NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Law Enforcement and Prosecution Best Practices: Immigrant Crime Victims, Language Access and the U Visa

Maryland Police Academy Statewide Training
Sykesville, Maryland
March 24, 2015

This curriculum was adapted from materials developed in partnership with Legal Momentum and the Vera Institute for Justice supported by a grant awarded by the Bureau of Justice Assistance.

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

This project was supported by Grant No. 2014-TA-AX-K030 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author and do not necessarily reflect the view of the Department of Justice, Office on Violence Against Women.

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Introduction

- Faculty
- Housekeeping
- Pre-Training Assessment

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Gender and DV/SA

- U visa is a crime fighting tool will be useful for *all* qualifying criminal activities, even though you will hear primarily about DV/SA
- Gender terminology
  - A majority of the examples discussed today will be DV/SA related, so we will refer to the victim as a female and the perpetrator as male
  - Remember: U visas are available to victims who are men, women, and children

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

DHS Terminology

- DHS Terminology:
  - ***"law enforcement"*** and ***"law enforcement agencies"*** for U visa certification and T visa endorsement =
    - Federal, state, and local
      - Police departments, sheriffs, state police, FBI, ATF
      - Prosecutors and district attorneys
      - Child and Elder Abuse investigators and agencies
      - Departments of Labor , the Equal Employment Opportunity Commission (EEOC)
      - Courts, Judges, Magistrates, Commissioners
      - Any other government agency that has the authority to detect, investigate, prosecute, convict or sentence based on facts related to criminal activities covered by the U or T visa

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Participant Introductions, Goals and Expectations



NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

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

- Use the U visa certification process as a crime fighting tool
- Improve outcomes of crime scene investigations using language access tools that incorporate DOJ recommendations
- Use new tools to enhance offender accountability and victim safety
- Obtain the benefits of language access and certification programs for law enforcement and community safety

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Materials Summary

- Training Folder
  - Powerpoint, agenda, participants list, flow chart, scenarios, Blue Card, U visa process flow chart, U visa toolkit, evaluations
- Thumb drive
- Web library

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

If an immigrant/refugee victim considers reporting, what are the barriers?

Barriers to Reporting

- Threat of deportation
- Perpetrator's power and control over victim's immigration status
- Took her valid documents
- Valid documents replaced with fake documents
- Shame
- Perpetrator was a gang member– victim feared violence
- No access to money
- Made to feel powerless
- Subject to total power and control
- Language barriers
- Lack of knowledge about legal rights and U.S. system

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Large Group Discussion

Why do immigrant victims fear deportation to their home country?

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Immigrant Victims Concerns Surrounding Abuse and Deportation

- Immigration related abuse from perpetrator – fear of deportation
- Economic survival
- Pressures from Family/children
- Fear of losing custody/access to children
- Power and control over victim's immigration status
- Victim believes that if he gets deported she has to go with him
- Danger to victim in the home country (retaliation)
- Fear of being ostracized by home country community
- Fear of abandoning the home
- Fear of police/experience in home country
- Religious Factors
- Political instability/Gender barriers in home country
- Fear of unknown

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Which countries do the victims in your jurisdiction come from?

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

What languages are spoken by victims in your jurisdiction?

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Florida - Demographics

- Total foreign born population –3,747,136
- 19.2% of the state's 19.3 million people is foreign born
  - 51.6% naturalized citizens
  - 34.4% lawful permanent residents
  - 9.5% temporary legal status or undocumented
- 40.3 % rise in immigrant population from 2000 to 2012
- High proportion of new immigrants
  - 37.6 % entered 2000 or after
  - 23.7% entered in the 1990s
- 32.9% of children in the state have 1 or more immigrant parents
  - 85.5% of children with immigrant parents in Florida are U.S. citizens

*Source: http://www.migrationinformation.org/datahub/state.cfm?ID=FL (February 2014)

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Florida –Countries/Regions of Origin (2012)

- Latin America – 74.8%
  - Caribbean (41.7%)
    - Cuba (23.0%)
  - Central America (15.9%)
  - Mexico (6.9%)
  - South America (17.2%)
    - Colombia (6.2%)
- Africa – 1.7%
- Asia – 10.5%
  - Southeastern Asia (4.2%)
  - South Central Asia (2.8%)
- Europe – 10.0%
  - Eastern Europe (3.3%)

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Successful Criminal Investigations and Prosecutions Start with Crime Scene Language Access

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

How does an officer secure the scene?

