NIWAP

AMERICAN UNIVERSITY
WASHINGTON
COLLEGE OF LAW

Prosecuting Domestic Violence, Stalking, Sexual Assault, and Human Trafficking Cases involving Immigrant Victims

Maryland Prosecutors
Virtual Training
August 5, 2025

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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.

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Our goal is to increase immigrant crime victims' safety, justice system participation, and the ability to rebuild their lives and thrive

- We provide Training & Technical Assistance to
  - Local, state, federal law enforcement; prosecutors; victim advocates; judges; attorneys; and other professionals
  - Those serving immigrant victims of domestic violence, sexual assault, dating violence, stalking, human trafficking, child/elder abuse, and other crimes

Learning Objectives

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

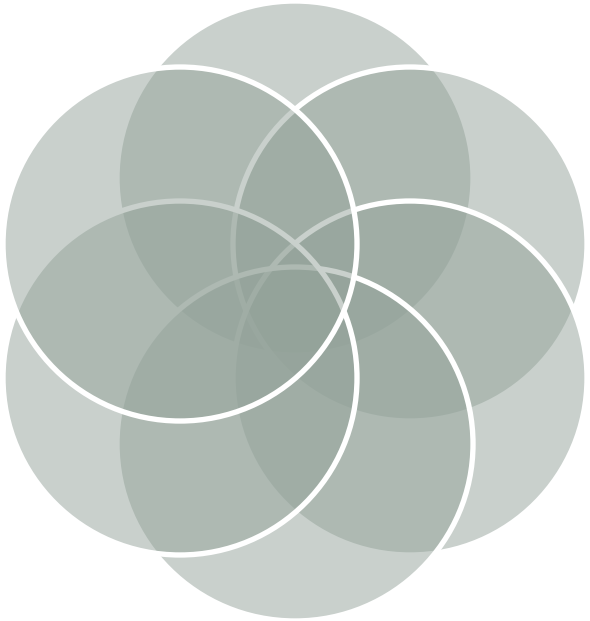
- Identify offender tactics used to assert power and control over victims
- Improve investigations and prosecutions by providing access to appropriate and legal immigration relief to victims
- Develop strategies to overcome common defenses in cases involving immigrant victims

Dynamics and Co-Occurring Crimes

Co-Occurring Crimes

Human trafficking

Gang violence



Sexual violence

Child abuse

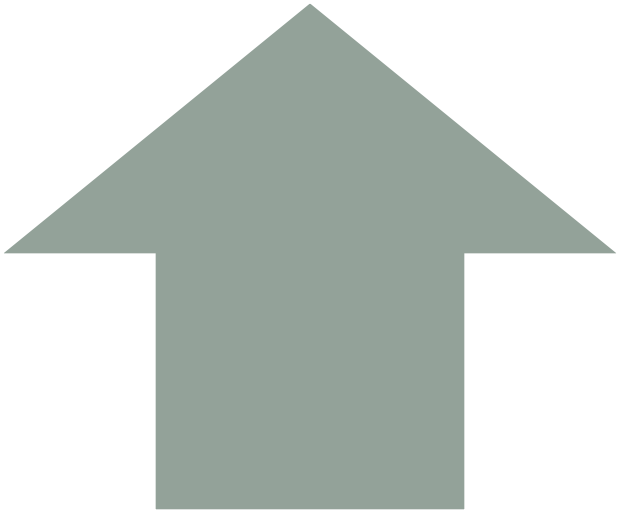
Domestic violence

Stalking

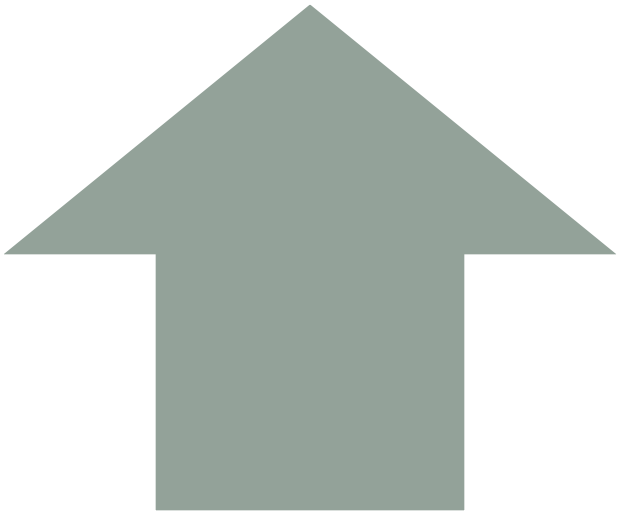
Commonalities

- Victim and offender relationship is based on an unbalanced power dynamic
- Criminal behavior is ongoing
- Offenders engage in criminal and non-criminal acts
- Victims often do not disclose their victimization
- Witness intimidation is prevalent

Exploitation and Violence



Victimization



Vulnerability

Common Vulnerabilities

- Age
- Poverty
- Immigration status
- Non-English speaking
- Unstable home lives
- Prior abuse
- Substance use disorder
- Mental health issues
- Criminal justice system involvement
- Lack of educational or job opportunities
- Disability

