

**U Visa Case Scenarios:
Instructors Sheet
September, 7th 2018**

(husband was murdered)

Nusheen Nusheen entered the United States five years ago with a tourist visa. Well after the visa had expired, she met Ali through a friend at her mosque. Months later they married and bought a home together. One night soon afterward, their home was robbed and Ali was murdered in the couple's living room while Nusheen was asleep in the bedroom. She never saw the perpetrator, though several neighbors did. The police contacted Nusheen, who told them everything she knew but was unable to fill out the composite. The police also spoke with the neighbors, who described the perpetrator.

- Who is the victim? The wife is an indirect victim
- Wife was here on tourist visa, but could apply if undocumented
- Was the wife helpful? How much information is required?

(Smuggling turns into potential human trafficking/involuntary servitude)

Li Li is an 18-year-old Chinese national. A friend introduced him to a "snakehead" who would take him from China to the United States for \$75,000. The snakehead arranged for Li to go from China to Hong Kong, where Li was given a fake passport that he used to enter the U.S. Li now works seven days a week in a Chinatown restaurant. Most of his wages are taken from him to pay the snakehead, room and board, and other "fees." When Li asked to work fewer hours so he could go to school, his employer shoved him against a wall and told him to never ask again. Li made contact with a Chinatown-based police officer who is fluent in Mandarin. The officer encouraged Li to report the restaurant to the Department of Labor and work with his department's trafficking unit to report the snakehead. Li has agreed to do both.

- Discuss the difference between smuggling and human trafficking
- Although victim was willing participant he did not sign up for the rest of the scheme
- Victim opened up to bilingual officer

(smuggling turns into victims of other crimes)

Amelia and Juan Carlos Amelia and Juan Carlos were living in poverty in their home country. They are a married couple. Together they saved, borrowed and planned to pay a "coyote" \$3,000 to bring each of them into the United States. Once they arrived in the U.S., the "coyote" demanded an additional \$3,000 to release and transport them to family members living in Louisiana. After the "coyote" had held Amelia and Juan Carlos in an abandoned house for 5 days, without food or water, their family was able to send the additional money. The coyote agreed to drive Amelia and Juan Carlos to their family. The coyote had been drinking heavily before the drive, and just before they reached their destination, the coyote's van crashed into oncoming traffic. Amelia was sitting in the passenger seat and died instantly. The passengers in the other car had minor injuries. Police arrived on the scene, and took both Juan Carlos and the "coyote" into custody. Juan Carlos told the police many details of the coyotes' illegal business enterprises.

- Victims were willing to be smuggled
- Ask participants to identify the potential qualifying criminal activity
 - Kidnapped/ False imprisonment
 - Victims of DUI – manslaughter

- Ask participants to identify the victim(s)
 - Indirect victim is the husband

(victims were robbed and fearful to report to police)

Maricela and Diego Maricela and Diego paid a coyote to take them to Kansas, where they now work at a poultry processing plant. One payday they were robbed by three gang members who think of immigrants like Maricela and Diego as “walking ATMs” because they don’t have bank accounts and carry a lot of cash. In addition to losing their wages, the couple were beaten and Maricela was sexually assaulted. After their friends encouraged them, the couple reported the incident to local police. Maricela and Diego were able to describe their assailants and a few days later, the police apprehended three people who matched the descriptions. Maricela and Diego refuse to press charges, however, because they fear retaliation.

- Willing to participate in being smuggled in the U.S.
- Discuss why it’s important to the community for these victims to come forward
- Is it reasonable that they fear retaliation?

(Victim of SA with limited information/ late reporting of crime afraid to testify)

Aditi Aditi entered the United States seven years ago with a student visa. One night after the visa had expired, she was walking home from waiting tables and was raped by a masked assailant. She never got a good look at the perpetrator. He whispered that he knew where she lived and told her he would tell her family back home the “filthy things” she has done if she told anyone. Four months later, Aditi realized she was pregnant. When she began to miss late shifts at work and was disciplined by her boss, she finally shared with him what had happened to her. Her boss called the police. Aditi told the police everything she knew, she was unable to assist police in making a composite and she said she wouldn’t testify in court because she feared retaliation.

- Late reporting, why is it important for her to report even though it is late, why is it important to increase safety that victims like her come forward?
- Cultural discussion of what it means to report rape and for your family to hear about it
- Is it reasonable for her to fear testifying?
- Is she still helpful even though her boss called police?

•

(Complex scenario, Maura could be eligible for VAWA Self-Petition)

Maura Maura is 17 years old and from Mexico. She came to the U.S. at age 5, crossing the border with her mother. When Maura was 15 years old, her mother married Jose, a lawful permanent resident abuser. After enduring 5 years in the abusive household and sexual advances from her step-father, Maura left home and moved in with her boyfriend Juan, who started battering Maura when she became pregnant with their child. During an incident of abuse, the neighbors heard Maura screaming and called the police. When they arrived, Maura described the incident to the police officer, but fearing that she would get deported, she did not appear at the hearing on the domestic violence charge. The charge was amended to misdemeanor battery. Juan pled no contest and was convicted of battery.

- Victim brought in as a child
- What is the qualifying criminal activity? DV, SA
- Victim was fearful to cooperate because immigration status, was she still helpful?
- Does there have to be a conviction/charge?

(child victim of SA, child was scared to report, abuser absconds case remains open)

Gloria: Gloria is 14 years old and was born in the US to immigrant parents. She was forced to continually have sex with Simon, an older man who is a friend of her father. Her parents notice that Simon has been making frequent calls to her cell phone and become suspicious. They confront Gloria, but she denies that anything is

going on between her and Simon. Simon threatened to have her and her parents deported if she revealed the sexual assaults. Her parents do not believe her, they find her cellphone with proof that Simon has been having sexual relations with Gloria. So they call the police, who arrest Simon. The parents take Gloria to get a sexual assault exam at the hospital and they are able to confirm and provide evidence to police, and she finally tells her parents everything and starts talking with the police. Simon was charged with 2nd degree sexual assault and released on bail and has fled to his home country. With the perpetrator at large, the case remains open.

- What is the qualifying criminal activity?
- Victim is a USC child, however parents were helpful. Why is important to sign U visa for the parents to get status?
- Parents are indirect victims, under some state statutes parents are also considered victims
- Why is it important to grant them U visa?
- Why does it make our community safer?
- Why is it important to grant the U visa even though the case is open?

(Child victim of child abuse)

Sun: One evening when Karen was cleaning out her closet she hears strange muffled sounds that sound like a child whining coming from the common wall between her condo and her new neighbor's condo. The noises continue for over an hour and Karen goes next door to her neighbors and knocks but there is no answer. She returns to the closet and carefully listens. She is convinced that what she is hearing is a child and not a pet. Karen calls the police who respond, hear the whining, and enter the condo to check the wellbeing of the people inside. They find a five year old child, Sun, confined to a large dog crate. The child is in horrible physical condition and appears to have been confined to the crate for quite some time. Sun's parents were arrested and charged with child abuse. Karen volunteered to be a temporary placement for Sun until child welfare could make arrangements for Sun, who was born in Japan, to be placed with relatives in Nebraska. While awaiting trial Sun's parents flee the U.S. and return to Japan. A warrant is issued for their arrest. When Sun is 10 years old her relatives learn about the U visa and seek a U visa certification from their local police department.

- Indirect victim
- What is the qualifying criminal activity
- What information did the victim or relatives give to LE