

***May 23, 2023***

**Office on Violence Against Women (OVW)**

**National Violence Against Women**

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

**2023 Conference on Crimes Against Women**

**The U Visa & Language Access: Tools to Increase  
Immigrant Victim Participation in the Justice System**

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**LETTAC**

# We Look Forward to Supporting You!

# LETTAC

**LETTAC** | SERVING VICTIMS BY SUPPORTING LAW ENFORCEMENT

**NATIONAL VIOLENCE AGAINST WOMEN LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE CONSORTIUM**

New Resource for Our Nation's Law Enforcement

The National Violence Against Women Law Enforcement Training and Technical Assistance Consortium (LETTAC) serves as the single connection point for all Office on Violence Against Women (OVW) law enforcement grantees and the field (including prosecutors, civilian staff, and campus police) to request training and technical assistance (TTA) to best respond to, investigate, and prosecute cases of domestic violence, dating violence, sexual assault, and stalking. LETTAC advances criminal justice solutions that are trauma-informed and victim-centered, aid in the successful prosecution of these crimes, prioritize offender accountability, and support victim healing, safety, and justice. This driving goal is captured in the LETTAC tagline: *Serving Victims by Supporting Law Enforcement.*

**LETTAC STRUCTURE AND DESIGN: INNOVATIVE AND PROGRESSIVE**

LETTAC is transforming the way that TTA on Violence Against Women Act (VAWA) and intimate partner violence (IPV)-related crimes is delivered by combining funds from several DVW grant programs into one force-multiplying Consortium, LETTAC. This smart government approach maximizes resources, minimizes duplication, and enhances collaboration.

LETTAC is designed to support the full range of law enforcement TTA needs of current and potential DVW grantees. This comprehensive capability will be facilitated through the LETTAC Resource Center, composed of three main components:

- A TTA request portal
- The LETTAC Clearinghouse, which enables users to create, save, and share unique toolkits to address priorities and interests
- An online learning center (Self-learning) to provide quality training to justice practitioners regardless of geography, available travel budgets, or prescribed time schedules.

**LETTAC PRINCIPLES**

Prioritizing Inclusivity	Ensuring Efficiency and Agility	Sharing Solutions, Serving Victims
Supporting all law enforcement, including those in deeply traditionally underserved and still consistently experience challenges in technology resources (such as rural jurisdictions)	Maximizing U.S. Department of Justice (DOJ) and OVW investments by leveraging existing resources, talents, and technologies	Identifying proven and innovative evidence-based practices to promote promising practices to leverage and replicate
Sharing of services and expertise, including those in culturally specific communities with disabilities, and the elderly	Responding to new priorities, including DOJ's commitment to foster trust and legitimacy to communities we serve, based on community-based efforts, strategic enforcement priorities, and capture metrics and measures	Declassifying success stories to share real-world stories of how law enforcement, prosecutive resources, and local peer communities and the LETTAC community of practice
Developing resources for immediate usability for all levels of technology expertise and independence of special response	Developing consistent TTA process for all responses	Keeping all the functions of LETTAC's practice ready for our partners by supporting law enforcement

**WHY WE DO WHAT WE DO**

- 21% of our nation's violent crime (with domestic violence included) is being a "victim of a crime"
- More than 85% of female homicides are "crimes of passion"
- Law enforcement grantees made 48,473 arrests in response against domestic violence in the last 10 years (2008-2017)
- About 1 in 3 women and nearly 1 in 4 men experienced some form of contact sexual violence in the United States during their lifetimes

**LETTAC EXPERTS = LETTAC STRENGTH**

Because of the Consortium—the cadre of leaders, experts, and innovators seasoned in addressing VAWA and IPV challenges and priorities—LETTAC truly is a one-stop, by-the-field-for-the-field resource. LETTAC was shaped by and continues to evolve thanks to the generous contributions of time and talents from the National Stakeholder Partnership (NSP) members and a cadre of subject-matter experts (SMEs).

The LETTAC NSP is an executive collaborative guiding LETTAC development, implementation, and evolution. The NSP comprises premier leaders at all levels of government, constituting a collective of long-standing expertise across the range of LETTAC areas of focus.

The LETTAC SMEs constitute a deep bench of TTA providers poised to guide and support all law enforcement practitioners involved in addressing VAWA- and IPV-related crime (including prosecutors, line officers, civilian staff, campus police, and self-center personnel) and all jurisdictions and locations served (including tribal nations and culturally specific communities and groups). At the core of the Consortium's responses to TTA requests, these experts are the backbone of LETTAC.

**ABOUT OUR FEDERAL FUNDER: OVW**

The Office on Violence Against Women (OVW), an office within the U.S. Department of Justice, provides federal leadership in developing the national capacity to reduce violence against women and administer justice for and strengthen services to victims of domestic violence, dating violence, sexual assault, and stalking. OVW was created following the Violence Against Women Act (VAWA) of 1994. VAWA was renewed in 2005 and again in 2013. Visit [www.justice.gov/ovw](http://www.justice.gov/ovw) for more about the Office; OVW-supported publications and blogs; funding information, guidelines, and resources; and links to information about the crimes of domestic violence, dating violence, sexual assault, and stalking. A listing of the OVW grant programs, designed to strengthen services to victims and hold offenders accountable, is available at [www.justice.gov/ovw/grant-programs](http://www.justice.gov/ovw/grant-programs). LETTAC is supported with funding from several of these programs.