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Securing the Scene- Exigency

- At the scene there is:
  - a language barrier
  - 1st encounter: Crying and emotional individual at the scene
- What do you need to do now?
  - Who is the perpetrator?
  - Who is the victim?
- Where is the perpetrator?
  - If not there, how did he leave?
- Are there weapons?
- Injuries?

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Exigency Teach Back

- What happens when you use the following to get information at the scene?
  - Abuser
    - Wrongful arrest of victim
  - Neighbors
    - Inaccurate statements
  - Children
    - Trauma

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

The Investigation Begins

- What information do you need to develop probable cause?
- What you need to do to get that information?
  - How do you get it?
  - Who should you speak to?

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Investigation Resources

- Language Line
- Department interpreter line developed in response to large local refugee population
- Medical field that is Title VI compliant
- School systems

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Bilingual Officer v. Interpreter

- Bilingual officers
  - when they are interpreting, they are not investigating
- Difference between Bilingual Officers and Interpreters?
- Biculturalism v. bilingualism
- Different words have different meanings:
  - Variations on the word “highway” depending on what state you’re from.

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Prosecutor's Perspective

- How the officers' actions under exigent circumstances impacts the prosecutor's case
- Benefits of good interpretation practices for the prosecutor later on
- Work with Jane

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Tips for Working with Interpreters

- Control the interview
- Pre-session with the interpreter
  - Where are they located?
  - Establish what your rules are
    - how do you want the interpreter to interpret?
- Interpreter has to interpret everything that you say
  - Example: when you are explaining confidentiality

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

DOJ Enforcement Actions

- Map of actions

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Barriers to the U Visa

- Language access
- Cultural barriers to cooperating with law enforcement

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Overview of the U Visa

- **What is the U visa?**
- **Purpose:** Why does it exist?

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Purpose

Congress enacted VAWA self-petitioning (1994) and the U and T visas (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

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

U Visa Requirements

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

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

The U Visa Application Process

- Law enforcement certification
- Complete and submit application with additional documentation and fees (or waiver request)
- Decision from USCIS within about 9 months to a 1 year

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Quick 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 legal permanent residency for 5 years + proof of good moral character

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

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 one of the following
  - Humanitarian need; OR
  - Family unity: OR
  - Public Interest
- DHS reviews cooperation or determines whether the victim's non-cooperation was unreasonable

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Trafficking 4 slides

- Federal statute/Definition
- State specific slide
- Myths and Realities (men and women, adults and children, domestic and international, smuggling v. trafficking (not about transportation about exploitation), labor v. sex)
- Red Flags (jane)

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

DHS Video Part 1.mpg

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

How does the U visa help law enforcement?



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

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Crime Victim Visa Requirements and Consideration for Law Enforcement and Prosecutors

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Civil vs. Criminal Immigration Violations

- **Civil Violations**
  - Unlawful entry into the U.S.
  - Unlawful presence
  - Working without employment authorization
- **Criminal Violations**
  - Illegal entry, departure, and subsequent reentry (federal)

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

DHS Priorities for Enforcement and Victim Protection
DHS Memos – Guidance

- DHS victim witness memo
- Humanitarian release
- 384 DHS computer system (VAWA, T visas, and U visas)
- Memorandums on DHS detention priorities
- DHS law enforcement Q & A on T and U visas
- U Visa Law Certification Resource Guide
- 287(g) (mention? Follow up with LEO- QUICK)

