

**Train the Trainer**  
**Promoting Accurate and Effective**  
**Communication with LEP Persons and**  
**Community Safety Benefits**

**ALBUQUERQUE POLICE DEPARTMENT AND THE MAYOR'S SEXUAL AND  
DOMESTIC VIOLENCE TASKFORCE**

**ALBUQUERQUE, NEW MEXICO**

**OCTOBER 23, 2014**

# Welcome and Registration

# Introduction

- Welcome from the Taskforce
- Introductions of faculty and participants

# Goal of Training Curriculum

- Opportunity to set a National Standard
- Piloting a new model training for law enforcement on language access
- Goal to create/enhance
  - Existing multi-disciplinary team
  - To focus on coordination and system response to language access
- Change to enhance victim safety and offender accountability

# Importance of LEP Curriculum

- Need for --
- In person-delivery of training
- Team teaching
- Adult learning approach

# How did we get here?

- Advocate perspective
- Law enforcement perspective

# Strength of the Team Teaching Approach

- Small group discussion
  - In your groups discuss what your discipline can bring to the table to enhance each other's work
  - Law enforcement present first
  - Followed by the advocates
- Select a person to report back to the larger group

# Strength of the Team Teaching Approach

- Large Group Discussion









# Purpose

Congress enacted VAWA self-petitioning (1994) and the U-visa (2000) to:

- Improve community policing and community relationships
- Increase prosecution of perpetrators of crimes against immigrant victims
- Allow victims to report crimes without fear of deportation
- Enhance victim safety
- Keep communities safe

# DHS Priorities for Enforcement and Victim Protection DHS Memos – Guidance

- DHS victim witness memo
- Humanitarian release
- 384 DHS computer system (VAWA, T-visas, U-visas)
- Memorandum on DHS detention priorities
- DHS law enforcement Q & A on T and U visas
- U-visa Law Certification Resource Guide

# DHS Video Part I

- <http://niwap.org/training/DHS-roll-call/>

# Criminal activities covered by the U-visa?

- Rape
- Torture
- Trafficking
- Incest
- Domestic violence
- Sexual assault
- Stalking
- Prostitution
- Female Genital Mutilation
- Blackmail
- Extortion
- Manslaughter
- Murder
- Felonious assault
- Witness tampering
- Involuntary servitude
- Slave trade
- Being held hostage
- Kidnapping
- Abduction
- Peonage
- False Imprisonment
- Fraud in Foreign Labor Contracting
- Obstruction of justice
- Perjury
- Attempt, conspiracy or solicitation to commit any of these crimes
- Any similar activity

# U-Visa Criminal Activities (11/2011 data)

- Domestic violence 45.9%
- Rape, sexual assault, incest, trafficking 30.4%
- Felonious assault, murder, manslaughter 9.9%
- Kidnapping, being held hostage, unlawful criminal restraint, torture 8.47%
- Blackmail, extortion, perjury, obstruction of justice, attempts, conspiracy, solicitation 5.3%



# Crime Victim (“U”) Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the criminal activity
- Criminal activity occurred in the U.S. or violated U.S. law

# “Investigation or Prosecution” Includes:

- Detection
- Investigation
- Prosecution
- Conviction
- Sentencing

# The U-visa Application Process

- Law enforcement/prosecutor/judge certification
- Complete and submit application
  - Affidavit(s)
  - Proof of substantial harm
  - Fingerprints
- Decision from DHS  $\approx$  7 months - 1 year

# What the U-visa Certification Form Asks From a Certifier:

- What criminal activity occurred?
- Identify the victim
  - Include any findings regarding injuries
- Helpfulness of the victim
  - Current,
  - Past, OR
  - Willingness to be helpful
- Any family members implicated in the crime

# U-visa Facts and Benefits

- Only 10,000 U-visas can be granted annually
  - Waitlist approvals
- The U-visa grants a temporary 4 year stay
  - Work authorization (7 months to 1 year)
- Some state benefits go to
  - <http://niwap.org/benefitsmap/>
- Lawful permanent residency after 3 years if
  - Cooperation or not unreasonably refuse to cooperate
  - + Humanitarian need, family unity or public interest
- U.S. citizenship after 5 years of lawful permanent residency+ proof of good moral character