Common Offender Tactics

Power & Control Wheel

Domestic Abuse Intervention Project, Duluth, MN



HT Power & Control Wheel

Adapted from the Duluth Model

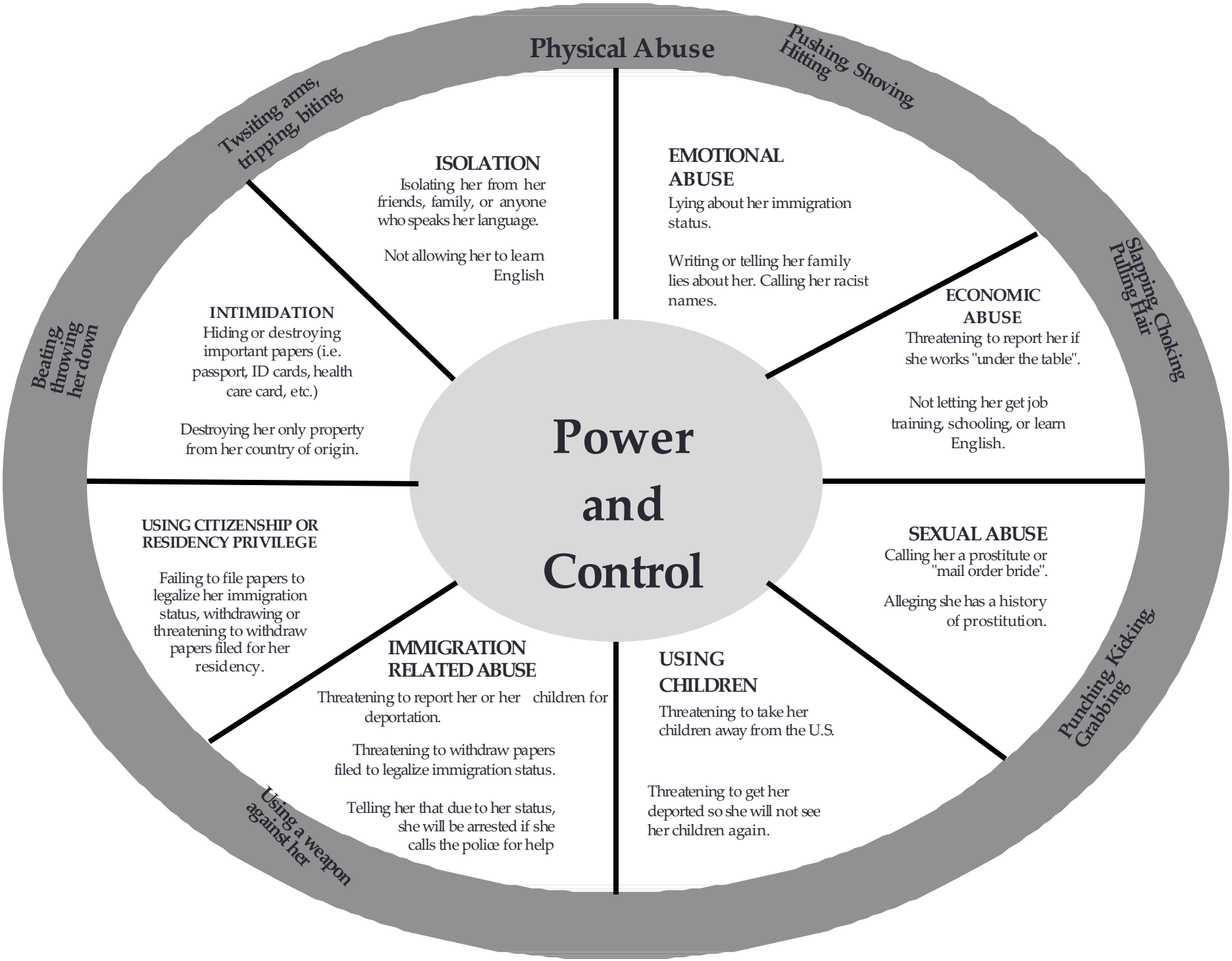


Discussion:

What are some specific tactics used by offenders seeking to assert power and control over immigrant victims…

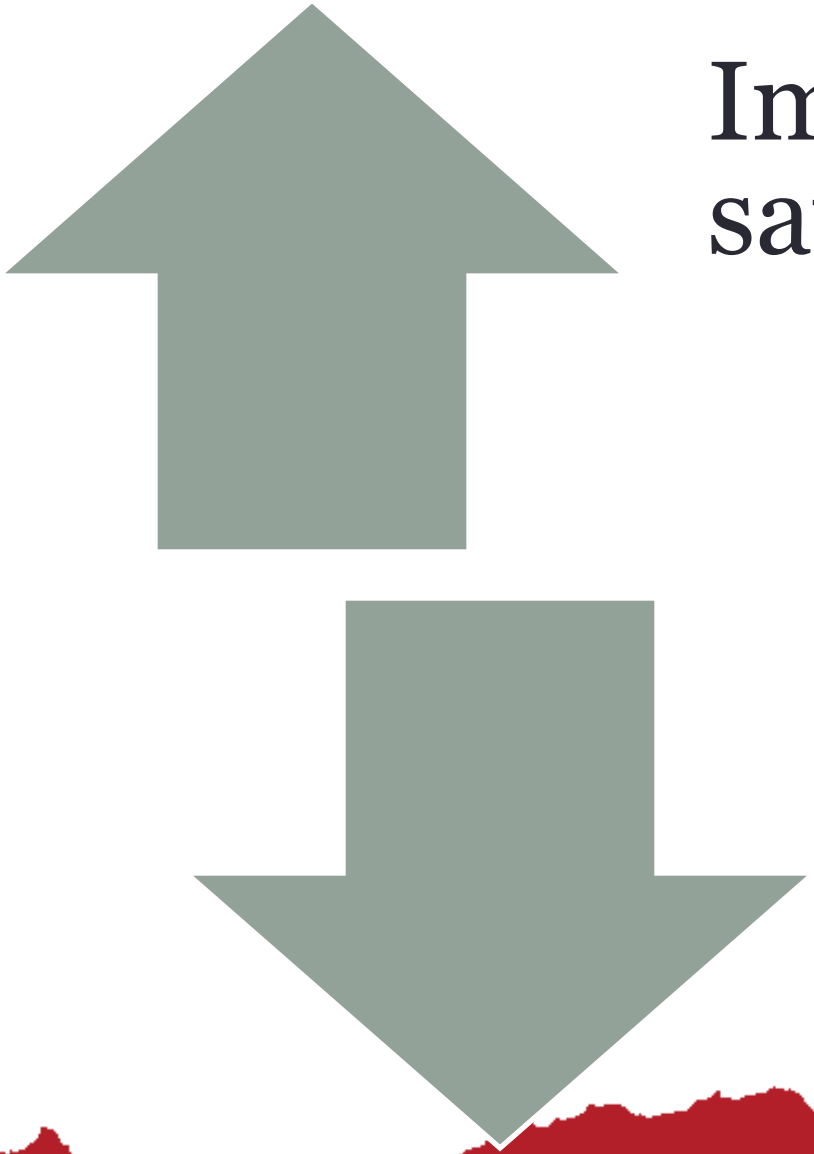
Power & Control Tactics Used Against Immigrant Women

Document Updated December 3, 2024



Effective Responses to Immigrant Victims of Crime

Effective Responses



Improve victim safety and stability

Minimize barriers and misconceptions

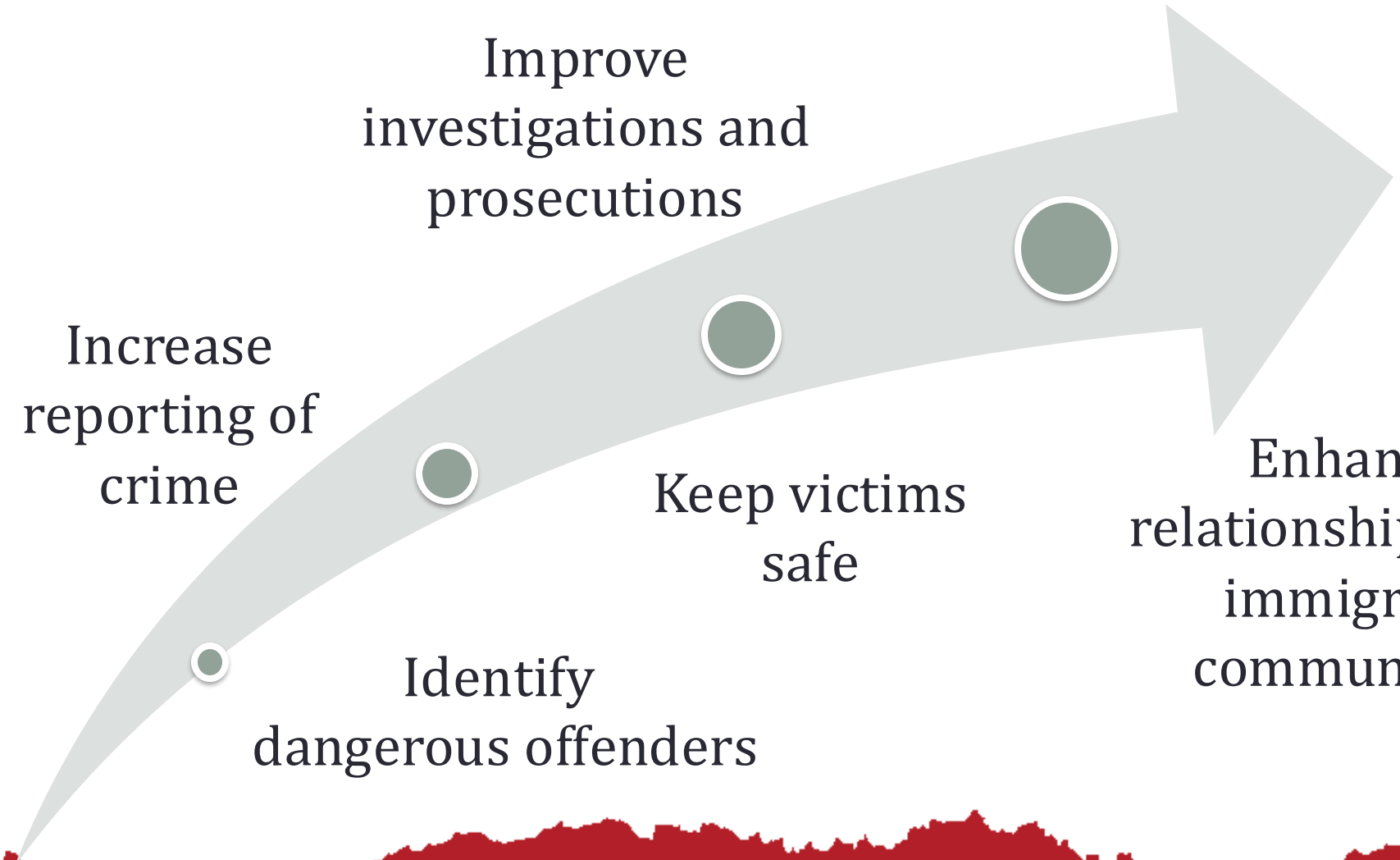
U and T Visas as Crime Fighting Tools

Legal Immigration Relief

U Visa	Available to most victims of violent crime
T Visa	Available to victims of human trafficking
Continued Presence	Short-term immigration status for victims of trafficking

