviewers. These responses are included in the LGBTQ+ estimate. Data were not collected in 2018 and 2019. 2012-2013 wording: Do you, personally, identify as lesbian, gay, bisexual or transgender?

# Why It Matters:

- Overall, each younger generation is about twice as likely as the generation that preceded it to identify as LGBTQ+
- More than one in five Gen Z adults, ranging in age from 18 to 26 in 2023, identify as LGBTQ+, as do nearly one in 10 millennials (aged 27 to 42). The percentage drops to less than 5% of Generation X, 2% of baby boomers and 1% of the Silent Generation

## U.S. Adults' Self-Identification as LGBTQ+, by Generation, 2023

Figures are the percentage who consider themselves to be Lesbian; Gay; Bisexual; Transgender; or something other than heterosexual.



Based on aggregated data from 2023 Gallup telephone polls.

# “Bottom line”

#Pride

PROGRESSIVE PRIDE FLAG



WELT NACHRICHTENSENDER

- The percentage of U.S. adults who consider themselves something other than heterosexual has more than doubled since Gallup first asked about sexual orientation and transgender identity in 2012. These changes have been led by younger Americans, with about one in 10 millennials and one in five Gen Z adults having an LGBTQI+ status.
- The generational differences and trends point to higher rates of LGBTQI+ identification, nationally, in the future.
- If current trends continue, it is likely that the proportion of LGBTQI+ identifiers will exceed 10% of U.S. adults at some point within the next three decades.

Gallup – Jeffery M. Jones – March 13, 2024

<https://news.gallup.com/poll/611864/lgbtq-identification.aspx#:~:text=More%20than%20one%20in%20five%20Gen%20Z%20adults%2C%20ranging%20in,1%25%20of%20the%20Silent%20Generation.>

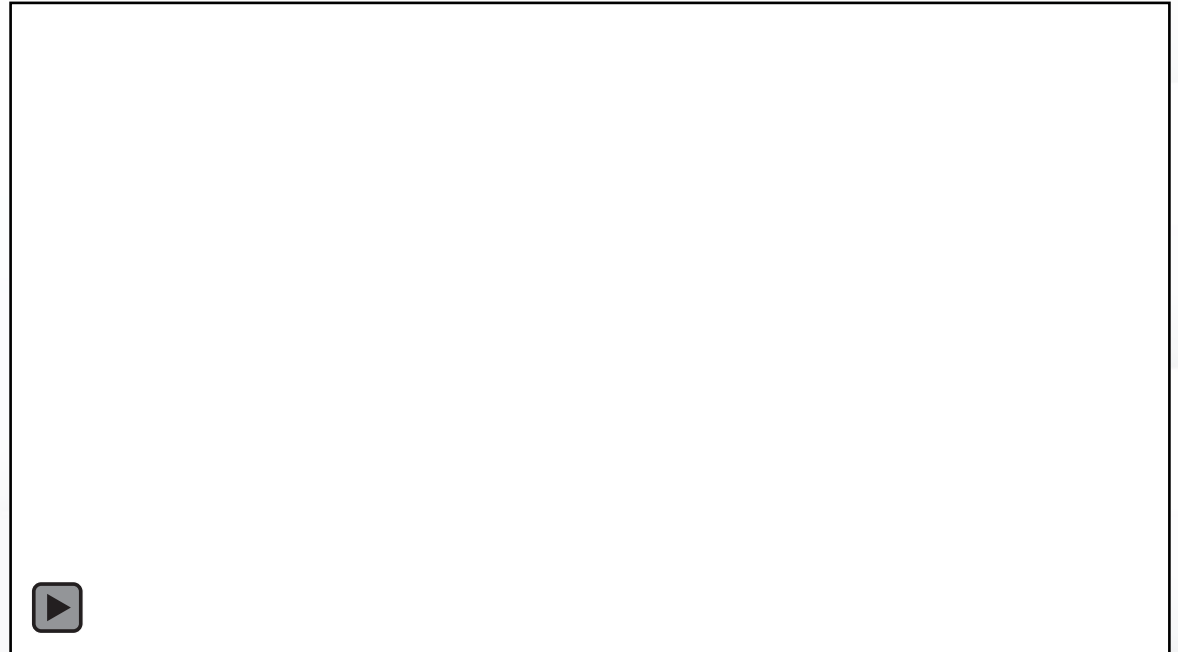
# Targeting or Ignoring One Group Can Ultimately Affect the Whole Society

*“The problem of discriminating against or marginalizing minorities is one where you’re setting the precedent for the state to use discrimination. And in its most simple form, nobody should rest comfortably with that because you don’t know when that will be turned against you for whatever reason.”*

\*Leslie Lefkow, deputy director for Africa at the organization Human Rights Watch.