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Miami ICE Field Office

Assistant Field Office Director: Gabriel Martinez

email: Miami.Outreach@ice.dhs.gov

Area of Responsibility:

Florida, Puerto Rico, U.S. Virgin Islands

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

ICE Victim Assistance Specialist
Arthur Corrieri
305-597-6174
Arthur.Corrieri@ice.dhs.gov

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

BREAK

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

U Visa Requirements: Criminal Activity

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

- Identify types of criminal activities covered under the law
- Begin identifying victims who might qualify for U visas
  - Statutory and Regulatory Background, Toolkit p. 46

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

These are the categories of criminal activities listed in the statute

- Domestic violence
- Sexual assault
- Rape
- Incest
- Prostitution
- Torture
- Female genital mutilation
- Felonious assault
- Manslaughter
- Murder
- Kidnapping
- Abduction
- Trafficking
- Involuntary servitude
- Slave trade
- Being held hostage
- Peonage
- Fraud in Foreign Labor Contracting
- False Imprisonment
- Blackmail
- Extortion
- Witness tampering
- Obstruction of justice
- Perjury
- Stalking

*Attempt, conspiracy or solicitation to commit any of these crimes any similar activity

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

The U Visa Certification: Nuts and Bolts
Identify the Victim or Indirect Victim

- Murder/Manslaughter/Incapacitated
  - Family members: spouses; unmarried children under 21;
  - Victims under 21: parents and unmarried siblings under age 18
- Next friend
  - Someone who is assisting a direct victim who is incompetent, incapacitated, or under 16.
  - Must appear in a lawsuit to act for the benefit of the direct victim
- Bystanders victimization – very limited

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Prevalence of Domestic Violence in Immigrant Communities

- Domestic Violence in U.S. in general: 22.1% (NIJ)
- Domestic Violence among Immigrant women: 30-50%
- Immigrant women with US citizen spouses abuse rate reaches 59.5%
- Research has found that immigrant victims
  - Stay longer with their abusers
  - Have fewer resources
  - Sustain more severe physical and emotional consequences of abuse

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Prevalence of Sexual Assault in Immigrant Communities

- Immigrant women particularly vulnerable to sexual assault
- High school aged immigrant girls are twice as likely to have suffered sexual assault as their non-immigrant peers
  - Including increased risk of recurring sexual assault
- Immigrant children also particularly susceptible to child abuse

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

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

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

U Visa Certification Considerations

- What criminal activity occurred?
- Identify the victim or indirect victim
  - Note injuries observed, if any
- Determine helpfulness of the victim
- Determine if any family members were implicated in the crime

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Review the U Visa Certification Form

Located in your training packet

- **Goals:** Identify the criminal activity and the victim, then begin the certification process

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

OMB No. 1615-0104; Expires 08/31/2010

I-918 Supplement B, U Nonimmigrant Status Certification

START HERE - Please type or print in black ink.

Part 1. Victim information.

Family Name: Orloff
Given Name: Leslye
Middle Name: J

Other Names Used *(Include maiden name/nickname)*:

Date of Birth *(mm/dd/yyyy)*: 08/28/1973

Gender: ☐ Male ☒ Female

Part 2. Agency information.

Name of Certifying Agency: Salem Police Department

Name of Certifying Official: Michael P. LaRiviere

Title and Division/Office of Certifying Official: Supervisor/D.V.U.

Name of Head of Certifying Agency: Chief Christian Vaughn

Agency Address - Street Number and Name: 95 Margin St

Suite #:

City: Salem

State/Province: MA

Zip/Postal Code: 01970

Daytime Phone # *(with area code and/or extension)*: 808-555-5555

Fax # *(with area code)*: 808-555-5556

Agency Type
☐ Federal ☐ State ☒ Local

Case Status
☒ On-going ☐ Completed ☐ Other

Certifying Agency Category
☐ Judge ☒ Law Enforcement ☐ Prosecutor ☐ Other

Case Number: 675842

FBI # or SID # *(if applicable)*:

For USCIS Use Only.