Crime Fighting Tool

Legislative Intent



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 *any of the following:*
  - Detection
  - Investigation
  - Prosecution
  - Conviction
  - Sentencing

Harm

- Substantial physical or mental abuse as a result

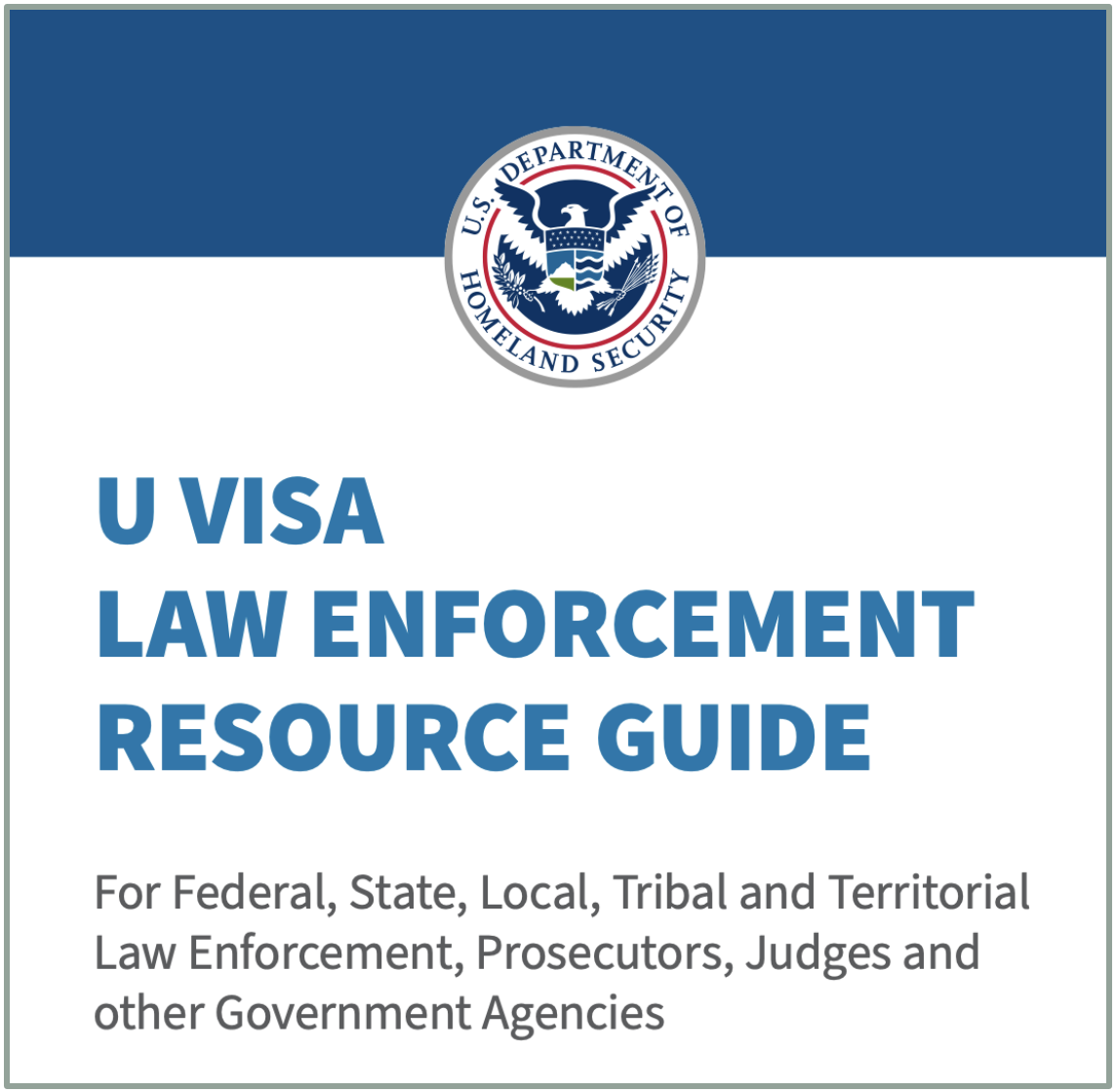
This is not a part of the certification.

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	***Includes attempt, conspiracy or solicitation***	

U Visa Certification

- Five (5) pages
- Victim must submit signed certification to apply for a U Visa
- Certification is just one part of the overall process
  - Gatekeeping function
  - Signing does not confer visa or citizenship
- Can be revoked if the victim later "unreasonably refuses" to participate in the investigation or prosecution



https://www.uscis.gov/sites/default/files/document/guides/U_Visa_Law_Enforcement_Resource_Guide.pdf

T Visa Requirements

Applicant is a victim of severe form of human trafficking

Applicant is in the U.S. because of trafficking

Responds to "reasonable requests for collaboration"