**LETTAC RESOURCE CENTER NOW LIVE!**

VISIT AND SHARE [WWW.LETTAC.ORG](http://WWW.LETTAC.ORG).  
QUESTIONS AND NOTES WELCOME! CONTACT@LETTAC.ORG

1. Rosen, Paul. "2016: Domestic Violence in the Lives of Adult Women and the Role of Intimate Partner Violence – Annual Report 2016." IPV: A Crime, A Consequence. Washington, DC: U.S. Department of Justice, 2016.  
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# Faculty



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# Who We Are

- The National Immigrant Women's Advocacy Project (NIWAP) at American University Washington College of Law
- Provide technical assistance, training, and advocacy that promote the implementation and use of:
  - Laws, policies, and practices to improve legal rights, services, and assistance for immigrant victims of domestic violence, sexual assault, stalking, human trafficking, child abuse, and other crimes.



# Who We Provide Technical Assistance To

- Local, State, and Federal law enforcement, prosecutors, victim advocates, judges, attorneys, and other professionals.
- NIWAP supports professionals in the field working with immigrant crime victims so that they are more effective in helping more victims access all the help for which victims and their children are legally eligible.



# Virtual Roundtables

- Law enforcement & prosecutors only
- Interactive discussion
  - Strategies to build rapport, establish trust, and ensure safety
  - Ask questions from subject-matter experts and peers
- To register, visit [www.surveymonkey.com/r/RT2022Registration](http://www.surveymonkey.com/r/RT2022Registration)



# USB Drive and Web Materials

- U Visa Toolkit For Law Enforcement Agencies and Prosecutors
- DHS: U and T Visa Law Enforcement Resource Guides
- DHS memos and policies
- Tools for officers to promote language access
- Bluecard Tool Screening Victims for Immigration Protections
- Prosecutor's tools
- Training materials law enforcement and prosecutors  
<https://niwaplibrary.wcl.american.edu/law-enforcement-training-materials>

# General Caveats

- Women, men, and children can qualify for U Visas
- Victims/Survivors of almost all violent crimes, and many other crimes, are eligible to apply for U Visas

*That said, many examples in this presentation will refer to female victims of domestic violence and/or sexual assault because they make up a large majority of the U Visa applications filed*



# Learning Objectives

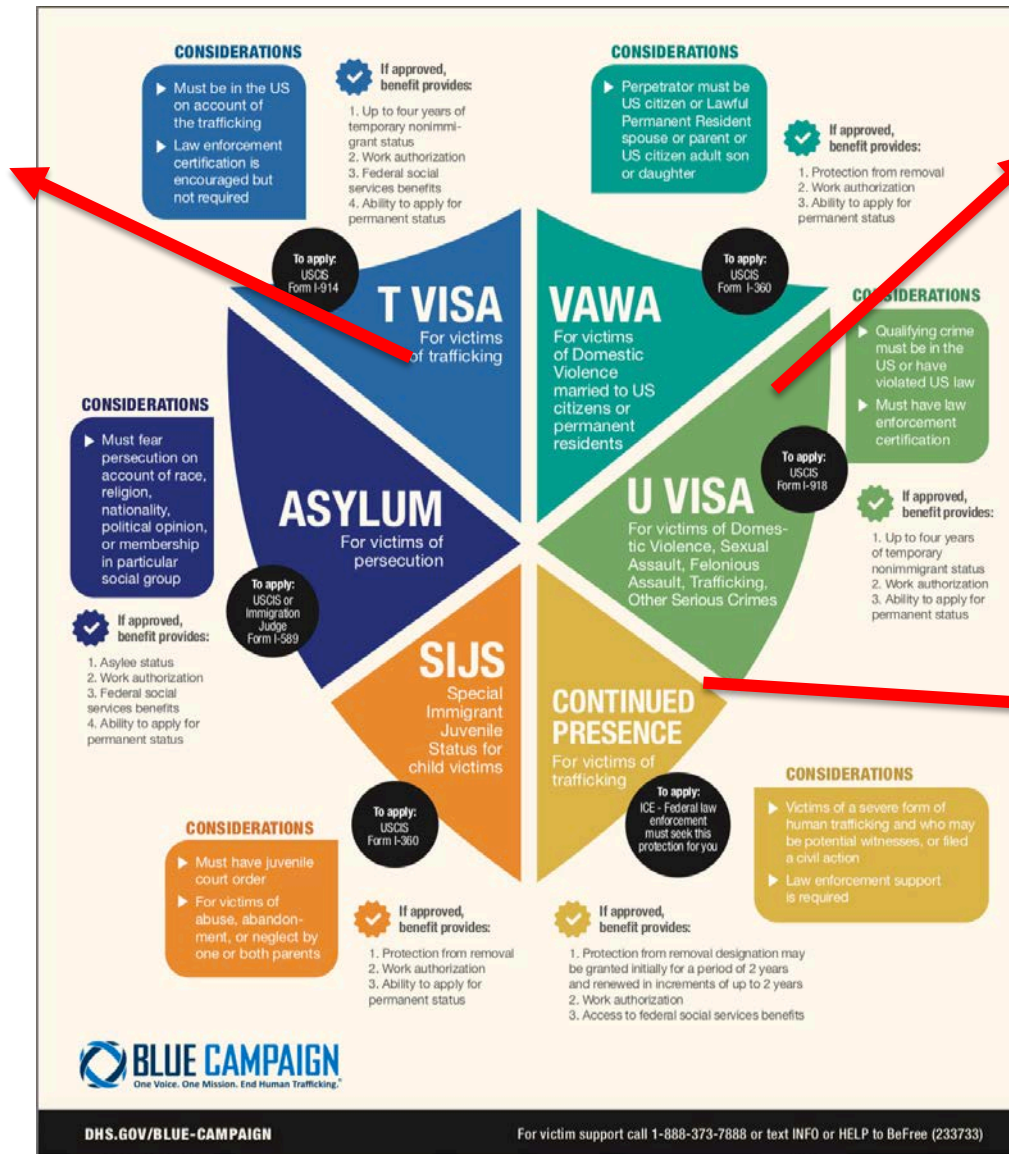
By the end of this workshop, you will be able to:

- Hold offenders more accountable by using the U and T Visa certification process as a crime fighting tool
- Enhance victim safety and participation in the criminal justice system
- Enhance officer/victim/community safety using language access and certification programs

# How Best Practices in Domestic Violence Investigations Promote Officer Safety

# Immigration Relief for Crime Victims

**T VISA**  
For victims of trafficking



**U VISA**  
For victims of Domestic Violence, Sexual Assault, Felonious Assault, Trafficking, Other Serious Crimes

**CONTINUED PRESENCE**  
For victims of trafficking

**To apply:**

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

# Legislative Intent

- We want crimes reported to police
- Improved community policing helps everyone
- No one should be a victim of crime
- Offenders prey upon the most vulnerable in our communities, often immigrants
- Without victims reporting crimes, we won't know about the most dangerous offenders
  - Domestic violence
  - Sexual violence
  - Stalking

# Goals of Immigration Relief



# IACP 2018 Resolution

- Recognizes U and T Visas as significant crime-fighting tools 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.”*

# 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.**
- 65% of immigrant survivors report some form of immigration-related abuse (NIJ, 2003)

\*Edna Erez and Nawal Ammar, Violence Against Immigrant Women and Systemic Responses: An Exploratory Study (2003)



# Immigration-Related Abuse

- Refusal to file immigration papers on spouse/child/parent's behalf
- Threats or taking steps to withdraw an immigration case filed on the survivor's behalf
  - Family or work-based visas
- Forcing survivor to work with false documents
- Threats/attempts to have her deported
- Calls to DHS to turn her in – have her case denied

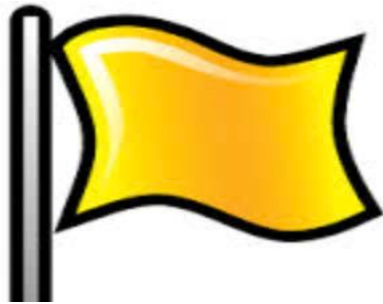
# Rationale

- 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 (Feb. 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)*

# Filing and VAWA Confidentiality

- Original signed certification must be included in the victim's U visa application
  - Certifier keeps a record of certification
  - Sealed original recommended
- Once the initial application is processed:
  - Victim's case is flagged in the DHS computer system which generates an alert that victim is protected by VAWA confidentiality (8 U.S.C. 1367)



- Case is flagged notifying immigration officials about pending or approved VAWA, U visa or T visa case.

# What prevents immigrant victims from reporting crime?

# Fears

- Deportation
- Circumstances in their home country
- Separation from children
- Lack of contact with family
- Dangers facing their family in their country of origin
- Ostracism from their community
- Retaliation

# Misconceptions

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

# Barriers

- Do not speak or understand English
- Financially depend on the perpetrator
- Isolation
- Lack of transportation or childcare
- Community pressure
- Family pressure
- Religious factors

Immigration relief

Misconceptions

Language access

Fear

Barriers



# Language Access

Best practices to successfully investigate  
and prosecute cases involving limited  
English proficient victims

# How do law enforcement and prosecution benefit from the U visa and language access?



# U Visa and Language Access Benefits to Law Enforcement and Prosecutors

- Encourages victims to report crimes
- Improves investigation and prosecution of violent crimes
- Increases potential to convict most dangerous criminals
- Demonstrates commitment to protecting immigrant community members
- Enhanced immigrant community involvement
- Makes it easier to identify victim witnesses
- Reduces repeat calls and recanting victims
- Fosters community policing partnerships
- Enhances officer and community safety

# Title VI of the Civil Rights Act 1964

*No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.*

Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000d

# Meaning of Title VI

- If an organization receives any federal funds
- All aspects of the organization must take reasonable steps to provide meaningful access to programs, benefits, and services offered by the organization to persons with LEP

# What is Meaningful Access?

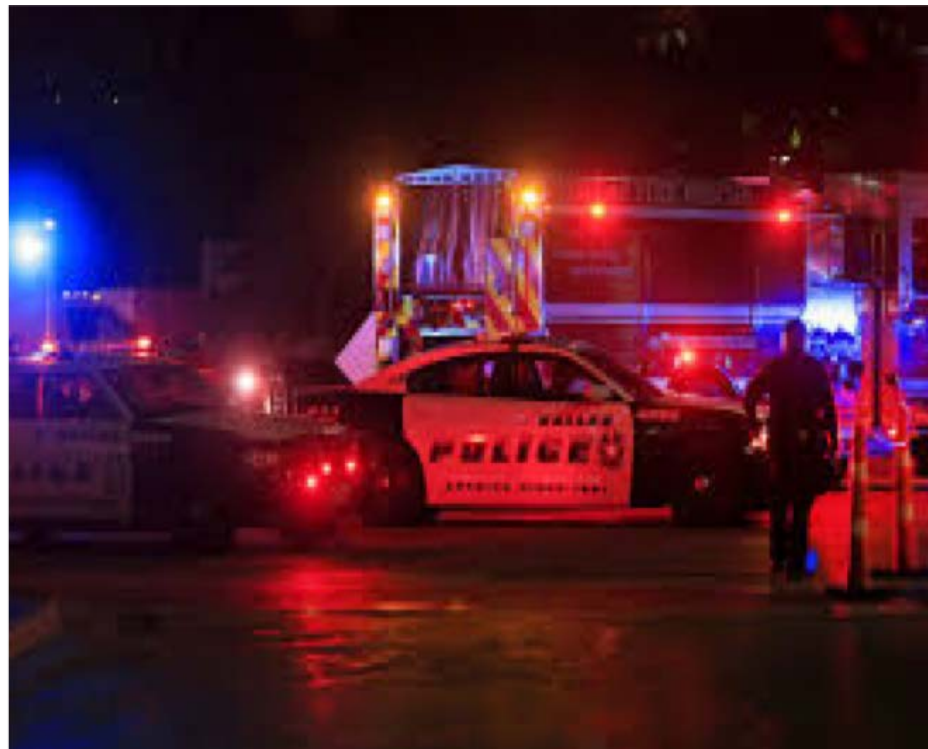
Defined in the DOJ's own Language Access plan as:

*“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.”*

# DOJ Model Guidance

- Police provide free language access to:
  - LEP persons who request it
  - When officer decides it is helpful to the criminal investigation or prosecution
- Police will inform members of the public that language assistance is available free of charge
- Language access provided in persons' primary language
  - DOJ Sample Policy Center City Police Department
  - DOJ Approach to language access outline in:
    - Steps for Obtaining Interpreters

# First Responders: What do you do when you arrive at a crime scene?





# First Response

- Locate and secure the scene
- Are there any weapons?
- Is anyone injured?
- Identify the people involved
  - Victim
  - Offender
  - Witnesses
- If offender is not on the scene
  - Where is the suspect?
  - Are they a continuing danger?
  - Is suspect in possession of weapon?



# DOJ and Exigent Circumstances

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

# Who do you choose that speaks English to interpret on the crime scene under exigent circumstances?

- What are the pros/cons of that choice?

# What could happen if evidence is incorrectly interpreted in:

- Police reports
- Victim statements
- Witness interviews

# DOJ Requirements for Investigations & Interrogations

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

# Use a Qualified Interpreter

- Writing a police report
- Detective interviews
- Taking initial statements
- Crime scene interviews
- Communication relating to taking photographs
- Formal interviews at the station
- Developing probable cause
- Preparing case for prosecution

# Case Study - Jose Lopez Meza (2008)

- Charged with first-degree murder – Charge was dropped to manslaughter
  - Baby died after Meza shook his 3-week-old son so violently the child's brain began to swell, ultimately killing him
  - Detectives used a Spanish-speaking officer to assist with the interview
  - Review of the tapes by court-appointed certified interpreters revealed that the officer interpreting left out some of the information and misinterpreted several statements made by the suspect and the detective

# A Qualified Interpreter Should Be

- Someone who is able to interpret effectively, accurately, and impartially, both:
  - Receptively = understanding what the person who is LEP or with a disability is saying
  - Expressively = having the skill needed to convey information back to that person
- Training includes:
  - Distinct role, professionalism, and ethics

*\*\* Different than Certified Interpreter \*\**



# “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.”

“Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons,”  
Department of Justice, 2002.

# U Visas as a Crime Fighting Tool

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

**What do you know about or  
what has your experience  
been with U Visas?**

# U Visa Eligibility

The victim will indicate that they satisfy the three eligibility components in their U visa application (I-918 form).

## **The person is a U visa victim**

- Victim of a qualifying criminal activity
- Victim possesses information about the crime
- Criminal activity occurred in U.S. or violated U.S. law

## **Victim is “Helpful”**

- Victim “has been, is being, or is likely to be helpful” in “detection, investigation, prosecution, conviction, or sentencing”

## **Victim suffered harm**

- Substantial physical or mental abuse as a result of the qualifying criminal activity