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

Remarks

LEAVE BLANK

Part 3. Criminal acts.

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

☐ Abduction	☐ Female Genital Mutilation	☐ Obstruction of Justice	☐ Slave Trade
☐ Abusive Sexual Contact	☐ Hostage	☐ Peonage	☐ Torture
☐ Blackmail	☐ Incest	☐ Perjury	☐ Trafficking
☒ Domestic Violence	☐ Involuntary Servitude	☐ Prostitution	☐ Unlawful Criminal Restraint
☐ Extortion	☐ Kidnapping	☐ Rape	☐ Witness Tampering
☐ False Imprisonment	☐ Manslaughter	☐ Sexual Assault	☐ Related Crime(s)
☐ Felonious Assault	☐ Murder	☐ Sexual Exploitation	☒ Other: *(If more space needed, attach separate sheet of paper)* Stalking
☐ Attempt to commit any of the named crimes	☐ Conspiracy to commit any of the named Crimes	☐ Solicitation to commit any of the named crimes	

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)*
4/22/13			

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

266-13A Assault and Battery - Domestic

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? [X] Yes [ ] No

   a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute? [ ] Yes [X] No

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

   c. Where did the criminal activity occur?

Salem, MA

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.

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 and chin . (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.**	[X] 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)*	[X] 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.)*	[X] 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	[X] 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 and chin.

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 mf 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. Officer Michael P. LaRiviere #42

Date *(mm/dd/yyyy)* April 22,2013

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Complex Issue Discussion (placeholder)

- No statute of limitations on the crimes that they can cert
  - If active investigation, sign earlier
- Witness tampering (Jane)
- Additional charges (Jane)
- Protect the case from going south- cooperation between LE and Prosecutors (Jane) (maybe after the DHS/helpfulness discussion- see slide 72)

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Beyond the Certification

- *Brainstorm*
- In addition to the certification, what else is a victim required to prove to Homeland Security in order to receive a U Visa?

U-visa Application Victim Flow Chart

Criminal activity occurs.

IF: The victim has been helpful, is being helpful, or is likely to be helpful to law enforcement
OR
The victim is under 16 years of age and victim's parent, guardian, or next friend has been helpful, is being helpful, or is likely to be helpful to law enforcement
OR
The victim is 21 years of age or older and is deceased due to the criminal activity, incapacitated, or incompetent;
the spouse and/or children under 21 of the victim have been helpful, are being helpful or are likely to be helpful to law enforcement
OR
The victim is under 21 years of age and is deceased due to the criminal activity, incapacitated, or incompetent;
the victim's spouse, children, parents, or unmarried siblings under 18 have been helpful, are being helpful or are likely to be helpful to law enforcement
THEN
Victim (or legal representative) seeks I-918B, Law Enforcement Certification.
(if victim is not working with a service provider, law enforcement officers can refer victims at this point.)

Law Enforcement provides victims with:
1. I-918 Law Enforcement Certification signed in blue ink and completed by
   a. the head of the certifying agency; OR
   b. 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 1b) a letter from the head of the agency designating another person to sign the certification (designee 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-918, 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 deportation
- Any information related to victims health problems, use of public benefits, participation in activities that may pose national security concerns, and moral turpitude
- 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.

Eligible family members can also apply.

* Other administrative documentation is also required. More information is available at www.legalmomentum.org.

Within about 1 month, victim receives receipt notice from USCIS confirming filing of U-visa application.

Within about 9 months, victim receives decision on U-visa application. If approved, victim receives work permit. If applications for family members are approved and they are abroad, consular processing begins.