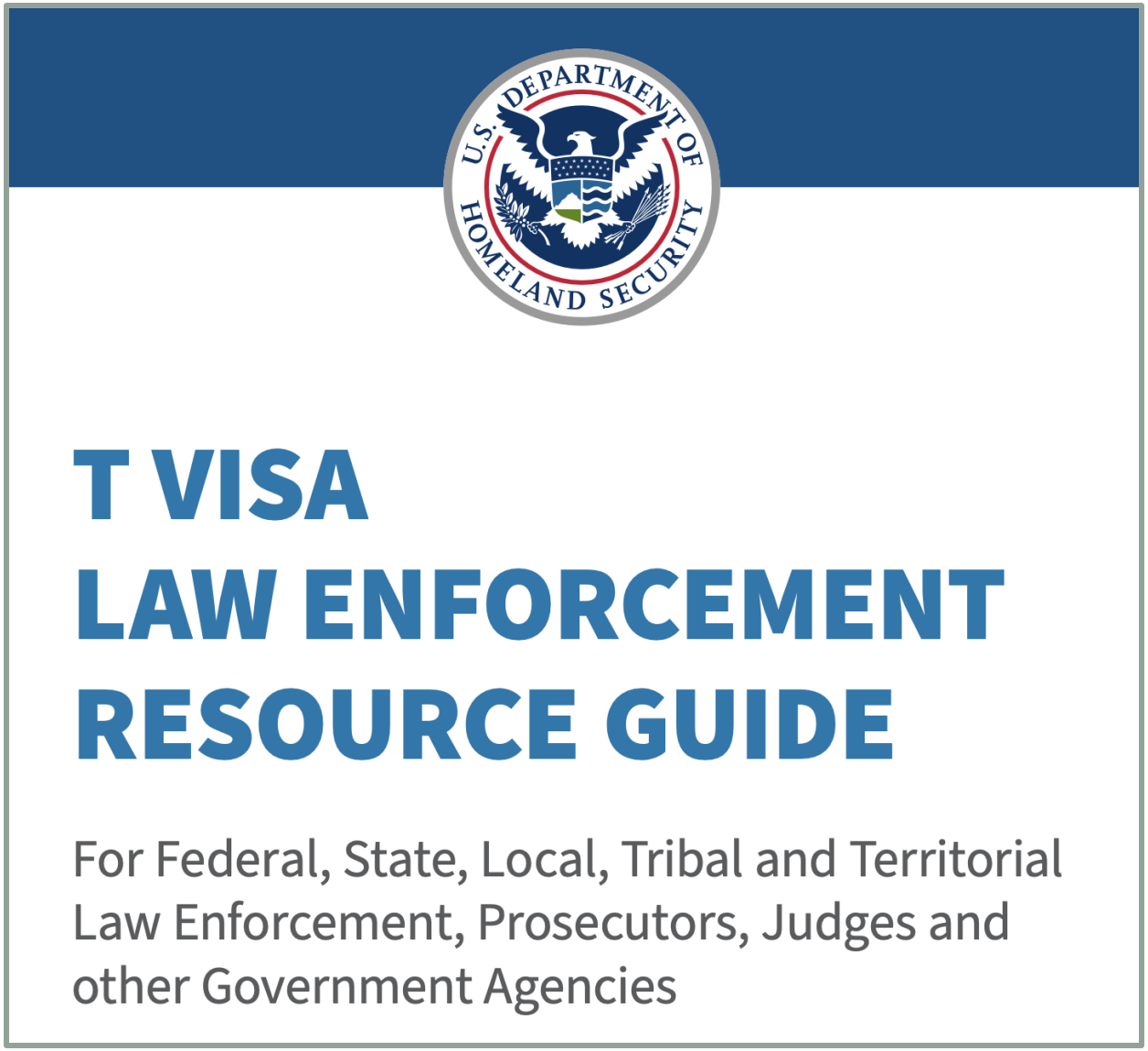
- Age & trauma exceptions may apply

Extreme hardship upon return to home country

Severe Forms of Human Trafficking

TVPA, 22 U.S.C. § 7102

Act	Means	Purpose
• Recruit • Harbor • Transport • Provide • Obtaining • Patronize • Solicit	• Force • Fraud • Coercion Not required for minor victims of sex trafficking	• Commercial Sex • Forced labor • Forced services • Involuntary servitude • Peonage • Debt bondage • Slavery



https://www.uscis.gov/sites/default/files/document/guides/T-Visa-Law-Enforcement-Resource-Guide.pdf

Continued Presence

- Temporary immigration status for victims of trafficking who are "sponsored" by federal law enforcement
- Law enforcement meant to initiate application immediately after identifying victim; cooperation is not required
- Upon approval, Dept. of Health and Human Services allows victim to:
  - Access federal and state benefits
  - Receive work authorization

Continued Presence, Cont'd.

- Granted for 2 years; can be renewed
- Does not guarantee any form of long-term immigration relief
- T Visa application is typically filed while the victim has CP
- Can be revoked



