

**USING EFFECTIVE CRIME FIGHTING TOOLS IN INVESTIGATION AND PROSECUTION OF CRIMINAL CASES INVOLVING IMMIGRANT CRIME VICTIMS**

Lincoln, Nebraska  
September 19, 2019

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**Introduction**

- Faculty
- Housekeeping
- Pre-training assessment

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## USB Drive Materials

- U Visa Toolkit For Law Enforcement Agencies And Prosecutors
- DHS: U and T Visa Law Enforcement Resource Guide
- DHS regulations, policies, memos
- Tools for officers to promote language access
- Bluecard Tool Screening Victims for Immigration Protections



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## General Caveats

- Women, men, and children can qualify for U 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*



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## Participant Introductions, Goals and Expectations



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## Learning Objectives

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

- Understand how investigations can be improved by using language access tools
- Hold offenders more accountable by using the U 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




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## How Best Practices in Domestic Violence Investigations Promote Officer Safety




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## PROTECTIONS FOR IMMIGRANT VICTIMS




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



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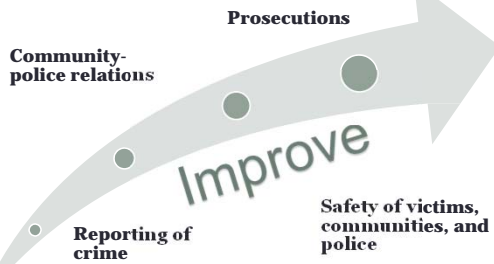
Legislative Intent

- 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 don't know about the most dangerous offenders
  - Domestic violence
  - Sexual violence



Seven horizontal lines for writing.

Goals of Immigration Relief



Seven horizontal lines for writing.

**U Visa Statistics**  
11/2011

% of U Visas	Criminal Activity
45.9%	Domestic Violence
<b>76.1% =</b>	<b>Domestic Violence &amp; Sexual Violence</b>
30.4%	Rape, Sexual Assault, Incest, Human Trafficking
9.9%	Felonious Assault, Murder, Manslaughter
8.47%	Kidnapping, Being Held Hostage, Unlawful Criminal Restraint, Torture
5.3%	Blackmail, Extortion, Perjury, Obstruction of Justice, Attempts, Conspiracy, Solicitation

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**DYNAMICS OF DOMESTIC VIOLENCE EXPERIENCED BY BATTERED IMMIGRANTS**

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Department of Homeland Security



- DHS Video

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## 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




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## 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)




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## Sexual Assault Rates Among Immigrant Women

- 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).




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## What prevents immigrant victims from reporting crime?



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## 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



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## Misconceptions

- Lack of knowledge of
  - Crime victim legal rights
  - Laws regarding domestic violence, sexual assault
- 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



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### Barriers

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




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### When Victims are Subject to Immigration Enforcement the Cause is... (2013 and 2017)

- Perpetrators actively reporting for removal victims with pending immigration cases
  - VAWA self-petitioners 38.3%; U visa 25%
- Perpetrators got the victim arrested for domestic violence
  - VAWA self-petitioners 15.4% (2013)-17% (2017); U visa 7.5%(2013)-36% (2017)

Krisztina E. Szabo, David Stauffer, Benish Anver, 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)




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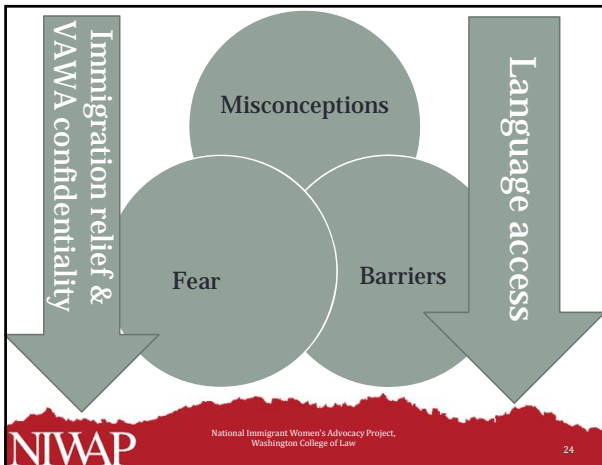
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## What countries are you seeing immigrant survivors coming from?