After 3 years, U-visa holders (victims) apply for lawful permanent residence ("green card")
The application includes:
- Adjustment of Status Application- Form I-485
- Any information related to the victim's continuous presence in the U.S. since obtaining U-visa status
- Any information indicating that USCIS should exercise its discretion to grant lawful permanent residence
- Any information indicating that the U-visa holder has not unreasonably refused to cooperate with an ongoing investigation or prosecution

Eligible family members can also apply.

Prepared by the National Immigrant Victims Access to Justice Partnership (2010). This project was supported by Grant No. 2009-DG-BX-K018 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the SMART Office, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Blue part from flow chart

- I'm going to work with Levi to transfer a larger image of the blue box from the prior slide here

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

DHS Video Part 2.mpg

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Lunch



NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Recap: 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 crime
- Crime occurred in the U.S. or violated U.S. law
- U-visa Certification: Introduction (Toolkit p.4) , U-visa Quick Reference Guide (Toolkit p.12)

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Helpfulness

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

- Understand the scope of the helpfulness standard
- Apply the helpfulness standard to U-visa certifications

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Hypotheticals
Small Group Activity

- Is this person eligible for a U Visa certification?
- Get additional scenarios that involve crimes other than DV/SA
  - Shelli and Stacey- financial crimes
  - Mercedes, Ro, Edna, and Bebe- make them harder and Mike will double check

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Hypothetical Case Scenario: 1

Lara



NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Lara 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 had done if she told anyone. Four months later, Lara 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 encouraged her to contact the police, and helped her call the police. Lara told the police everything she knew, but said she would not testify in court because she feared retaliation.

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Hypothetical Case Scenario:2

Amelia and Carlos



NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Amelia and Carlos were living in poverty in their home country. 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 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 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 Carlos and the "coyote" into custody. Carlos told the police many details of the coyotes' illegal business enterprises.

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Large Group Discussion

- What does it take to be helpful?

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

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

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

U visa helpfulness handout & Web materials

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Helpfulness can be satisfied even if:

- Victim reports a crime where there's no further investigation
- Report is of past crime, where victim did not know or feel safe to report
- Perpetrator absconds or is subject to immigration removal
- The perpetrator is being prosecuted for a different crime
- Victim is not needed as a witness
- Victim is dead (indirect victim qualifies)
- Perpetrator is dead
- Victim has a criminal history
- Victim is subject to immigration enforcement
- Victim fully discloses story after better understanding rights, the U-visa and meaningful language access

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

- Complex questions from above- Jane's and the one point on the prosecutor's case.

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Identifying and Addressing Challenging Issues

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

- Identify the reasons why police and prosecutors are not signing U visa certifications
- Identify issues that arise in providing language access to police and prosecution assistance
- Anticipate and overcome such challenges

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Small Group Discussions

- When you consider taking the information you are learning today back to your agency about
  - Language Access
  - U Visas
- What are the concerns/questions the following persons may have
  - Your Chief/Sheriff
  - Your District Attorney
  - Other Officers
  - Other Prosecutors
  - Supervisors

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Large Group Discussion

- Do a report back on steps to implement what you have learned here today in your jurisdiction

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Prosecutor's Evidence Picture

- Image of evidence (Jane- this is that flow chart style picture you drew on the board about evidence and prior statements, etc.)

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Materials

- U visa as a crime fighting tool
- Blue Card
- Building Relationship Flow Chart

Large Group Discussion

- City of X, Law Enforcement Certification Protocol
- Are these true or false?
- *Right Hand Pocket of Trainee Folder*
  - Identify any problems with the protocol
    - Note provision numbers
  - How could the protocol be improved?
  - What is missing?

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Another Sample Protocol

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Large Group Discussion

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

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

NIWAP

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW

Resources

- **Technical Assistance**
  - Call: 202.274.4457
  - Email: niwap@wcl.american.edu
- **Materials on U visa and Immigrant Victims Legal Rights**
  - Visit http://niwaplibrary.wcl.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: www.http://niwap.org/bja

NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Evaluations

- Evaluations are in your training packet
- Certificates