# U Visa Statistics

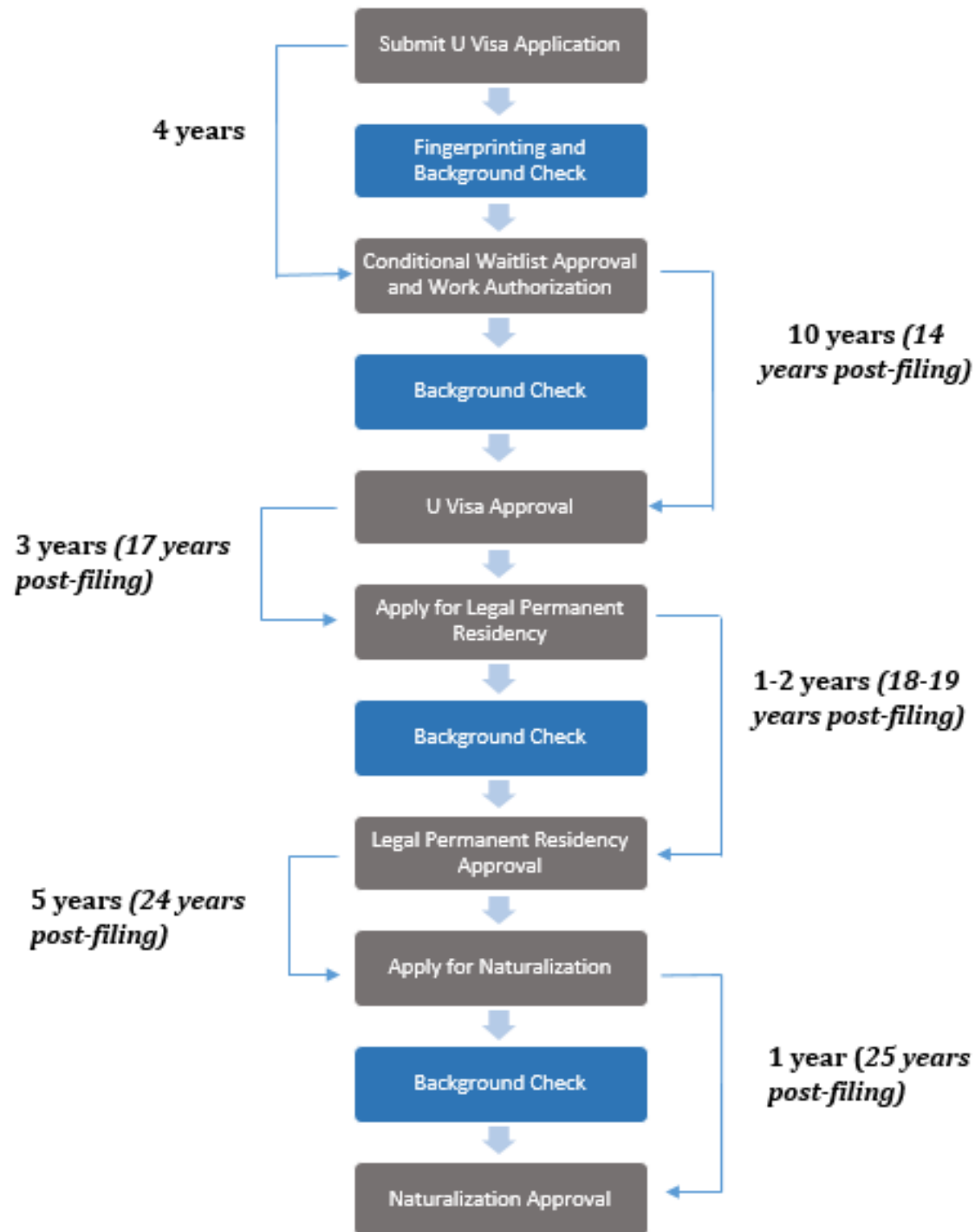
11/2011

% of U Visas	Criminal Activity
<b>76.1% = Domestic Violence &amp; Sexual Violence</b>	
9.9%	Felony Assault, Murder, Manslaughter
8.47%	Kidnapping, Being Held Hostage, Unlawful Criminal Restraint, Torture
5.3%	Blackmail, Extortion, Perjury, Obstruction of Justice, Attempts, Conspiracy, Solicitation

# U Visa Basics

- Law enforcement certification is
  - A filing requirement
  - Just one part of the overall process; it does not = citizenship
- Meant to promote reporting of crime
- Targets offenders who prey on most vulnerable victims
- Offender may be citizen or non-citizen
- Can be “revoked”
- Increases immigrant victim justice system participation
  - Rises significantly after the victim receives bona fide determination = work authorization/deferred action
- Bona fide = protection during the wait for U visa
  - Limited to 10,000 per year

# U Visa Process Timeline



A closer look at what U Visa  
Certification attests to:

**THIS PERSON IS A VICTIM OF A  
QUALIFYING CRIME**



# Qualifying Criminal Activity

Abduction	Hostage	Sexual Assault
Abusive Sexual Contact	Incest	Sexual Exploitation
Blackmail	Involuntary Servitude	Slave Trade
Domestic Violence	Kidnapping	Stalking
Extortion	Manslaughter	Torture
False Imprisonment	Murder	Trafficking
Felonious Assault	Obstruction of Justice	Witness Tampering
Female Genital Mutilation	Peonage	Unlawful Criminal Restraint
Fraud in Foreign Labor Contracting	Perjury	Prostitution
Rape	Attempt, conspiracy, or solicitation to commit crime or similar activity	
	These are general categories, and not specific crimes or citations to a criminal code.	

# Types of Qualifying Criminal Activity

- Commission 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

# Indirect Victim and Bystander Applicants

- Parents and guardians can apply as an “indirect victim” if:
  - The direct victim is a child under 21 years of age and/or
  - 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

A closer look at what the U Visa certification attests to:

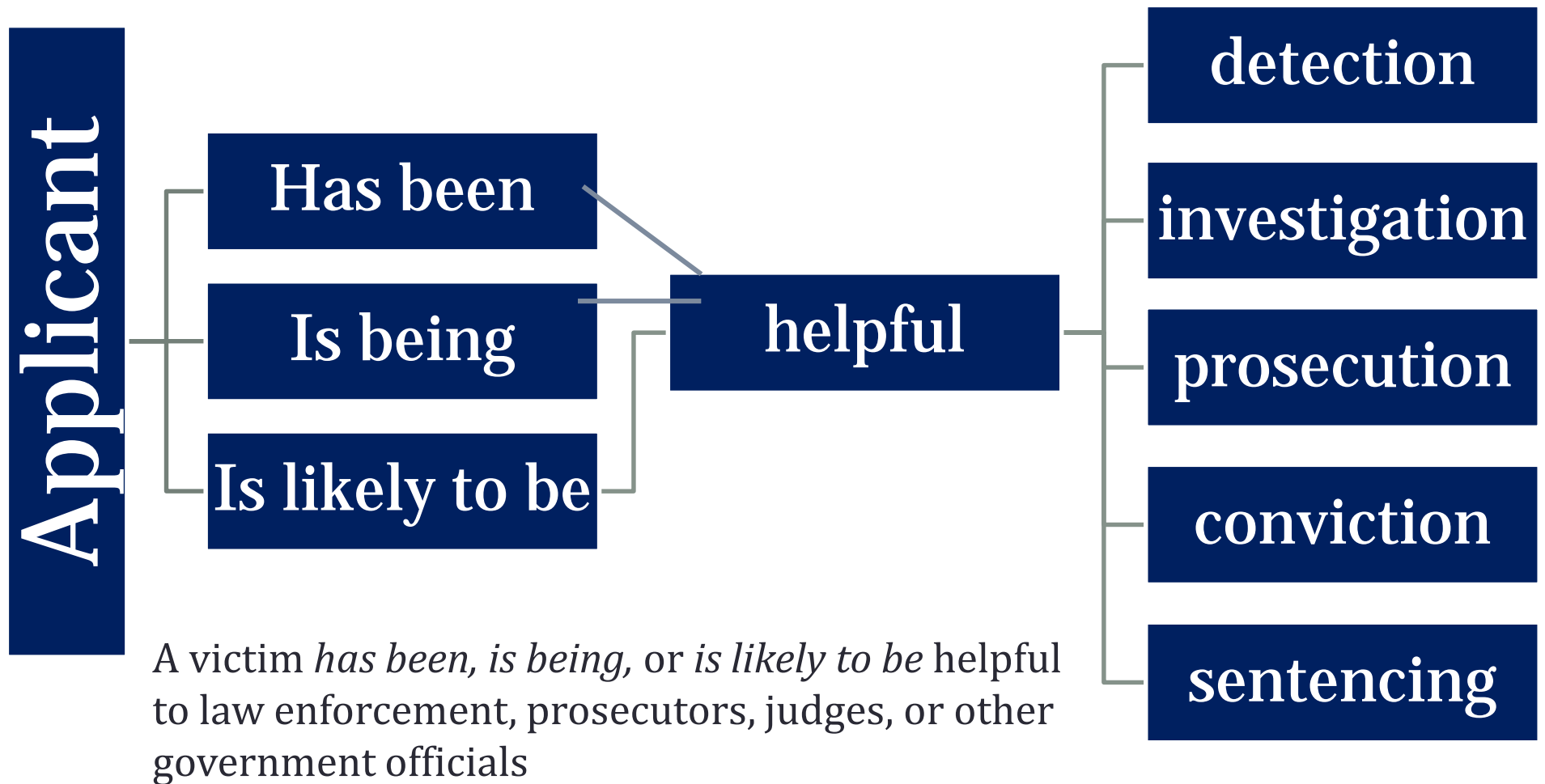
## **THE VICTIM'S HELPFULNESS**

# Determining Helpfulness

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

# Definition of “Helpfulness”

INA 245(m)(1); 8 U.S.C. 1255(m)(1) and 8 C.F.R 214.14(b)(3)



# The following are **Not Required** in order to certify that a victim has been helpful

- Certification signed within the statute of limitations of the qualifying criminal activity
- Conviction
- Charges filed
- Offender arrested/prosecuted
- Victim provides testimony at trial
- Victim is a necessary witness
- Offender is identified
- Offender alive



Victim-centered approach

# 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, and
  - The detection, investigation, and prosecution of perpetrators of serious crimes.
- Promotes use of qualified interpreters



# Example of Helpfulness May Include:

Calling 911

Having a Rape Kit performed

Providing a description of 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

# Who Can Certify?

*“law enforcement” & “law enforcement agencies” =*

- Federal, state, and local
  - Police, Sheriffs, FBI, HSI, ATF
  - Prosecutors
  - Head of agency or designee
  - Judges, Magistrates, Commissioners
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and Elder Abuse agencies
- Other government agencies with investigative authority

There is **NO** statute of limitations on signing a certification. However, there is a **six-month** window after signing the certification in which the U visa application must be filed.

# When should you certify?

# Analyzing Requests for Certification

What criminal activity occurred?