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## Nebraska Demographics (2017)\*

- ❖ Total foreign born population – 143,331
- ❖ 7.5% of the state's 1.8 million people are foreign born
  - 39.3% naturalized citizens
  - ≈34.2% lawful permanent residents or temporary legal status\*\*
  - ≈26.5% undocumented\*\*
- ❖ 92.0% rise in immigrant population from 2000 to 2017
- ❖ 16.9% of children in the state under age 18 have 1 or more immigrant parents
  - 85.4% of children with immigrant parents in the state are U.S. native.

\*Source: <http://www.demographics.com/nebraska/countries-of-immigrants-NE> (Feb. 2018)  
\*\*Source: <https://www.immigrationpolicy.org/data/immigrant-population/state/NE>

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## Nebraska – Countries/Regions of Origin and Limited English Proficiency (2017)\*

- ▶ Latin America –53.8%
  - ▶ Mexico (36.8%)
  - ▶ El Salvador (6.3%)
  - ▶ Cuba (2.5%)
- ▶ Asia –24.9%
  - ▶ India (4.0%)
  - ▶ China (3.6%)
  - ▶ Vietnam 3.4%
- ▶ Africa –9.1%
- ▶ Europe – 7.5 %
- ▶ Middle East – 3.0%
- ▶ Canada – 1.3%

Limited English Proficiency (Speak English less than very well)  
▶ Naturalized citizens 42.4%  
▶ Non-citizens 65.4%

Languages Spoken at Home  
▶ Spanish (139,740)  
▶ Vietnamese (5,640)  
▶ Chinese (5,368)  
▶ Arabic (6,534)  
▶ Nepali, Marathi, or other Indic language (5,191)  
▶ German (4,992)  
▶ French (4,147)

\*Source: <http://www.immigrationpolicy.org/data/nate-and/lepi/state-demographics/NE> (Feb. 2018)

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## Language Access

Best practices to successfully investigate and prosecute cases involving non-English speaking victims

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## Source of Language Access Laws

- Title VI- No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving financial aid assistance.
- LEP Executive Order 13166 (2001)
  - Requires all agencies receiving any federal financial assistance to
  - Ensure meaningful language access
  - Develop and implement language access plans
  - "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."

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## What is Meaningful Access?

- Meaningful access is defined in the US Department of Justice'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"

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## 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**



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First responders –  
What do you do when  
you arrive at a crime  
scene?



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## 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?



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## 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



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## 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' legal rights could be adversely impacted"
  - Criminal interrogations
  - Crime witness interviews
- Vital written materials translated into primary language
  - Miranda warnings



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## What is a Qualified Interpreter?



- Different than a certified interpreter
- Category for languages that certification does not exist but the interpreter has:
  - completed interpreter training and
  - has experience interpreting
  - Officer controls the interview



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**Bilingual Officer v. Interpreter** 

- ▶ Bilingual officers
- ▶ When they are interpreting, they are not investigating
- ▶ Biculturalism v. bilingualism
- ▶ Different words have different meanings:
  - ▶ e.g.: Variations on the word "highway" depending on what state you're from.
  - ▶ "500 feet" many communities don't know what that distance looks like.

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**Using Qualified Interpreters** 

<p><u>Benefits</u></p> <ul style="list-style-type: none"> <li>• Safety</li> <li>• ID offender</li> <li>• Locate weapons</li> <li>• Admissible statements (excited utterances)</li> </ul>	<p><u>Harms</u></p> <ul style="list-style-type: none"> <li>• Mistaken ID of offender</li> <li>• Arrest of victim</li> <li>• Misinterpretation results in inaccurate statements</li> <li>• Trauma to children</li> </ul>
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**Red Flags** 

- Can you understand the interpreter?
- Does the LEP person look confused?
- Does the interpreter appear confused?
- Is the interpreter engaging in side conversations?
- Is the interpreter summarizing?
- Is there a change in the individual's demeanor?
- Are they using English words?



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## U Visa as a Crime Fighting Tool

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



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## What, if anything, do you know about U Visas?



