

# NIWAP

## CONFERENCE



Strengthening Community and Organizational Responses: Serving  
Immigrant Victims of Domestic Violence, Sexual Assault, and Stalking

# Offender-Focused Investigations and Prosecutions of Domestic and Sexual Violence involving Immigrant Victims

Workshop 2A  
August 2023

# NIWAP

National Immigrant Women's Advocacy Project  
American University Washington College of Law

# Introductions



**Michael La Riviere**  
Investigator  
Salem, MA Police  
Department



**Jane Anderson**  
Attorney Advisor  
AEquitas

# Thank You to OVW

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# What We Do



## Resources

Create, research, and curate publications, statutory and case law compilations, and other resources that strengthen prosecution practices



## Consultations

Offer on-demand 24/7 consultations with our seasoned prosecutors to answer case-specific inquiries, discuss strategy, conduct research, and recommend data-driven solutions



## Training Events

Develop curricula and facilitate a wide range of specialized in-person and web-based trainings designed to empower prosecutors and allied professionals



## Partnerships & Initiatives

Provide long-term support in building frameworks for coordinated responses to gender-based violence including data collection and analysis, task force development, and training

# Learning Objectives

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

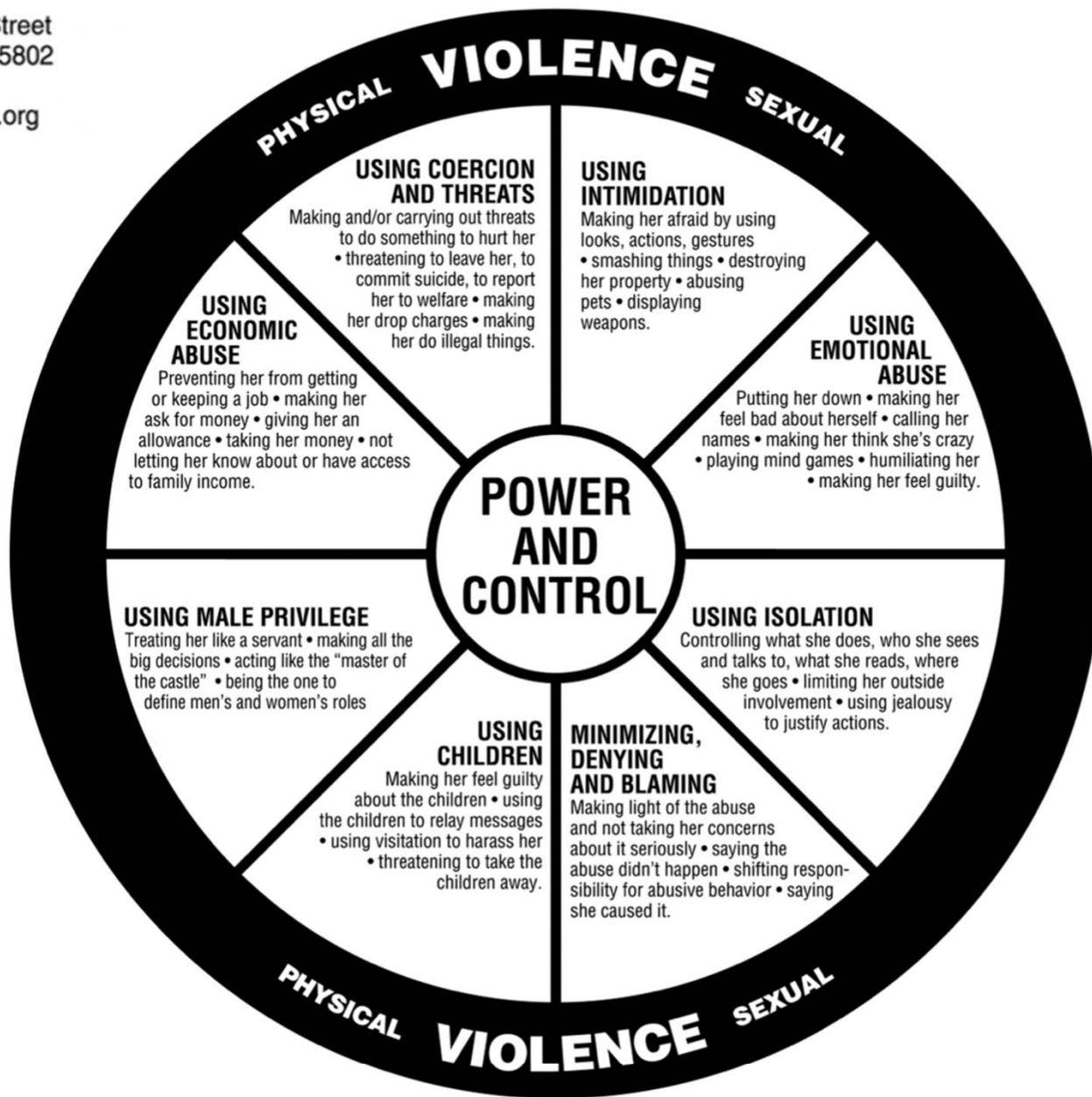
- Identify offender tactics used to assert power and control over immigrant victims of domestic and sexual violence
- Utilize immigration relief to enhance investigations by increasing the safety and stability of immigrant victims
- Develop prosecution strategies to overcome common defenses in cases involving immigrant victims