Identify the victim or indirect victim



Determine helpfulness

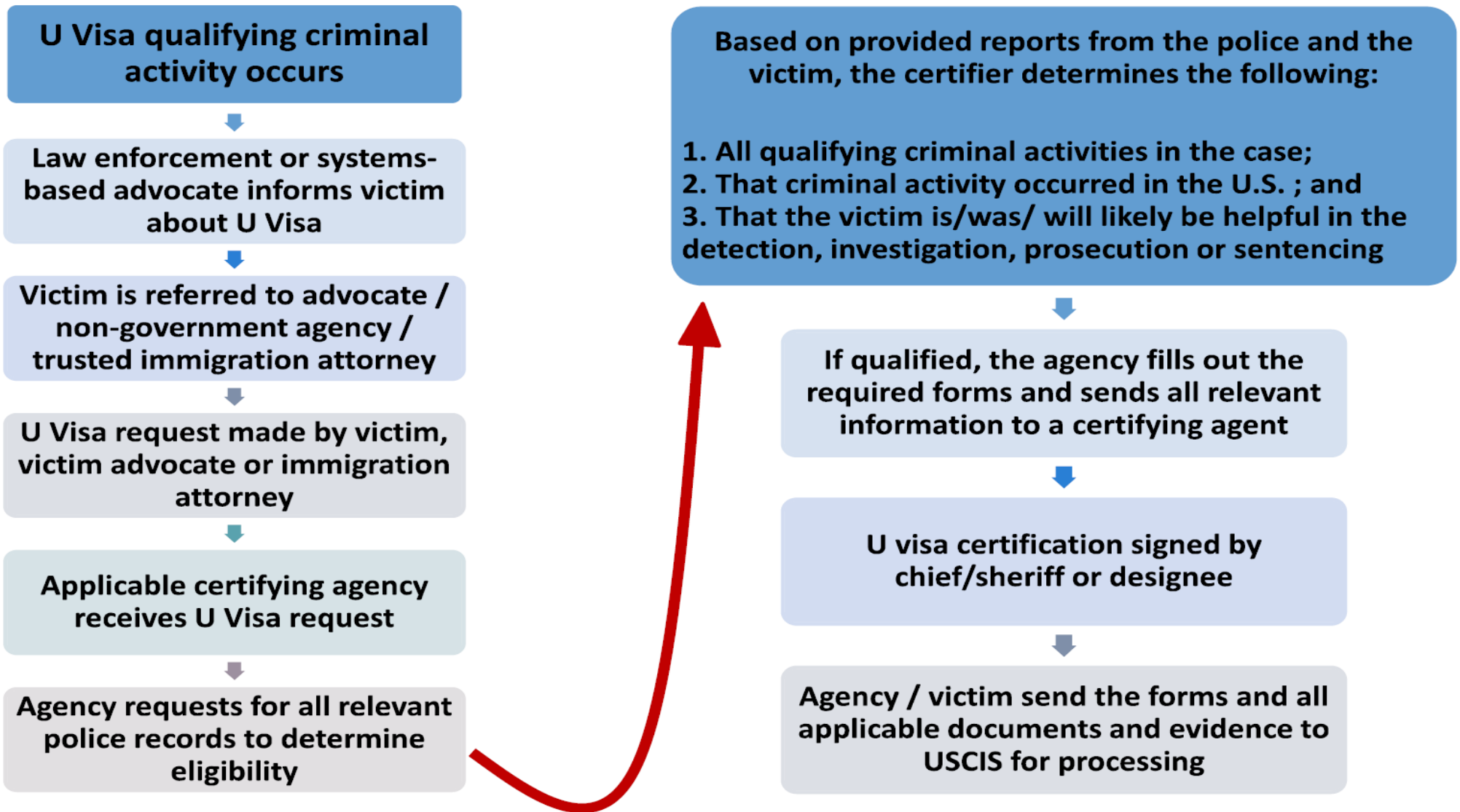


Identify if any family members were implicated in the crime



Note any injuries observed; provide documentation

# U Visa Certification Process



# U Visa Certification (Form I-918B)

## *What is the U Visa Certification saying?*

**Background:** The certification is required evidence in victims' U visa applications. U.S. Citizenship and Immigration Services (USCIS) makes the ultimate determination of whether the victim will receive a U Visa.

- Signing a U visa certification means you are attesting that:
  - The individual is a victim of a qualifying crime
  - The victim has been, is being, or will likely be helpful
  - The information you listed in the form is accurate and to the best of your knowledge. You have direct knowledge of the information listed (or have reviewed relevant records)
- A U visa certification **does not confer** immigration status.

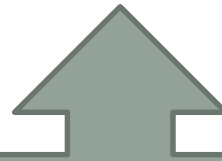
# U Visa Certification Form Highlights



## 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 04/30/2021



Certification form is available to download at  
<https://www.uscis.gov/i-918>

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

## Part 1. Victim Information

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

▶ A-

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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)

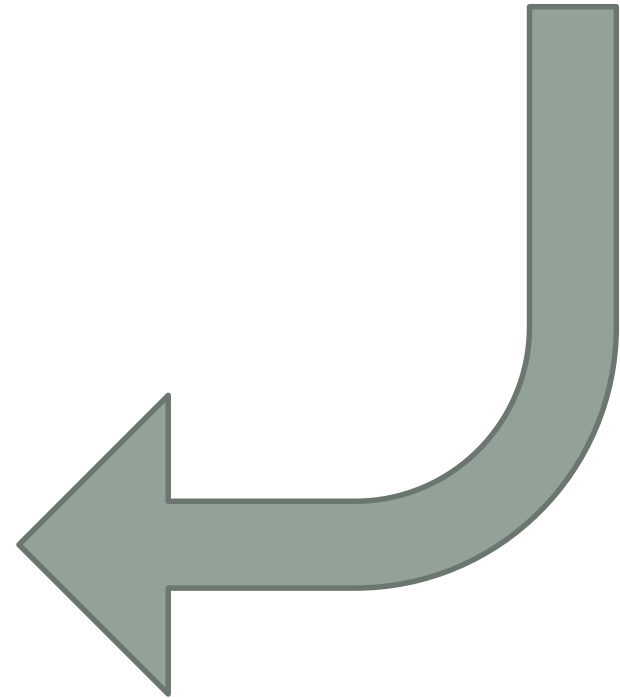
3.b. Given Name  
(First Name)

3.c. Middle Name

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

5. Gender  Male  Female

This 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”

## 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 & 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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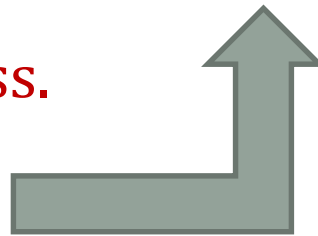
Attaching state statutory language can be helpful.

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.

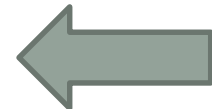


7. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

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



## 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

We will  
talk  
about  
this  
next

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.**

## 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

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



## 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 is merely a certification of the above information and does not confer any immigration relief.

# POLL #7

## “Raise Your Hand”

If You Have Ever Had a Case Where the Victim  
Became “Uncooperative” At Any Point





# Two Distinct Requirements

## *“Helpfulness” and “Cooperation/Assistance”*

### **Helpfulness: 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

### **Cooperation: After Filing the U Visa until Permanent Residency**

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

# Did the victim unreasonably refuse to cooperate?

Although a case does not require prosecution or conviction, DHS still requires the victim to cooperate from filing, to receipt of the U visa, until receipt of lawful permanent residency.

The requirement to cooperate is **modified** when the victim's refusal is reasonable. **Look at totality of the circumstances.**

Is the request for cooperation reasonable?

8 C.F.R. 214.14(b)(3)  
8 C.F.R. 245.24(2)(2)(ii)

Is the victim's refusal unreasonable?

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

AND

# Is the victim's refusal to help unreasonable? 8 C.F.R. 245.24(a)(5)

Analyze this question from the victim's point of view. Does the victim have a good reason for saying "no" to law enforcement's request?

The victim may refuse in cases where:

- In danger
- Unaware of request
- Being intimidated
- Being threatened or subjected to force, fraud or coercion
- Concerned about the safety of her family
- Under the belief that participating is more dangerous than not
- Increased trauma to the victim
- Due to the victim's age, maturity, or capacity

# Practice Tips

- Identify tactics used by offender to assert power and control
- Proactively address witness intimidation
  - Monitor jail phone calls
  - Conduct wellness checks when appropriate
  - Recognize changes in communication patterns