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## U Visa Basics

- Increases immigrant victim participation in criminal justice system
- Meant to promote reporting of crime
- Law enforcement certification is just one part of the overall process it does not = citizenship
  - U visa holders can qualify for lawful permanent residency – no guarantee
- Targets offenders who prey on most vulnerable victims
- Only 10,000 U visas awarded annually
- Can be “revoked”



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# Department of Homeland Security



- DHS Video



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## U Visa Requirements

### Victim

- Qualifying criminal activity
- Possesses information about the crime
- Criminal activity occurred in U.S. or violated U.S. law

### Helpful

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

### Harm

- Substantial physical or mental abuse as a result



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## 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	



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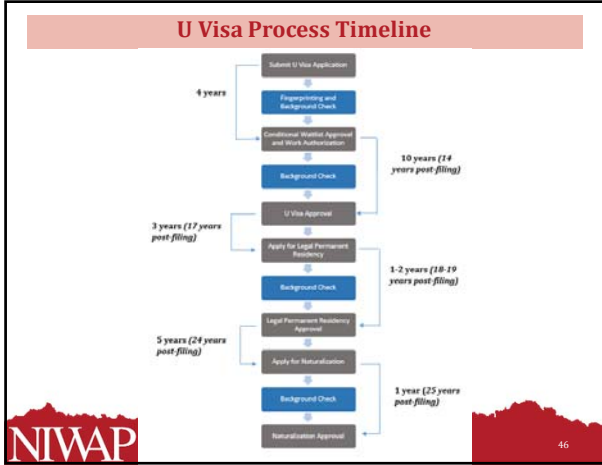
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### U Visa Facts

- Only 10,000 U visas can be granted annually
- The U visa grants a temporary 4 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 5 years + proof of good moral character

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### U Visa Application Process

**Filing to decision:**  
**Decision to receipt of U Visa**  
**(4 to 6 years):**

Certification  
Mandatory

Application &  
supporting  
documentation

Decision by  
DHS

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## Who Can Certify?

*"law enforcement" & "law enforcement agencies" =*

- Federal, state, and local
  - Police, sheriffs, FBI, HSI, ATF...
  - Prosecutors
  - Judges, magistrates, Commissioners
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and elder abuse investigators and agencies
- Other government agencies



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## Who can apply?

- Victims of qualifying criminal activity
- Parents and guardians can apply as an "indirect victim" if:
  - the victim is a child under 21 years of age and/or
  - is incompetent, incapacitated, or deceased due to murder or manslaughter
- Bystanders victimization – very limited
- For child victims a "next friend" can provide helpfulness



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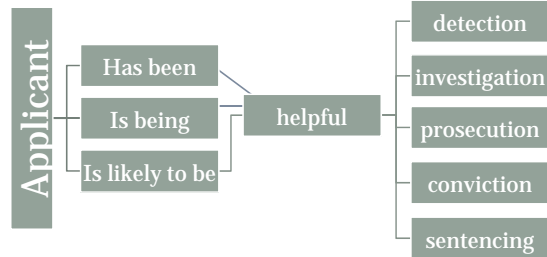
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## Helpfulness



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




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## Making Determination

- Certifying agency determines "helpfulness"
- Helpfulness can include:
  - Calling 911
  - Providing a description of offender
  - Allowing photographs to be taken
  - Giving information about the offender's whereabouts
  - Statement about prior bad acts




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## Not Required

- Conviction
- Charges filed
- Offender arrested
- Testimony at trial
- Necessary witness
- Within statute of limitations
- Offender is identified
- Offender alive




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# 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

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# How will a U visa certification request come to you?

- From victim advocate or immigration attorney
- As a police officer you are the first responder
- As a prosecutor you might have continued contact with the victim and might be first to identify victim's U visa eligibility

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# U Visa Application Victim Flow Chart

**Criminal activity occurs.**

**Victim meets each of the U-visa eligibility requirements.**

**Law Enforcement provides victims with:**

1. I-920 Law Enforcement Certification to be signed in blue ink and completed by the head of the certifying agency OR by a person in a supervisory role specifically designated by the head of the agency to sign certifications.
2. Any supporting documentation such as reports and findings, and
3. In the case of I-920 letter from the head of the agency designating another person to sign the certification (designate letter).