# Offender-Focused

- Focus on the defendant's actions, tactics, and behavior
- Articulate victim behavior as normal responses to trauma inflicted by offender

**DOMESTIC ABUSE INTERVENTION PROJECT**

202 East Superior Street  
Duluth, Minnesota 55802  
218-722-2781  
www.duluth-model.org



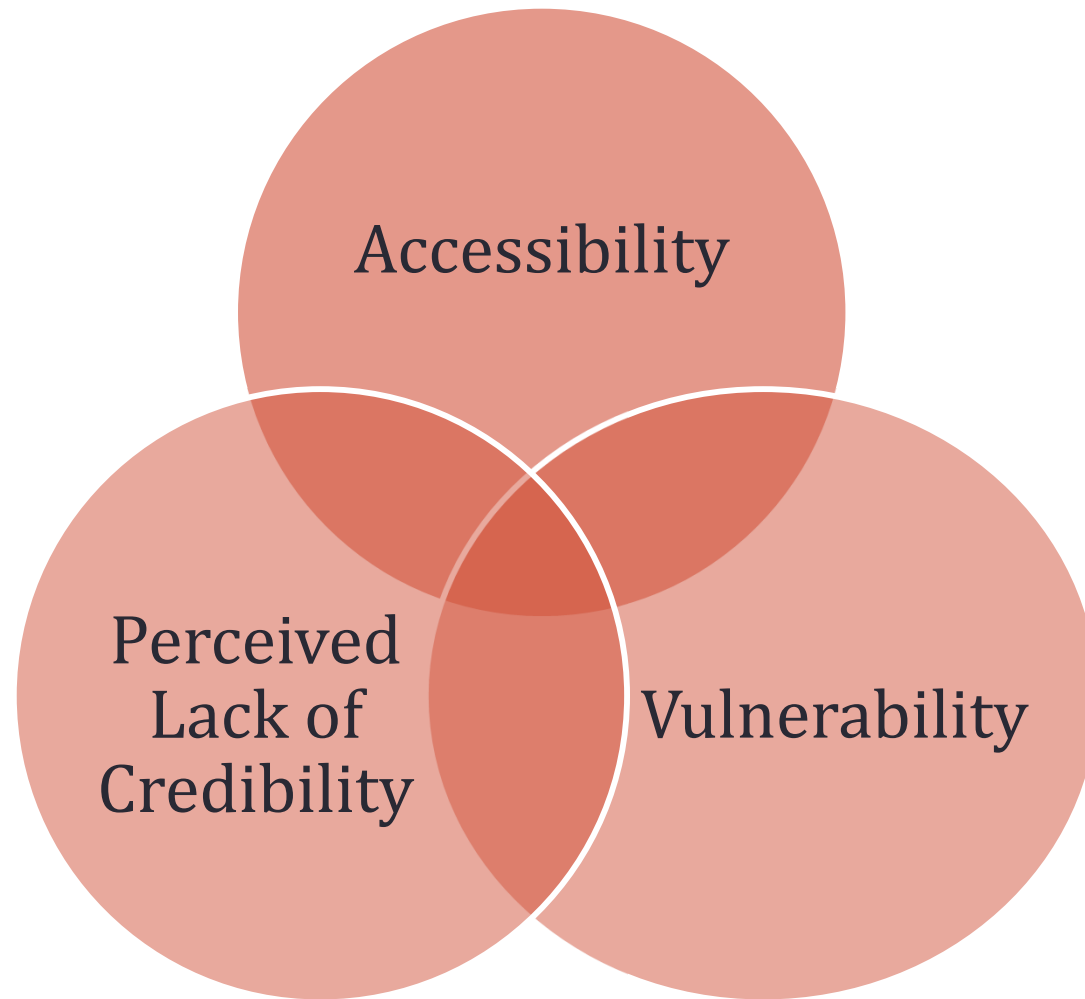




# Large Group Discussion

- What are some specific tactics used by offenders seeking to assert power and control over immigrant victims of...
  - Domestic Violence
  - Sexual Assault
  - Stalking