Center for Countering Human Trafficking

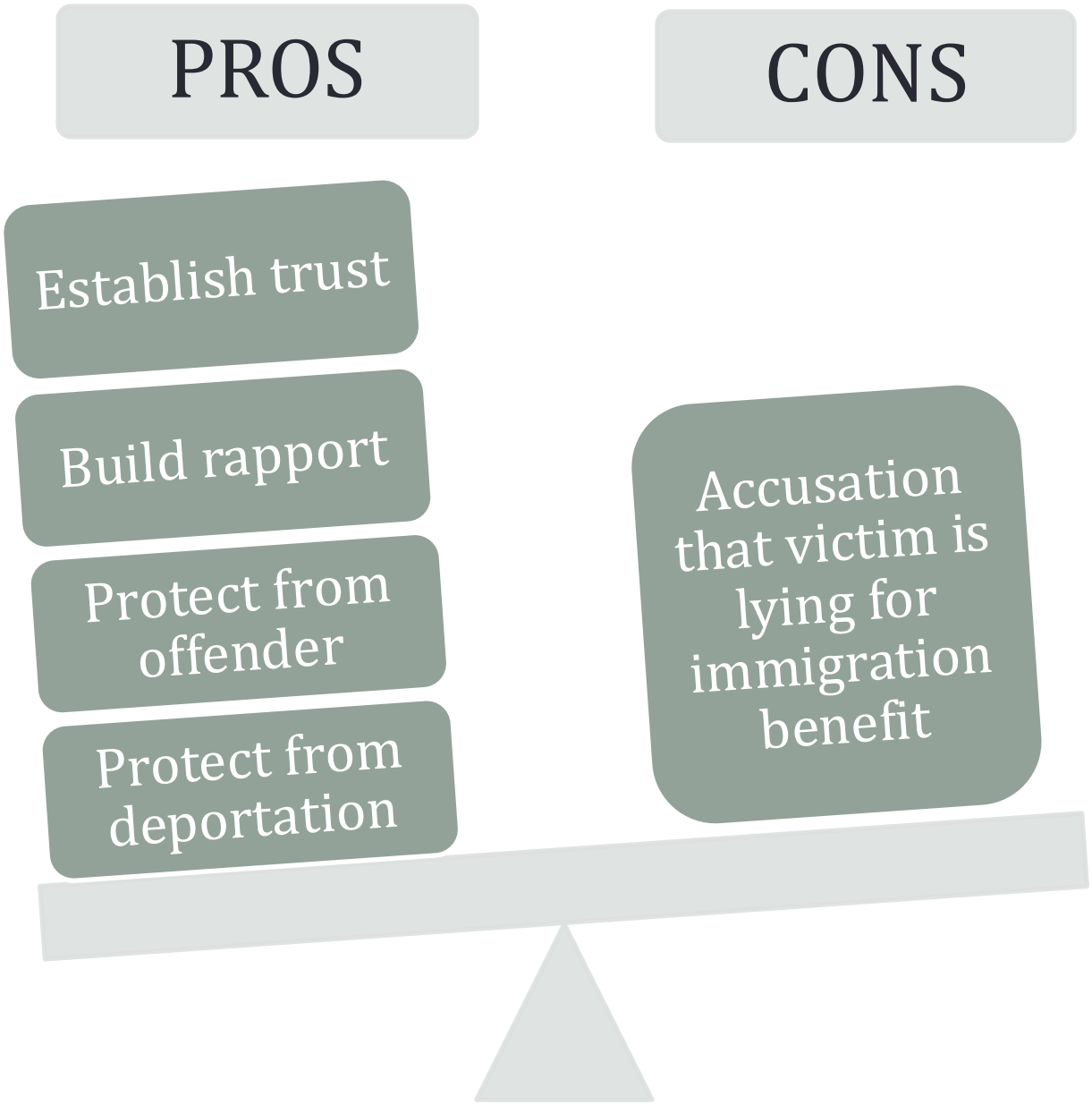
Continued Presence Resource Guide

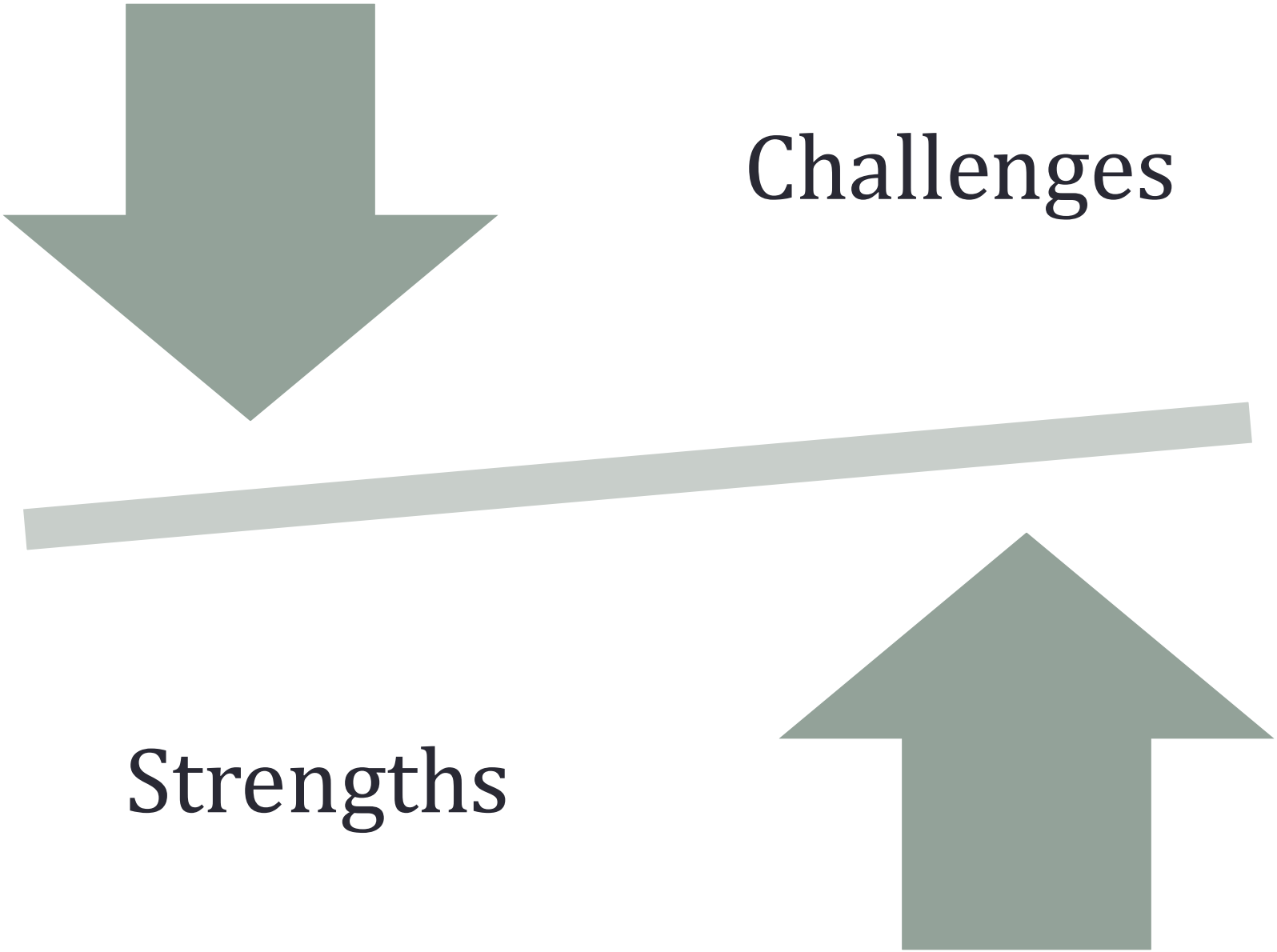
for submitting law enforcement agencies and civil attorneys

September 2023

https://www.ice.gov/doclib/human-trafficking/ccht/continuedPresenceToolkit.pdf

Developing Your Case Strategy


PROS
CONS
Establish trust
Build rapport
Protect from offender
Protect from deportation
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?

Victim Selection

- Chose a particular area of town to commit crime
- Target victims working in specific venues; e.g., agriculture, hospitality, or construction
- Victimize known immigrant
- Instill vulnerability by jeopardizing victim's immigration status

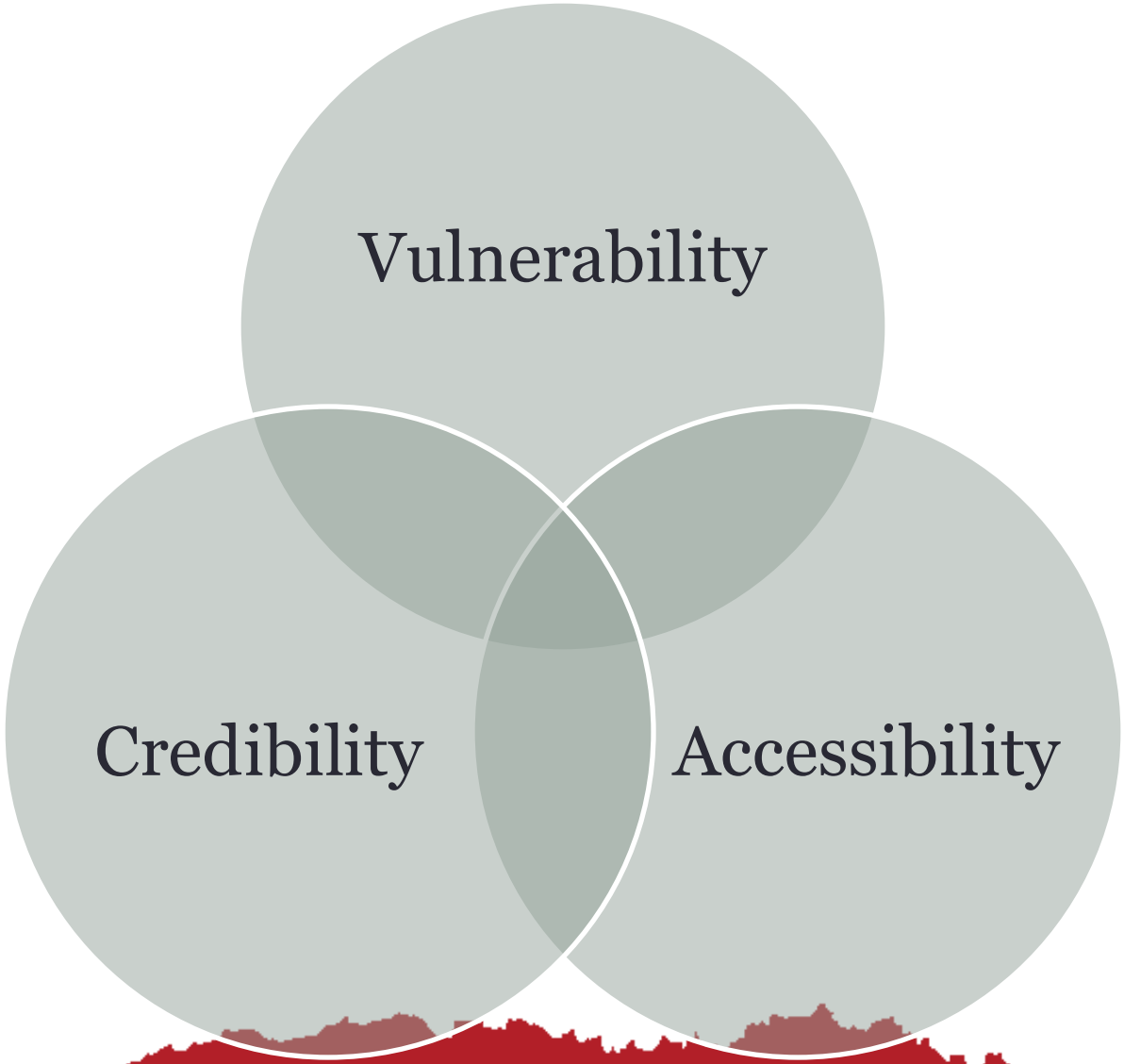
Criminal Act

- Human trafficking
- Rape by threats
- Power and control within domestic violence relationship
  - Intimate partner, spouse, child, elder abuse
- Threats as part of stalking or harassment
- Witness intimidation or tampering
- Threats in cases of robbery, extortion, felonious assault, or false imprisonment

Escape Accountability

- Threaten victim with arrest and/or deportation if police are involved
- Manipulate law enforcement to arrest LEP victims
- Use financial manipulation to prevent victims from participating in investigation or prosecution
- Isolate the victim from support services
- Misuse culture to dissuade victim from participating

The "Perfect Plan"



Offender-Focused Theme

Preying on the most vulnerable	Power over the powerless	American dream became a nightmare
Picked the perfect victim	Betrayal of trust, family, and the law	Knew there was no where to turn

Pretrial Strategies

- Preview evidence for judge
- Brief complex legal issues
- Establish evidence that will and will not be admitted at trial
- Requires thoughtful consideration of case well in advance of trial date

Motions in Limine

Relevancy

- Exclude or limit evidence of the victim's immigration status

Md. Rule 5-402 & 5-403

Other Crimes, Wrongs, or Acts

- Prior threats
- Subsequent threats or intimidation

Md. Rule 5-404(b)

[A] witness's application for a U visa can, on its own, create a basis for cross-examination where the U visa application has been submitted on the witness's behalf on the ground that the witness is the victim of a crime that a defendant is on trial for. A U visa application submitted by a witness demonstrates that the witness is applying for a visa that confers a substantial benefit based on the requirement that the witness be helpful in the investigation or prosecution of criminal activity specified in the application.