**Victim submits U-visa application to the Victims and Trafficking Unit of USCIS showing that the victim meets each of the U-visa eligibility requirements.**

The application includes:

- U-visa application form—Form I-918
- Law Enforcement Certification—Form I-920, Supplement B
- Documents related to victim's identification
- Victim's signed statement describing the facts of the victimization
- Any information related to victim's criminal history, including arrests
- Any information related to victim's immigration history, including prior deportations
- Any information related to victim's health problems, use of public benefits, participation in activities that may pose national security concerns, and mental health
- Any information related to the victim's substantial physical or mental abuse suffered
- Other documentation such as police reports, medical records, letters of support from service providers.
- Other family members can also apply.

Other administrative documentation is also required. More information is available at [www.hhs.gov/uscis](http://www.hhs.gov/uscis).

**After 3 years, U-visa holders (status) apply for lawful permanent residence ("green card").**

The application includes:

1. Adjustment of Status Application—Form I-485
2. Any information related to the victim's continuous presence in the U.S. since obtaining U-visa status.
3. Any information indicating that USCIS should exercise its discretion to grant lawful permanent residence.
4. Any information indicating that the U-visa holder has not unreasonably refused to cooperate with an ongoing investigation or prosecution.

English family members can also apply.

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# 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 02/28/2019

Certification form is located in your materials.  
Please locate to follow along.



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## Part 2. Agency Information

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

- Name of Certifying Agency
- Name of Certifying Official
  - Family Name (Last Name)
  - Given Name (First Name)
  - Middle Name
- Title and Division/Office of Certifying Official



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## 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"/> Perjury  |
| <input type="checkbox"/> Blackmail                                    | <input type="checkbox"/> Penetration                                    |
| <input type="checkbox"/> Conspiracy to Commit Any of the Named Crimes | <input type="checkbox"/> Rape   |
| <input type="checkbox"/> Domestic Violence                            | <input type="checkbox"/> Sexual Assault                                 |
| <input type="checkbox"/> Extortion                                    | <input type="checkbox"/> Sexual Exploitation                            |
| <input type="checkbox"/> False Imprisonment                           | <input type="checkbox"/> Slave Trade                                    |
| <input type="checkbox"/> Felonious Assault                            | <input type="checkbox"/> Solicitation to Commit Any of the Named Crimes |
| <input type="checkbox"/> Female Genital Mutilation                    | <input type="checkbox"/> Stalking                                       |
| <input type="checkbox"/> Fraud in Foreign Labor Contracting           | <input type="checkbox"/> Torture  |
| <input type="checkbox"/> Incest                                       | <input type="checkbox"/> Trafficking                                    |
| <input type="checkbox"/> Involuntary Servitude                        | <input type="checkbox"/> Unlawful Criminal Restraint                    |
| <input type="checkbox"/> Kidnapping                                   | <input type="checkbox"/> Witness Tampering                              |

You can & should certify multiple offenses when present in the case.



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4.a. 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

4.b. If you answered "Yes," where did the criminal activity occur?  
\_\_\_\_\_

5.a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute?  Yes  No

5.b. If you answered "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.  
\_\_\_\_\_

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.  
\_\_\_\_\_

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

**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.**

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**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.**

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**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.

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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.

- Does the victim possess information concerning the criminal activity listed in **Part 3**?  Yes  No
- 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
- 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.**

Why do you think it's set up this way?




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




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**Reasons for Refusal**

- Fear
- Threats or intimidation
- Family pressure
- Family unity
- Financial
- Known v. unknown
- Victim-offender dynamics




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*“Only unsuccessful intimidation ever came to the attention of police or prosecutors.”*

Kerry Healey, National Institute of Justice, Research in Action, Victim and Witness Intimidation: New Developments and Emerging Responses (Oct. 1995)  
<https://www.ncjrs.gov/pdffiles/witintim.pdf>

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**U Visa Statute**  
**INA 245(m)(1); 8 U.S.C. 1255(m)(1)**

- Allows a U visa to be granted when
  - The victim is, was or list likely to be helpful
- Once the victim's case is filed
  - The victim may not unreasonably refuse to provide assistance 8 C.F.R. 245.24(b)(5)
- U visa regulations 8 C.F.R 214.14(b)(3)
  - Require that requests for assistance be reasonable

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**Reasonableness of Request 8 C.F.R. 245.24(a)(5)**

- May refuse if the requests for assistance were unreasonable 8 C.F.R. 245.24(e)(2)(ii)
  - Consider general law enforcement, prosecutorial, judicial practices
  - The kinds of assistance asked of other victims of crimes involving an element of force, coercion, or fraud
  - The nature of the request to the alien for assistance.