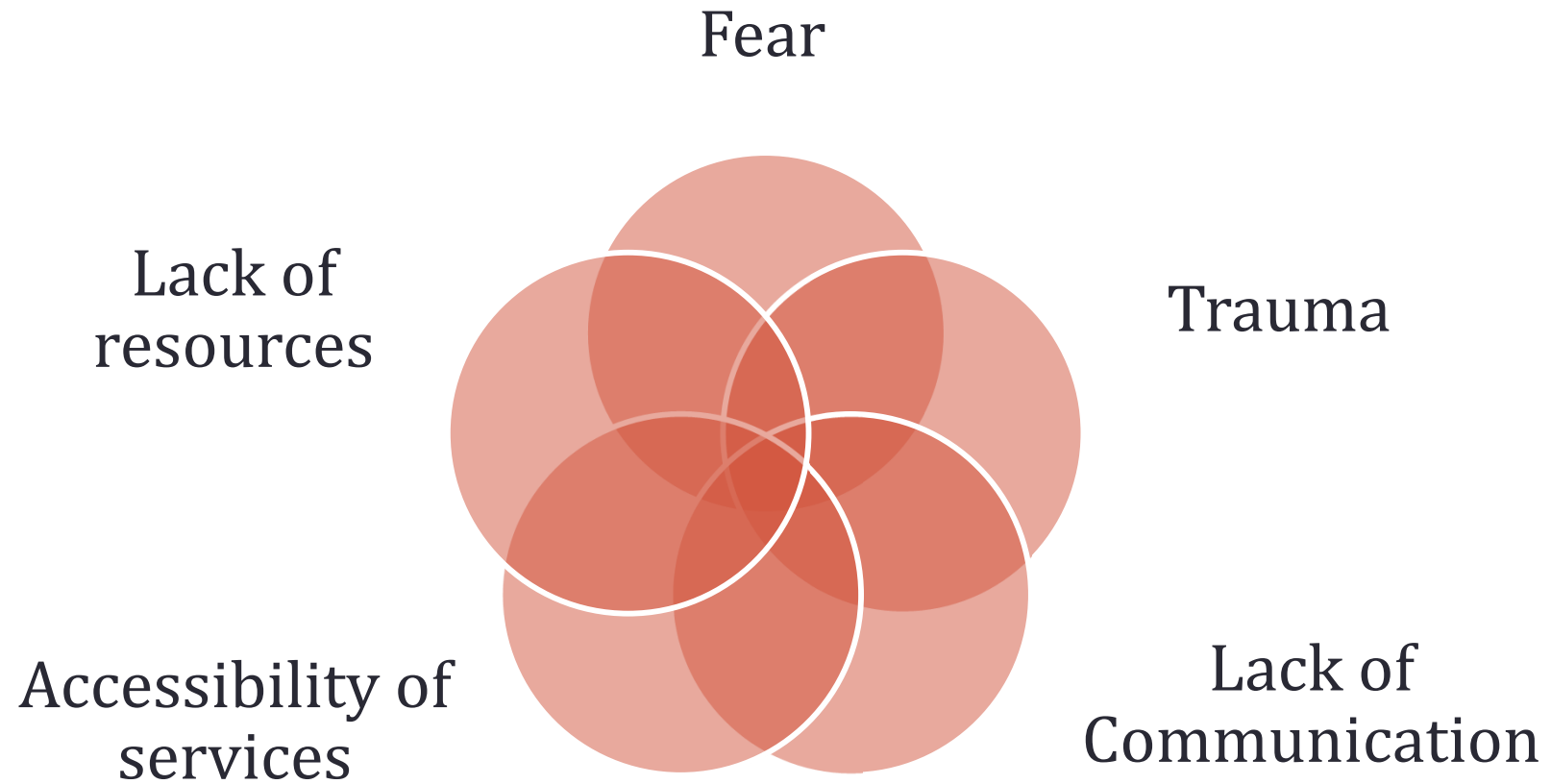
# The Perfect Plan of Sexual Offenders



# Large Group Discussion

- What are some challenges to Investigating and prosecuting domestic and sexual violence?