# Which U-Visa Recipients Can Obtain Lawful Permanent Residence?

- Did not **unreasonably refuse** to cooperate in the detection, investigation or prosecution of criminal activity; AND
  - Humanitarian need, OR
  - Family unity, OR
  - Public interest
- Homeland Security review of cooperation and the reasonableness of non-cooperation is required for lawful permanent residency

# How does the U visa help law enforcement?



# U visa Benefits to Law Enforcement

- 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



# DHS Roll Call Video 2

- <http://niwap.org/training/DHS-roll-call/>

# Law Enforcement Certification

## Form I-918 Supplement B

### Toolkit page 27

OMB No. 1615-0104 Expires 08/31/2010  
**I-918 Supplement B**

**U Nonimmigrant Status Certification**

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

**START HERE - Please type or print in black ink.**

Part 1. Victim information.	For USCIS Use Only.
Family Name <input type="text"/> Given Name <input type="text"/> Middle Name <input type="text"/>	Returned <input type="text"/>
Other Names Used (Include maiden name/nickname) <input type="text"/>	Date <input type="text"/>
Date of Birth (mm/dd/yyyy) <input type="text"/> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	Resubmitted <input type="text"/>
<b>Part 2. Agency information.</b>	Date <input type="text"/>
Name of Certifying Agency <input type="text"/>	Date <input type="text"/>
Name of Certifying Official <input type="text"/> Title and Division/Office of Certifying Official <input type="text"/>	Date <input type="text"/>
Name of Head of Certifying Agency <input type="text"/>	Reloc Rec'd <input type="text"/>
Agency Address - Street Number and Name <input type="text"/> Suite # <input type="text"/>	Date <input type="text"/>
City <input type="text"/> State/Province <input type="text"/> Zip/Postal Code <input type="text"/>	<b>Remarks</b>
Daytime Phone # (with area code and/or extension) <input type="text"/> Fax # (with area code) <input type="text"/>	
Agency Type <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Local	
Case Status <input type="checkbox"/> On-going <input type="checkbox"/> Completed <input type="checkbox"/> Other	
Certifying Agency Category <input type="checkbox"/> Judge <input type="checkbox"/> Law Enforcement <input type="checkbox"/> Prosecutor <input type="checkbox"/> Other	
Case Number <input type="text"/> FBI # or SID # (if applicable) <input type="text"/>	
<b>Part 3. Criminal acts.</b>	
1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. (Check all that apply.)	
<input type="checkbox"/> Abduction	<input type="checkbox"/> Female Genital Mutilation
<input type="checkbox"/> Abusive Sexual Contact	<input type="checkbox"/> Hostage
<input type="checkbox"/> Blackmail	<input type="checkbox"/> Incest
<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Involuntary Servitude
<input type="checkbox"/> Extortion	<input type="checkbox"/> Kidnapping
<input type="checkbox"/> False Imprisonment	<input type="checkbox"/> Munslaughter
<input type="checkbox"/> Felonious Assault	<input type="checkbox"/> Murder
<input type="checkbox"/> Attempt to commit any of the named crimes	<input type="checkbox"/> Conspiracy to commit any of the named crimes
<input type="checkbox"/> Obstruction of Justice	<input type="checkbox"/> Peonage
<input type="checkbox"/> Perjury	<input type="checkbox"/> Prostitution
<input type="checkbox"/> Rape	<input type="checkbox"/> Sexual Assault
<input type="checkbox"/> Sexual Exploitation	<input type="checkbox"/> Solicitation to commit any of the named crimes
<input type="checkbox"/> Slave Trade	<input type="checkbox"/> Torture
<input type="checkbox"/> Trafficking	<input type="checkbox"/> Unlawful Criminal Restraint
<input type="checkbox"/> Witness Tampering	<input type="checkbox"/> Related Crime(s)
<input type="checkbox"/> Other: (If more space needed, attach separate sheet of paper.)	