Gonzalez v. State, 487 Md. 136, 178, 316 A.3d 484, 508–09 (2024)

Excluding Evidence

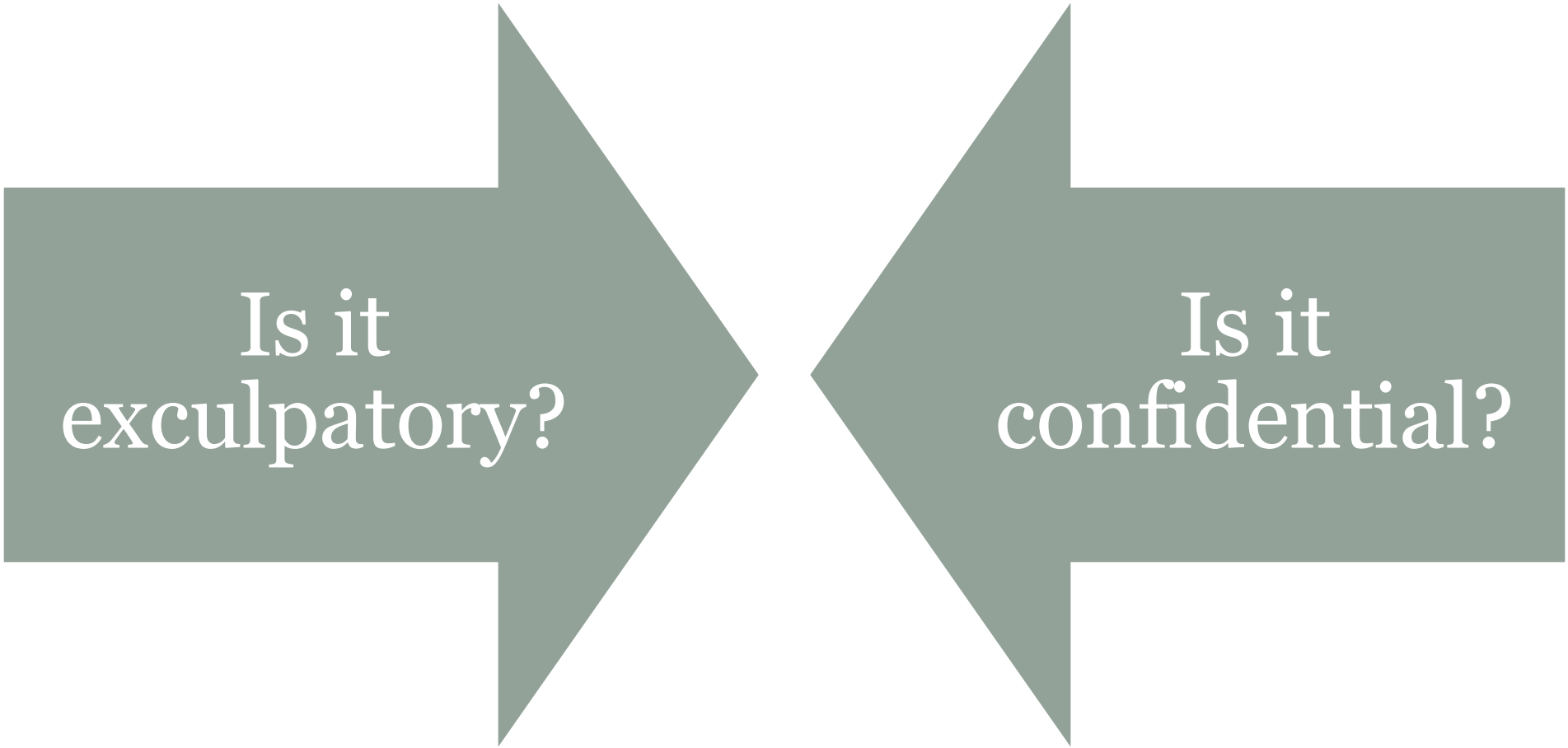
Arguments	Examples
• Irrelevant • Probative value is substantially outweighed by potential prejudice	• Child victims • Time lapse between reporting and applying

Discussion:

What – if anything – do you need to provide the defense when the victim received a U Visa certification or T Visa declaration?

Ethical Duties and Due Process

Prosecutor Obligations



When do these obligations arise?

NOTE: Md. Code Ann., Crim. Proc. § 11-931 states that an agency "shall certify or decline certification… within 90 days after receiving a request"

Disclosure of Information

"State and local prosecutors are not constitutionally required under the Brady line of cases to seek out, obtain or disclose the existence of or any information contained in an immigration case that is maintained in federal immigration case files"

U Visa Certification and T Visa Declaration Toolkit for Law Enforcement Agencies and Prosecutors (August 30, 2021)

Senate Congressional Record

"The single most important provision we add to the Violence Against Women Act is the battered immigrant women provision" Ensuring abusers "are brought to justice and the battered immigrants also escape abuse without being subject to other penalties."

Senator Biden 10/11/2000

Ramirez v. Marsh,

No. S-1-SC-39966, 2025 WL 1409073 (N.M. May 15, 2025)

- Visa applications and related materials fall under attorney-client privilege
- VAWA Confidentiality (8 U.S.C. 1367) applies to legal service organization
- Criminal Court judges cannot circumvent by compelling from victim or family
- Defense has a right to cross-examine based on fact of application

People v. Jun Du

NY Sup Ct Kings County 2024 (Sept. 27, 2024)

- Judge reversed their own decision grating an in camera review of the T-visa application
- Party seeking disclosure must show that the application is so relevant or material that it outweighs VAWA confidentiality
- The Court determined applications are protected and confidential. No exceptions are permitted.