# Inability to Participate



# Minimizing Fears and Barriers

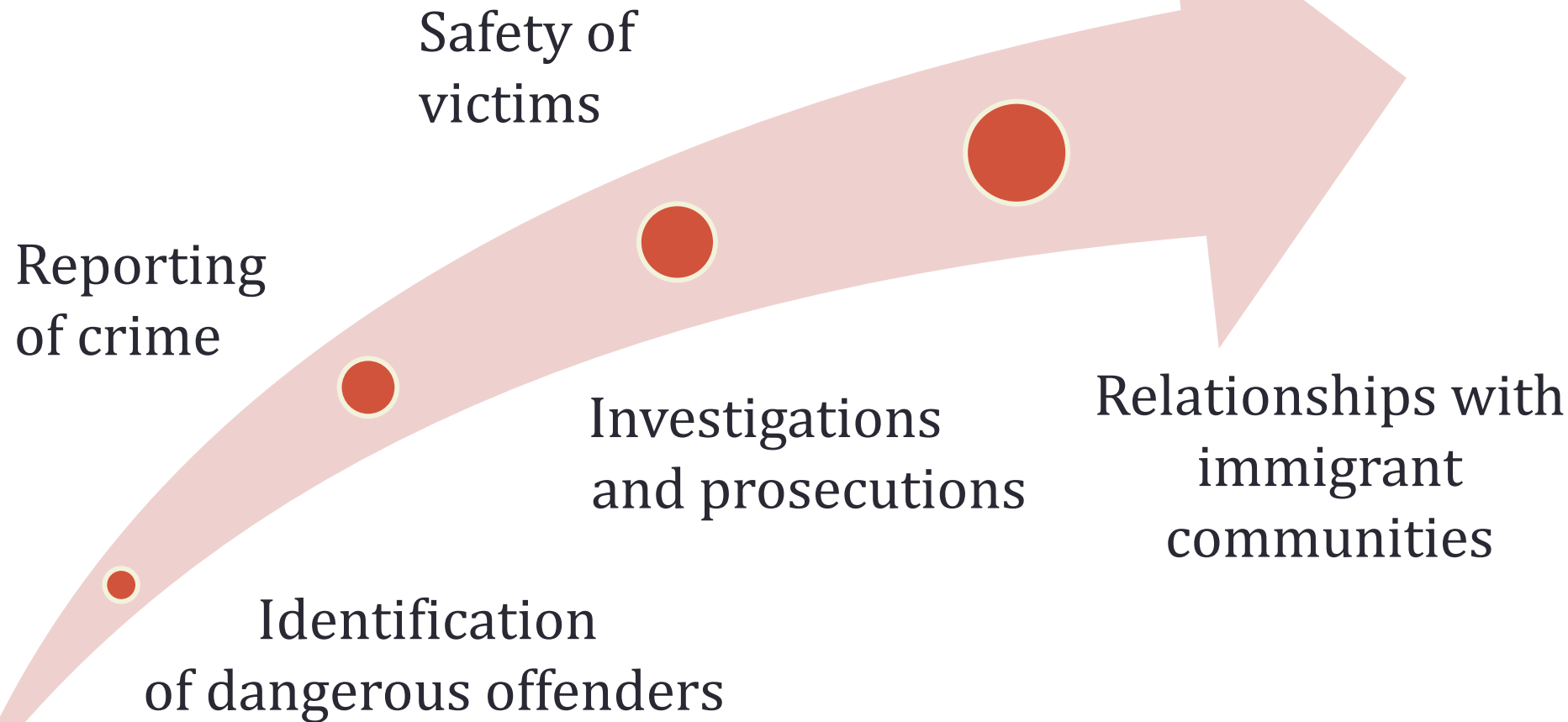


Immigration  
Relief



Language  
Access

# Immigration Relief as a Crime Fighting Tool



# U Visa Requirements

## Victim

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

## Helpfulness

- Victim has been, is being, or is likely to be helpful in:
  - Detection
  - Investigation
  - Prosecution
  - Conviction
  - Sentencing

## Harm

- Substantial physical or mental abuse as a result

This is not a part of the certification.



# 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	Fraud in Foreign Labor Contracting	Unlawful Criminal Restraint
Peonage	Perjury	Prostitution
Rape	<i>Includes attempt, conspiracy or solicitation</i>	

# Types of Qualifying Criminal Activity

- Conviction 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

# IACP 2018 Resolution

- Recognizes U as a significant crime fighting tool
- Recommends using U Visas as best practice
- Supports training, education, communication and “increased police leadership involvement”
- Commits to increasing collaboration

*U Visas are “effective tools for law enforcement agencies that enhance public safety, officer safety and protection of victims nationwide.”*

# Small Group Activity and Report Back

- At your tables
  - Make a list of the reasons that law enforcement or prosecutors either delay or decline certification
- Note some ways that offender focused criminal investigations and prosecutions may address these issues

# FAQs

What if the Defendant is Never Identified, Arrested, or Prosecuted?