Form I-918 Supplement B (08/31/07)

# I-918 Supplement B, U Nonimmigrant Status Certification

START HERE - Please type or print in black ink.

### Part 1. Victim Information.

Family Name <b>Orloff</b>	Given Name <b>Leslye</b>	Middle Name <b>E</b>
Other Names Used (Include maiden name/nickname)		
Date of Birth (mm/dd/yyyy) <b>08/28/1956</b>	Gender <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	

### Part 2. Agency Information.

Name of Certifying Agency <b>Sheriff's Office</b>		
Name of Certifying Official <b>Captain Mike</b>	Title and Division/Office of Certifying Official <b>Supervisor/D.V.U.</b>	
Name of Head of Certifying Agency <b>Sheriff Ric Bradshaw</b>		
Agency Address - Street Number and Name <b>3228 Gun Club Road</b>		Suite #
City <b>Atlanta</b>	State/Province <b>GA</b>	Zip/Postal Code <b>33406</b>
Daytime Phone # (with area code and/or extension) <b>(561) 688-3000</b>	Fax # (with area code) <b>(561) 688-3000</b>	
Agency Type <input type="checkbox"/> Federal <input type="checkbox"/> State <input checked="" type="checkbox"/> Local		
Case Status <input checked="" type="checkbox"/> On-going <input type="checkbox"/> Completed <input type="checkbox"/> Other		
Certifying Agency Category <input type="checkbox"/> Judge <input checked="" type="checkbox"/> Law Enforcement <input type="checkbox"/> Prosecutor <input type="checkbox"/> Other		
Case Number <b>H-62632-11</b>	FBI # or SID # (if applicable)	

### For USCIS Use Only.

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

LEAVE BLANK

### Part 3. Criminal acts.

I. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. (Check all that apply.)

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



**Part 3. Criminal acts. (Continued.)**

2. Provide the date(s) on which the criminal activity occurred.

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

12/19/12

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

sec. 741.28 Domestic Violence

4. Did the criminal activity occur in the United States, including Indian country and military installations, or the territories or possessions of the United States?

Yes  No

a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute?

Yes  No

b. If "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

c. Where did the criminal activity occur?

Atlanta, GA

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

Husband strangled Mrs. Orloff during a domestic dispute and has been following her wherever she goes.

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

As a result of Mrs. Orloff being assaulted and strangled she suffered injuries to her neck. (see attached photographs)

**Part 4. Helpfulness of the victim.**

The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated.):

1. Possesses information concerning the criminal activity listed in Part 3.

Yes  No

2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. (Attach an explanation briefly detailing the assistance the victim has provided)

Yes  No

3. Has not been requested to provide further assistance in the investigation and/or prosecution. (Example: prosecution is barred by the statute of limitation.) (Attach an explanation.)

Yes  No

4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. (Attach an explanation.)

Yes  No





**Part 4. Helpfulness of the victim. (Continued.)**

5. Other, please specify.

Mrs. Orloff called 911 for help during a domestic dispute. Upon arrival she provided information about the incident to the officer on scene and allowed the officer to take photographs of the injury to her neck.

**Part 5. Family members implicated in criminal activity.**

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim?  Yes  No

2. If "Yes," list relative(s) and criminal involvement. (Attach extra reports or extra sheet(s) of paper if necessary.)

Full Name	Relationship	Involvement
William Orloff	Husband	Defendant

**Part 6. Certification.**

I am the head of the agency listed **Part 2** or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in **Part 1** is or has been a victim of one or more of the crimes listed **Part 3**. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

Signature of Certifying Official Identified in Part 2.