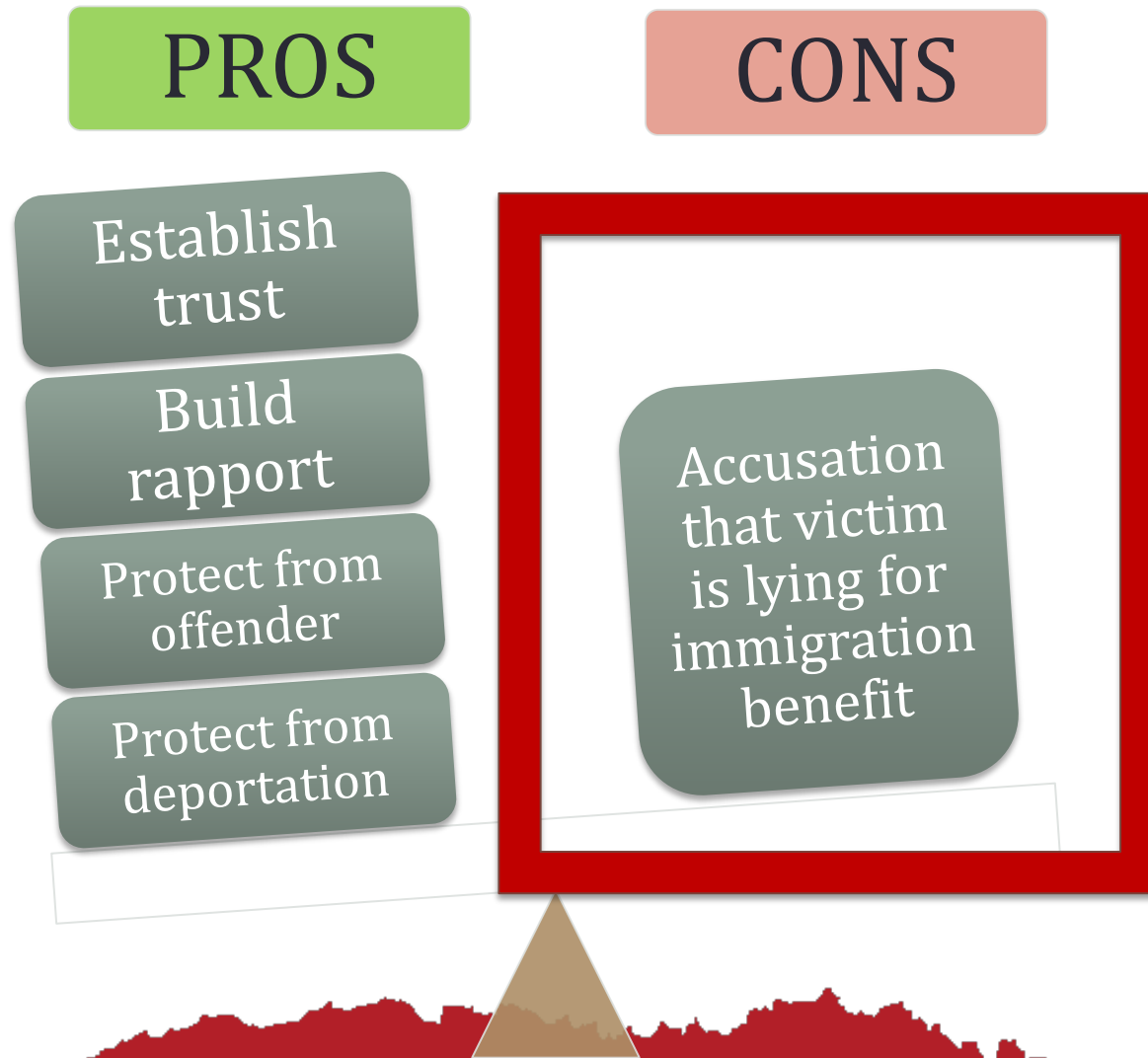
## **What you can do:**

- Collaborate with victim service professionals
- Communicate with victim's immigration attorney
- Establish safe points of contact with friends and family
- Continually safety plan with victim

# If you still believe the victim is unreasonably refusing...

- Note on the certification, sign, and return to victim or victim's attorney
- Burden shifts to victim to prove the refusal is not unreasonable
- DHS provides the victim an opportunity to explain
- DHS makes the ultimate decision

# Prosecutors' Primary Concern



# Rebuttal Testimony

- Once the defendant has alleged that the victim has a motive to lie, the prosecution can introduce the victim's prior consistent statements about the charged crime
- Door to this testimony can be opened at any time, but is likely done during cross-examination

# Prior Consistent Statements

## F.R.E. 801(d)(B)

- Non-hearsay
- Not subject to Crawford
- Any consistent statement
  - offered to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying
  - to rehabilitate the declarant's credibility as a witness when attacked on another ground



# Introducing Statements

## Establish timeline

- When did the victim learn about the benefit?
- What statements were made before the victim learned about the immigration benefit

### Victim statements

- 911 call
- First responder
- Detective
- Friends
- Family
- Victim Advocate
- Others

Motive  
to lie

Rebut charge that  
victim is lying to  
get immigration  
benefit

# Technical Assistance and Training

- NIWAP
  - Call: 202.274.4457
  - Email: [info@niwap.org](mailto:info@niwap.org)
  - Web library:  
<https://niwaplibrary.wcl.american.edu/>
- AEquitas at [www.aequitasresource.org](http://www.aequitasresource.org)
  - Jane Anderson  
[janderson@aequitasresource.org](mailto:janderson@aequitasresource.org)

# What's Next & How to Connect

- **Connect with the LETTAC team at [contact@LETTAC.org](mailto:contact@LETTAC.org).**
- **Request training and technical assistance at [www.lettac.org/TTA](http://www.lettac.org/TTA).**
- **Share LETTAC with your colleagues and be our champions!**
- **Your feedback today will improve and shape future events!**

# Assistance and Feedback



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*May 23, 2023*

**Office on Violence Against Women (OVW)**

**National Violence Against Women**

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

**2023 Conference on Crimes Against Women**

**The U Visa & Language Access: Tools to Increase  
Immigrant Victim Participation in the Justice System**

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**LETTAC**