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ALSO INSIDE:

- Strategies for Crowd Control pg 42
- Making the Case for Triad pg 46
- Plane Down! pg 52

PROTECTING OUR COMMUNITIES AND OFFICER SAFETY

The U visa as a crime-fighting tool

By Officer Michael P. LaRiviere, Nick Guthman, and Benish Anver

As a law enforcement officer, you might be thinking, “How could the U visa increase officer safety?” The reality is the two have many connections.

Let us start by explaining what a U visa is and what it does. The U visa is a form of relief available from the Department of Homeland Security (DHS) that can be sought by immigrant victims of certain crimes, including domestic violence, sexual assault, human trafficking, stalking, felonious assault, kidnapping, and other serious crimes. (See “Qualifying Criminal Activities”) Congress provides 10,000 U visas per fiscal year, and victims whose cases are approved by DHS receive protection from deportation while they await their visas. This creates at least 10,000 potential opportunities for law enforcement to learn about dangerous offenders in their communities.

How dangerous? Note the lethality of domestic violence offenders; approximately 45.9 percent of U visas are issued to victims of domestic violence. The criminals who commit one or more of the 28 U visa-qualifying crimes are capable of the most violent acts that can be committed upon another person.

As powerful as those two connections are, no example is as powerful as the firsthand account of an undercover officer working in a major metropolitan city, who shared the following story with us at a training on U visas.

The officer and his partner had infiltrated one of the most violent gangs in the area. Unbeknownst to them, the gang leader and his fellow members were assaulting the gang leader’s undocumented girlfriend in unspeakable ways.

She sought help from the department’s domestic violence unit. She cooperated in the investigation into her abuse, and the unit signed a U visa certification for her to file for U visa protection. As a result of these interactions, the victim overcame her fear and began to trust the system’s ability to help her. One day, she told the investigators working

on her case that the gang knew about the undercover officers and planned to kill them.

Without the trust built between the department and the victim as a result of the U visa certification process, the officers would be dead. Instead, several violent criminals were taken off the street. That is just what Congress intended when it created this crime-fighting tool.

Powerful weapons to help vulnerable populations

Forms of relief such as the U visa, together with new Department of Justice (DOJ) policing guidelines, will help keep officers, victims, and communities safe.

In December, the DOJ issued guidelines designed to help law enforcement agencies enhance policies that improve their ability to investigate and arrest individuals committing sexual assault and domestic violence. The guidance serves two key purposes. First, it aims to enhance law enforcement response to calls on domestic violence, sexual assault, human trafficking, and sex trafficking, with an emphasis on protecting the victim and maintaining safety in the community.

Second, it provides a set of basic principles to help increase the quality of investigations that leads to more successful prosecutions of violent criminals. The guidelines highlight the importance of building trust with a wide range of populations, including immigrant victims, who may be hesitant to come forward and report violent offenders. By dedicating additional attention and resources to law enforcement’s response to such crimes, we will be better able to meet the needs of victims and the communities we serve and, as illustrated by the story above, further enhance officer safety.

While the National Intimate Partner and Sexual Violence Survey reports the domestic violence rate among women in the United States to be about 35.6 percent, the rate among immigrant women has been reported



Officer Michael P. LaRiviere

to reach upward of 50 percent. Additionally, immigrant women with U.S. citizen spouses have reported abuse rates at nearly 60 percent. These numbers represent a vulnerable population in need of access to law enforcement and justice system assistance. The victim in the story above is just one of the many women who want to place their trust in law enforcement professionals and, in seeking to protect themselves and their children, also enhance the safety of their neighbors and communities by coming forward.

The law enforcement certification for the U visa, Form I-918B, is a required piece of evidence to confirm that a qualifying criminal activity has occurred and that the victim was helpful, is being helpful, or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity. (See “Defining Helpfulness”)

It is important to note that federal, state, and local law enforcement agencies *do not* grant nor guarantee a U visa or any other immigration status by signing Form I-918B. The certification solely indicates that the applicant was a victim and cooperated with law enforcement; DHS makes the ultimate decision after conducting a full background check of the victim.

Not only is the U visa available to help undocumented immigrant crime victims, it also provides protection for eligible immigrants who are here on student visas or temporary work visas. It is important to be mindful of these populations when working with victims.

Through the U visa process, officers can establish positive relationships with crime victims. By creating the space for victims of these serious crimes to come forward and help us hold the most violent offenders in our communities accountable, the U visa becomes a tactical strength and a mechanism to reduce risk to victims and officers.

Moreover, an effective law enforcement response to domestic violence, sexual assault, stalking, and human trafficking doesn't just foster victim confidence in law enforcement. It also makes victims more likely to report future or continuing incidents of violence, according to research by the National Immigrant Women's Advocacy Program (NIWAP) at American University Wash-

ington College of Law. Thus, it is my hope that everyone who reads this article will remember the two officers whose lives were saved as a result of the U visa certification process and recognize the value of the U visa as a crime fighting tool.

NIWAP is excited to partner with the National Sheriffs' Association to host trainings and officer-to-officer roundtable discussions as a way to collaborate and learn more about the U visa. These monthly discussions are intended to foster honest conversations between officers, while developing actionable steps that we can take back to our communities. Furthermore, NIWAP and its team of law enforcement officer faculty can provide free training and technical assistance for law enforcement agencies on U visa certification best practices. For more information, visit niwap.org/request-training or call 202-274-4457. 🌟

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DEFINING HELPFULNESS

The Department of Homeland Security defines helpfulness as "... being, or is likely to be, helpful in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity. This means that since the initiation of cooperation, the victim has not unreasonably refused to cooperate or failed to provide information and assistance reasonably requested by law enforcement or prosecution in connection with a criminal investigation or prosecution.

"United States Citizenship and Immigration Services (USCIS) will not provide a U visa to those petitioners who, after initially cooperating with the certifying official, refuse to provide continuing assistance when reasonably requested. USCIS also will not approve the petitions of those who are culpable for the qualifying criminal activity."

(For more information, see "DHS U & T Visa Law Enforcement Resource Guide," niwaplibrary.wcl.american.edu/pubs/dhs-updated-u-certification-resource-guide-2015, and "U Visa Toolkit for Law Enforcement Agencies and Prosecutors," niwaplibrary.wcl.american.edu/pubs/lea-u-visa-toolkit.)

QUALIFYING CRIMINAL ACTIVITIES

- Abduction
- Abusive sexual contact
- Blackmail
- Domestic violence
- Extortion
- False imprisonment
- Felonious assault
- Female genital mutilation
- Fraud in foreign labor contracting
- Hostage
- Incest
- Involuntary servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of justice
- Peonage
- Perjury
- Prostitution
- Rape
- Sexual assault
- Sexual exploitation
- Slave trade
- Stalking
- Torture
- Trafficking
- Witness tampering
- Unlawful criminal restraint
- Related criminal activities (See DHS guidelines for more information)