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### Evaluating Whether Victim's Refusal to Provide Assistance/Cooperation was "Unreasonable" – Regulations 245.24(a)(5)

- **Considerations:**
  - Totality of the circumstances, including the nature of the victimization
  - Victim's fear or the abuser
  - Trauma suffered
  - Force, fraud or coercion




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### T Visas & Certifications

- Non-Immigrant, 4 Year visa
  - Victim of severe form of trafficking
  - In the US or territories on account of trafficking
  - Respond to reasonable requests for collaboration with investigation and prosecution unless victim is under 18
    - Limited "trauma exception"
  - Hardship upon return to home country
- May apply for lawful permanent residency after investigation/prosecution is over or 3 years, what ever time is shorter
- Certification/Declaration helpful not mandatory




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### What are Severe Forms of Human Trafficking?

- **Sex Trafficking:** in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- **Labor:** The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery

(Federal Law—"Victims of Trafficking and Violence Prevention Act of 2000 can be found at [www.ojp.usdoj.gov/vawo/laws/vawo2000/](http://www.ojp.usdoj.gov/vawo/laws/vawo2000/))




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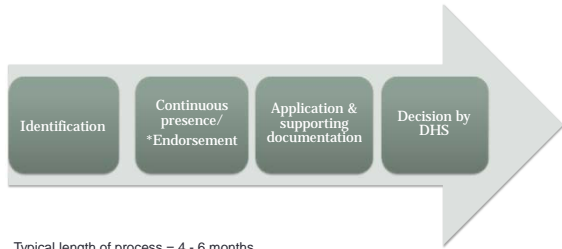
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## The T Visa Application Process



Typical length of process = 4 - 6 months



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## When should you certify?



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## Timeline

- Certification must be included in the initial application for a U Visa
- Once the initial application is processed:
  - Victim is entered into a database and flagged as an applicant for a U Visa



- Immigration proceedings will not be initiated
- Offender can not intimidate with threats



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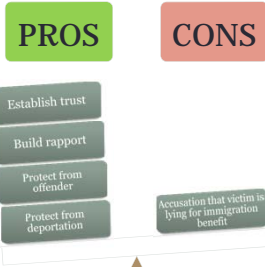
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## Certifying Early




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




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## U Visa 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

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## Prosecution Strategies

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### #1 Concern

PROS

CONS

Establish trust

Build rapport

Protect from offender

Protect from deportation

Accusation that victim is lying for immigration benefit

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## 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 call be opened at any time, but is likely done during cross-examination

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## 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



Rebut charge that victim is lying to get immigration benefit

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## IACP 2018 Resolution Promotes U/T Visa Certification As "Significant Crime Fighting Tools" and "Best Practice"

- Training, education, communication and "increased police leadership involvement" needed on U/T visa certification
  - U and T visas are "effective tools for law enforcement agencies that enhance public safety, officer safety and protection of victims nationwide."
  - These visas increase "trust between law enforcement officials and otherwise reluctant immigrant communities."
- Model Policy available on USB

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## Small Group Discussion

**Based on the training today, what will you take with you when you return to your agency?**

- What might you want to implement?
- Questions you want to ask?

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**DHS Resources** 

**Victim Assistance Specialist**  
 SAC St Paul  
 Deborah Morrison  
 Phone: 952-858-5427  
 deborah.morrison@ice.dhs.gov

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**Resources**

- ▶ **Technical Assistance**
  - ▶ Call: 202.274.4457
  - ▶ Email: [niwap@wcl.american.edu](mailto:niwap@wcl.american.edu)
- ▶ **Materials on U visa and Immigrant Victims Legal Rights**
  - ▶ Visit <http://niwaplibrarywcl.american.edu>
  - ▶ U Visa Certification Toolkit
  - ▶ DHS Answers to Law Enforcement Reasons for Not Certifying
  - ▶ USCIS Q & A on U Visa Certification
  - ▶ Roll call training videos
  - ▶ All available at: <http://niwap.org/lawenforcement>

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**Thank You!**

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