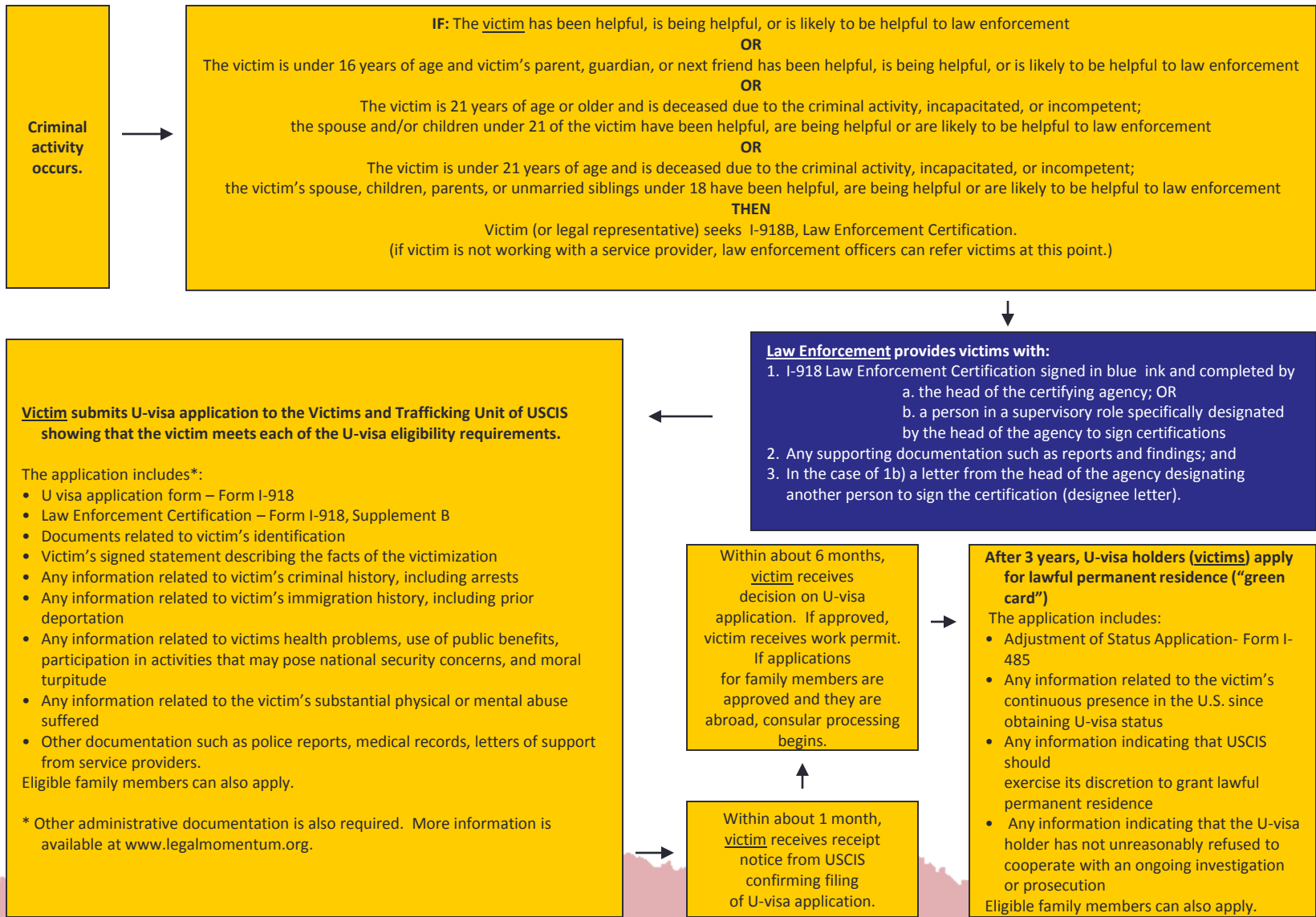
Captain Mike

Date (mm/dd/yyyy)

March 4, 2013



# U-visa Application Victim Flow Chart



# The U Visa

- Does not confer citizenship on victim
- 10,000 cap effect not backlog
- Undocumented immigration status is not criminal
- Can certify when
  - Crime occurred a long time ago
  - Case is closed
  - Perpetrator cannot be found or identified,
  - Perpetrator is dead

# What is LEP?

- DOJ Definition of Limited English Proficiency
  - English is not primary language
  - Limited ability to read, write, speak or understand English
- Language for LEP individuals can be a barrier
  - Access to benefits or services,
  - understanding and exercising legal rights
  - complying with responsibilities
  - understanding other information provided by Federally funded programs and activities.
  - **Determination is by person, not by agency**