This is not part of the analysis. Take a victim-centered approach to making your determination

What if the Victim Cannot be Located or Seems Uncooperative Later?

Certification can be revoked, but first conduct a trauma-informed analysis of the victim's situation

When Should I sign this?

As soon as you can make the determinations required by the certification

## PROS

Establish trust

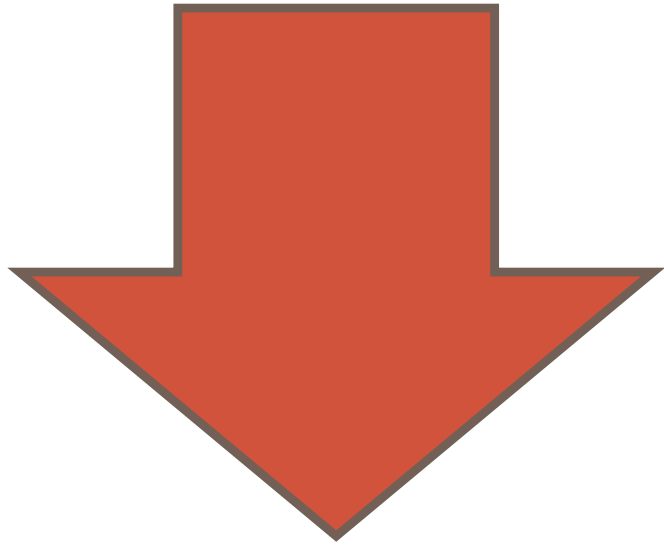
Build rapport

Protect from offender

Protect from deportation

## CONS

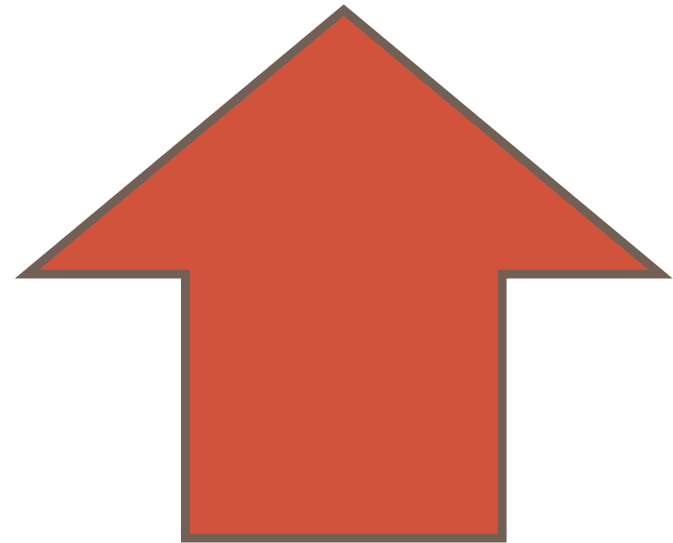
Accusation that victim is lying for immigration benefit



Challenges



Strengths



# Analyze Case

## Victim Selection

- Did the offender choose the victim because of a real or perceived vulnerability?

## Criminal Act

- Did the offender use the victim's immigration status to commit a criminal act?

## Escape Detection

- Was the victim prevented from reporting the crime to police because of their immigration status?



# Educating the Judge and Jury

Pretrial  
Motions

Jury  
Selection

Witness  
Testimony

Expert  
Testimony

Closing  
Argument

# Moving Forward

Identify and document offender tactics used to assert power and control over immigrant victims

Enhance victim safety and stability by certifying U Visas early

Turn challenges into strengths during trials of domestic and sexual violence

# Large Group Discussion

- What are some next steps you plan to take using the information you learned in this workshop?
- Are there ways you would like to see NIWAP and faculty support you in using the information presented here in your community?

# Det. Michael LaRiviere

- Salem Police Department (MA)
- Consultant, NIWAP
- [mikelariviere42@gmail.com](mailto:mikelariviere42@gmail.com)
- (781) 732-0097
- (978) 815-9547

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SENIOR ATTORNEY ADVISOR

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# Technical Assistance and Materials

- NIWAP Technical Assistance:
  - Call (202) 274-4457
  - E-mail [info@niwap.org](mailto:info@niwap.org)
  - Web Library: [www.niwaplibrary.wcl.american.edu](http://www.niwaplibrary.wcl.american.edu)
- Materials for this Workshop:
  - <https://niwaplibrary.wcl.american.edu/BostonOffenderFocused>
- Contact NIWAP to provide training for your jurisdiction