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TRIAL STRATEGIES

Educating the Judge and Jury

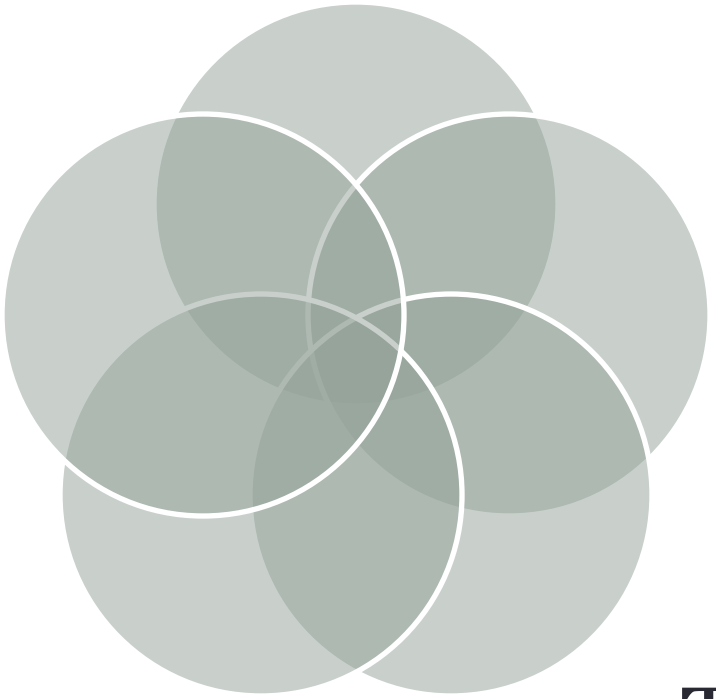
Pretrial Motions

Jury Selection

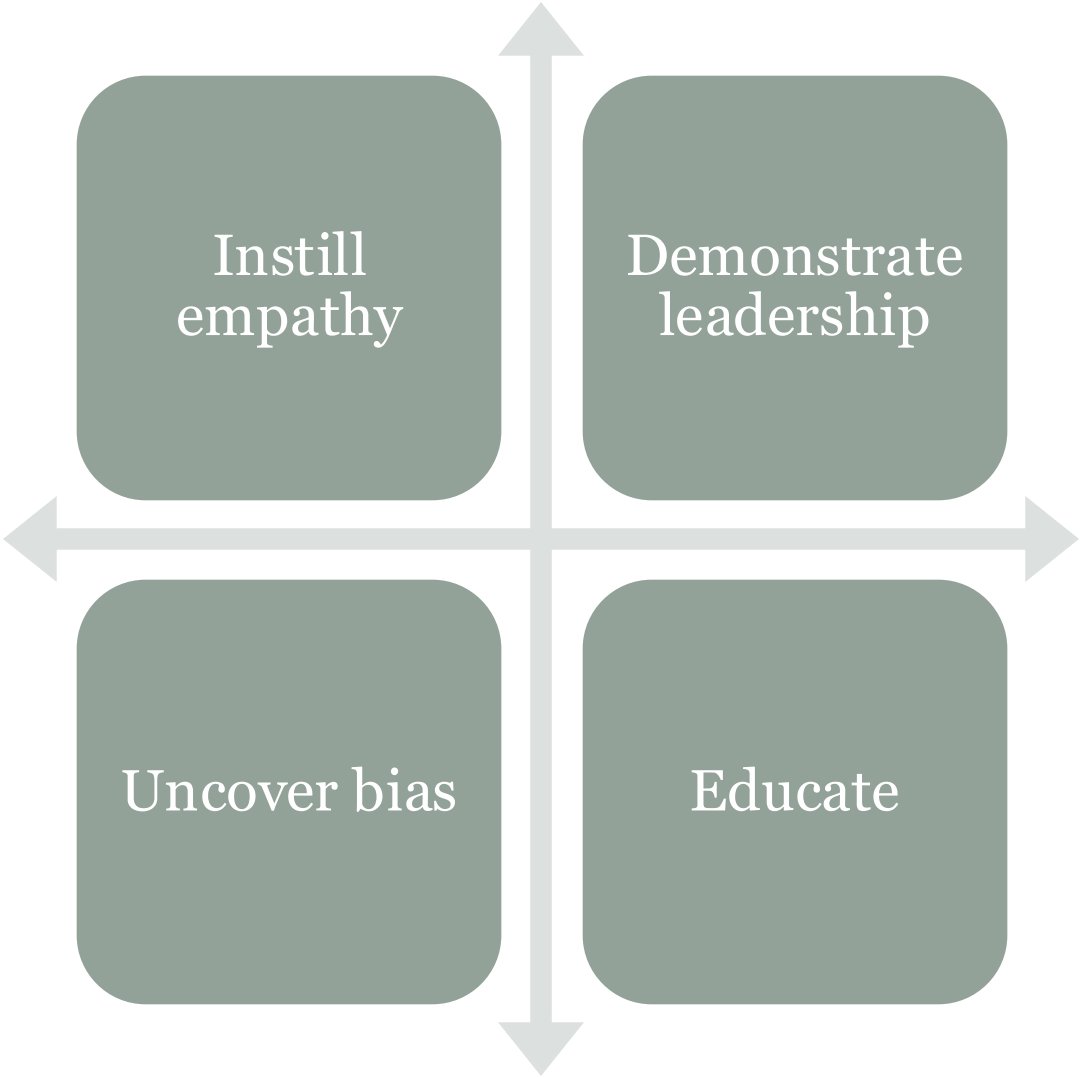
Witness Testimony

Expert Testimony

Closing Argument



Jury Selection



Victim Testimony

- Introduce the victim to your jury
- Recreate the reality of the crime
- Illustrate fear and emphasize threats of
  - Deportation
  - Separation from family
  - Loss of employment or financial support
- Address immigration status and application for immigration relief

Cross Examination



Listen for the defense to accuse the victim of lying for an immigration benefit



Be prepared to introduce prior consistent statements

Prior Consistent Statements

Md. Rule 5-802.1(b)

- Exception to hearsay
- *A statement that is consistent with the declarant's testimony, if the statement is offered to rebut an express or implied charge against the declarant of fabrication, or improper influence or motive;*

Establishing Timeline

Victim statements to officers, friends, and others

Motive to lie

Testimony consistent with statement

Introduce prior consistent statements

Example Questions on Rebuttal

- "Defense counsel asked you about your application for a U Visa, when did you first hear about the U Visa?"
  - "After speaking with detective, I spoke with an advocate at the police station"
- "Prior to speaking with the advocate, did you provide the detective with a recorded statement?"

Testimony by Experts

Md. Rule 5-702

Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine…

Testimony by Experts

Md. Rule 5-702

(1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education,

(2) the appropriateness of the expert testimony on the particular subject, and

(3) whether a sufficient factual basis exists to support the expert testimony.

See, e.g., Walter v. State, 239 Md. App. 168, 196 A.3d 49 (2018), Hall v. State, 107 Md. App. 684, 670 A.2d 962 (1996

Expertise

- Victim responses to trauma
- Dynamics of domestic violence experienced by immigrant victims
- Relationships between offenders and victims in human trafficking cases
- Victim protections under immigration law
- Other subjects that may be outside the common jurors understanding

Possible Experts

Dynamics

- Experience working with immigrant victims
  - DV Shelter
  - Advocates
  - Rape Crisis Center
  - Investigators
- Scholars

Immigration

- Immigration attorney
- Law Professors
- Other attorneys that have experience with immigration issues; e.g., family law, legal aid