## Laws Governing Law Enforcement Agency Provision of Language Assistance to Limited English Proficient Persons

- Civil Rights Act of 1964 Title VI: prohibits national origin discrimination by programs receiving federal funding or assistance.
  - This includes all law enforcement agencies
- Lau v. Nichols (1973): U.S. Supreme Court held
  - “failing to take reasonable steps to ensure MEANINGFUL access for LEP persons is national origin discrimination under Title VI”
- Presidential Executive Order 13166 (2000): Title VI language access requirements apply
  - to all federally *conducted and funded* programs and activities
- U.S. Department of Justice Clarifying Memorandum Regarding Limited English Proficiency and Executive Order 13166 (2001):
  - Where the denial or delay of access may have life or death or other serious implications, the importance of the full and effective delivery of LEP services is at its zenith.

# Federally Funded Programs

- Bureau of Justice Assistance (BJA)
- Bureau of Justice Statistics (BJS)
- Community Capacity Development Office (CCDO)
- Drug Courts Program Office (DCPO)
- National Institute of Justice (NIJ)
- Office for Victims of Crime (OVC)
- Office of Juvenile Justice and Delinquency Prevention (OJJDP)
- Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART)
- Office on Violence Against Women (VAWA)
- Trafficking Victims Protection Act (TVPA)

# DOJ Model Guidance & Settlement Agreements

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

From: DOJ Sample Policy pp1-2

# DOJ Model Guidance

- Primary language means
  - Native tongue
  - Language in which the individual most effectively communicates
- Identifying LEP person's language
  - Language identification cards
    - In materials for this training
- Tools
  - Questions to ID LEP persons
  - Language ID card

# DOJ Model Guidance In materials

- Use the most reliable *temporary* interpreter available to address exigent circumstances
- Once exigency passes, seek a professional interpreter
  - Trained bilingual officers
  - Telephonic interpretation
  - Contract/Volunteer trained interpreters

# Exigent Circumstances

Use the most reliable *temporary* interpreter available to address exigent circumstances

- Fleeing suspect
- Weapons
- Life threatening to the officer /victim/or public

How does an officer  
secure the scene?

# Securing the scene

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



# Use of Family, Friends, Bystanders in Exigent Circumstances For Securing the scene

- Informal interpretation, AND
- Non-confrontational contexts
- Only to obtain basic information at the request of the LEP victim
- Ideally after determining that the friend, family or bystander is
  - Not the perpetrator
  - Not the perpetrator's family member or friend
  - Not a child

# How Interpretation Benefits to Law Enforcement?

# How Interpretation Benefits to Law Enforcement

- How will it affect case outcomes?
- Avoids
  - Case being dismissed
  - Lesser charge
  - Conviction overturned
  - Prosecutor decides not to prosecute

# Benefits to Law Enforcement

- Improves officer safety
- Correctly identify victim and perpetrator
- Primary aggressor determination
- LEP persons with interpreters are better able to follow law enforcement directions
- Improves integrity and quality of the investigation
- Reduces impeachment evidence at trial

# Why is accuracy of information important

- Better statements for prosecution
  - More likely to get accurate statements from LEP person at the scene due to accurate interpretation
- Prosecutor has solid statement should the victim recant
- Reduces number of times victim will need to be interviewed to clarify “inconsistencies”
- Tool – How benefits law enforcement

# Ensuring interpreter impartiality

## Screen for conflict of interest

- Where is the interpreter from?
- Does the interpreter know the parties or witnesses?
- Confirm that they follow the interpreters code of ethics

# Ensuring interpreter impartiality

- Ask the LEP person if they
  - Know the interpreter?
  - Are comfortable with this person interpreting?
  - If they are not comfortable contact supervisor to seek another interpreter
- Via telephone or other resource

# Standard Procedures Still Apply

- Take police reports
- Take photos (initially and of bruises developed)
- Provide information about available resources
- Document further contact from the offender
- Provide the officer more details when the victim remembers more



# Questions



# Evaluations



Thank you!