# Accessing the System and Asking for Help

- Need a cop
- ***Do they?***
- Have to call 911
- Inexperienced
- Not trauma-informed
- Not the best at establishing rapport and trust
- The perception for some is that there is no way "a cop" understands my needs and my experience



# Reasons for Not Reporting

- Fear of isolation and alienation (family and friends)
- Fear of outing themselves
- Inability to access law enforcement
- Distrust of law enforcement (fear of subjecting themselves and loved ones to a criminal and civil justice system they see as sexist, and/or racially and culturally biased, homophobic, transphobic)

# How to Change Those Perceptions

- Acknowledge there is a difference
- Do not run away from or ignore the history of discrimination
- Be sensitive to the perceived perception some communities have of us
- Take steps to change that perception
- Embrace the opportunity to change someone's perception

# “GAY SH!T”





# Opening Doors to Reimagine Justice

- Recognize that even though a survivor may be from a marginalized community they also identify strongly with a religious, cultural, or ethnic community
- If you do not use the right language, get confused with the pronouns, or are not familiar with something when it comes up, that's okay!
- Apologize, acknowledge that you are still learning, and ask respectful questions to get the information you need.
  - "I'm not familiar with the term you used. Would you mind explaining it to me so that I can be better informed?"

# Widening the Lens

**An inclusive response to our  
communities**

# Widening the Lens

- Community partners
- Advocates (community/system based)
  - Mental health professionals
    - Interpreters
  - Mobility access personnel
  - Healthcare professionals

# Embracing the Differences May Mean Adjusting Your Response

## How would you respond differently to:

- An unhoused victim?
- Someone with physical or cognitive impairment?
- Someone non-binary/trans/ gender non-conforming?
- Gay, lesbian, two-spirit, bisexual, pansexual, etc.?
- Someone of a different faith?
- Someone of a different race?
- Someone of a different ethnicity?
- An immigrant?



# Embracing the Differences May Mean Adjusting Your Response



**How would you respond differently to a vulnerable victim:**

- **To build empathy and understanding?**
- **In an initial meeting?**
- **In an interview?**
- **Throughout the investigation?**

# Organizational Language Access Strategies

- Language access policy
  - A guiding framework for bilingual members
  - A guiding framework for interpreters' roles and practices
  - Evaluations
- Training and continuous education

# Community-Police Partnership

## Policy development road map

- Survivor-led participation
- Community-based language experts
- Bilingual members' participation
- Monolingual members' participation

# Road Map for Safer Communities

- Know various partners' roles
- Come to the table and have an open communication
- Create committees that form attainable goals and ensure that they are met
- Include representation from various multidisciplinary groups
- Establish policy to resolve issues that have or may come up
- Communicate about small problems immediately



# Collaboration Between Law Enforcement and Prosecution

- Maintain victim and witness contact
- Update victims on case status
- Coordinate victim services
- Investigate witness tampering and other co-occurring crimes

**Cooperation is key**



# Transcending Criminal Justice

- Human connection
- Respect
- Understanding
- Humility
- Ownership
- Commitment (internal mobilization of supporters)


# Resources

- **Technical Assistance**
  - Call: (202) 274-4457
  - Email: [niwap@wcl.american.edu](mailto:niwap@wcl.american.edu)
  - Web library: <https://niwaplibrary.wcl.american.edu/>
- **Materials for certifying agencies on best practices for working with immigrant victims**
  - <https://niwaplibrary.wcl.american.edu/law-enforcement-training-materials>
  - U and T Visa Certification Toolkit
  - DHS U Visa Certification Resource Guide
  - Roll call training videos
  - DHS Victim-Centered Approach


# Working With Interpreters: Strategies (Telephonic)

Tips for working with telephone interpreters, available at:

[https://www.lep.gov/resources/TIPS%20FOR%20WORKING%20WITH%20TELEPHONE%20INTERPRETERS%20%2003-19-14%20\\_%20508.pdf](https://www.lep.gov/resources/TIPS%20FOR%20WORKING%20WITH%20TELEPHONE%20INTERPRETERS%20%2003-19-14%20_%20508.pdf)



## TIPS FOR WORKING WITH TELEPHONE INTERPRETERS



**BEFORE YOU START:**

- Know the target language (and preferably the dialect) for interpretation ahead of time
- Listen to a demonstration:
- Explore the vendor's website:
- Know how to use your conference call or three-way calling features
- If your meeting is longer than 30 minutes, try to schedule an in-person interpreter

*If you have line quality problems before reaching an interpreter, press  to be transferred. Ask the representative to stay on the line to check for sound quality.*

*If you have problems connecting to an interpreter, call Customer Service:*

**PLACING THE CALL:**

Call: [  ]  
 (Client ID/Access Code:  )

The number and Client ID should not be shared with outside entities.

**AT THE START OF THE CALL:**

Record the interpreter's ID number, introduce yourself and the interpreter, and define the role of the interpreter in the conversation. Be sure to let all parties know that they may be asked to stop, rephrase, or clarify throughout the call.

- ✓ Talk directly to the LEP individual, not the interpreter. For example, "What is your name?" and not "Please ask the caller for their name."
- ✓ If the LEP individual is willing to share, **obtain the caller's phone number** in case of accidental disconnection.
- ✓ **Pause after one or two sentences** to allow for interpretation
- ✓ **Ask one question at a time.**
- ✓ **Speak clearly** at a normal pace and refrain from technical language.

*If you think something is wrong with the interpretation, feel free to ask the LEP individual:  
 "Would you mind repeating back to me what I said, so that I can make sure I am communicating clearly?"*

**If you believe that your communication with the LEP individual has been compromised by the quality of interpretation, END THE CALL.**

Call the telephone interpretation service to obtain a new interpreter. Once you have successfully completed your call with a new interpreter, please provide feedback as noted.

**AN INTERPRETATION MAY NOT BE GOING SMOOTHLY IF:**

- The interpretation is too long or too short compared to the length of the material being interpreted;
- The interpreter repeatedly asks for clarification;
- It sounds like the interpreter is having a side conversation with the LEP individual;
- The LEP caller corrects or appears to disagree with the interpreter;
- The LEP caller begins to speak in halting and incorrect English;
- The interpreter or the LEP caller is becoming increasingly impatient;
- It sounds like the interpreter is using many English terms to convey the meaning of your conversation; or
- The interpreter does not conduct himself or herself in a professional manner.

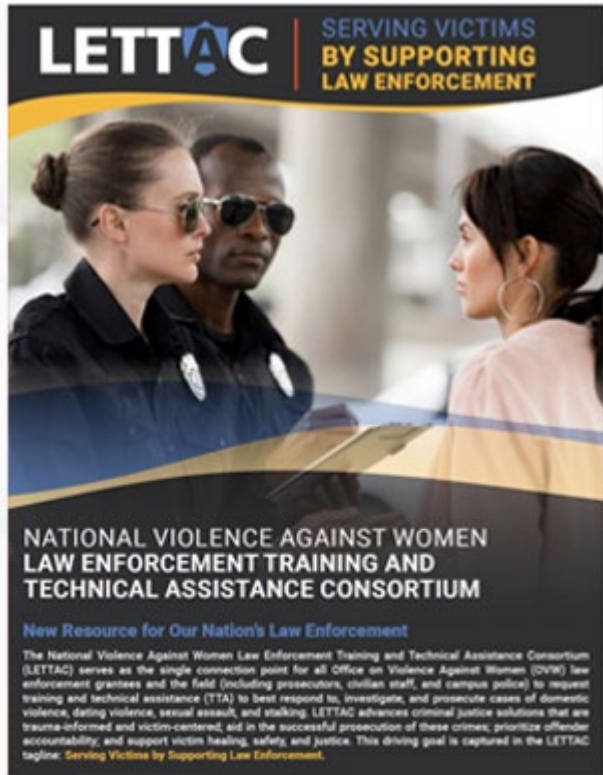
**PROVIDING FEEDBACK:** If you encounter technical problems or have questions, contact your section's Language Access Point of Contact:

For additional copies or technical assistance in language access matters, contact the Federal Coordination and Compliance Section at LEP@usdoj.gov April 28, 2014

# Language Access Resources

- U.S. Department of Justice, Civil Rights Division, Federal Coordination and Compliance Section (FCS)  
[www.justice.gov/crt/cor](http://www.justice.gov/crt/cor)
- [www.lep.gov](http://www.lep.gov)
- API-GBV, Interpretation Technical Assistance Resource Center, Cannon Han: [chan@api-gbv.org](mailto:chan@api-gbv.org) | (415) 568-3314
- Vera Institute of Justice Center on Victimization:  
<https://www.vera.org/securing-equal-justice/ensuring-access-for-people-with-disabilities-and-deaf-people>

# Your Voice Matters



- Your feedback today will improve and shape future events
- Share LETTAC with colleagues and be our champions

QR  
Codes

[www.LETTAC.org](http://www.LETTAC.org)