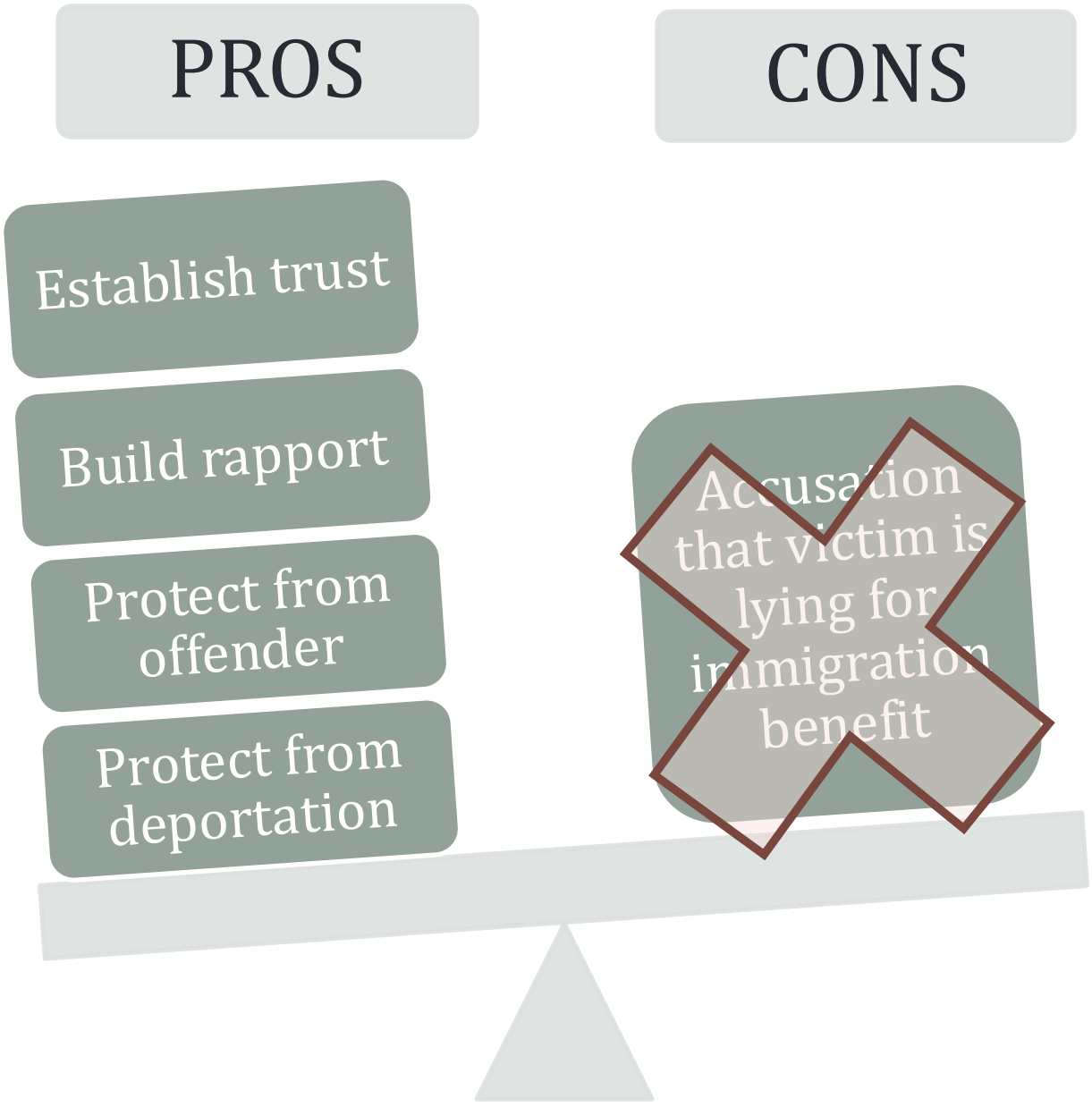
Best Practice: Do not use any expert that is involved with the case or has worked with the victim

Closing Arguments

- Focus on what the defendant did
  - *e.g.*, The Perfect Plan
- Do not apologize for the victim
  - The victim qualified for legal immigration relief
- Explain the evidence that corroborates the victim's disclosure

The purpose of a U visa is for victims of violent crimes, or any crimes, there's 28 different ones, in the United States who are not here legally to obtain a potential deferment of deportation. Ultimately, the reason, the intent behind that law, is to protect the most vulnerable among us.

Coreas-Rodriguez v. State, No. 0629 Sept. Term 2015, 2016 WL 4126015, at *5 (Md. Ct. Spec. App. Aug. 3, 2016)


PROS
CONS
Establish trust
Build rapport
Protect from offender
Protect from deportation
Accusation that victim is lying for immigration benefit

Moving Forward

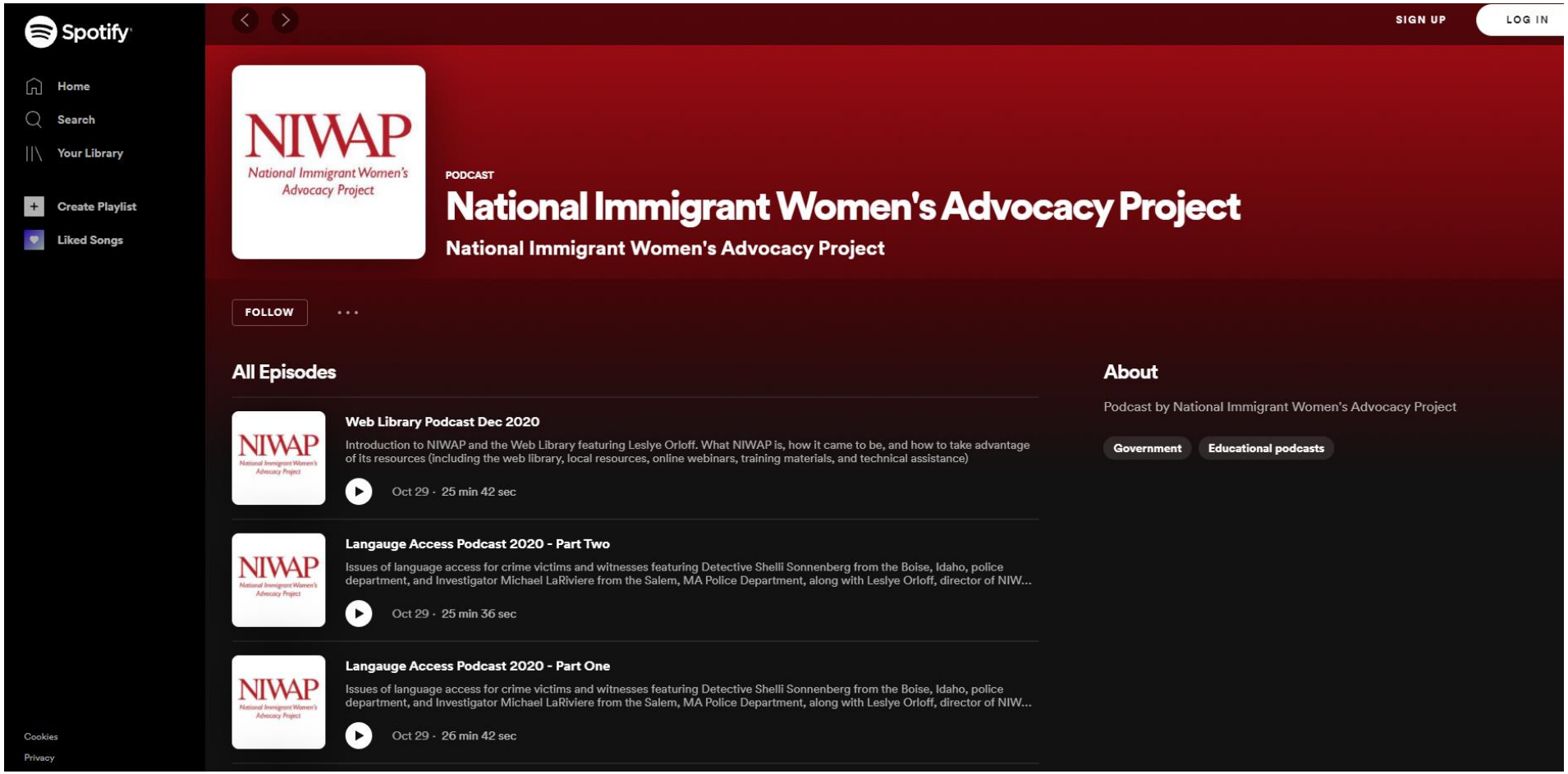
- Improve victim safety and security
- Keep the focus on the offender
- Educate the judge and jury about the reality of DV, Stalking, SA, and HT crimes

Resources

- Technical Assistance
  - Call: 202.274.4457
  - Email: niwap@wcl.american.edu
  - Web Library: https://niwaplibrary.wcl.american.edu/
- Materials for this training
  - https://niwaplibrary.wcl.american.edu/md-webinar-prosecutors-2025/

NIWAP's Podcast Series

https://niwaplibrary.wcl.american.edu/niwap-podcast-series



Virtual Roundtables

- Law enforcement & Prosecutors only
- Interactive discussion
  - Strategies to build rapport, establish trust, and ensure safety
  - Ask questions from subject-matter experts and peers \
  - Meets by monthly
- To register, visit https://www.surveymonkey.com/r/LERoundtable



Evaluation

- Please scan the code to provide your evaluation:

