



The U and T Visa:

A Tool to Support Victims, Communities, and Increase Participation in the Criminal Justice System

Law Enforcement-Based Victim Services Program

This webinar is supported by Grant No. 2017-TA-AX-K063 awarded by the Office on Violence Against Women, U.S. Department of Justice and Grant No. 2018-V3-GX-K049 awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this webinar are those of the contributors and do not necessarily reflect the official position of the U.S. Department of Justice, Office on Violence Against Women, or Office for Victims of Crime.

Housekeeping


The screenshot shows a Zoom webinar interface. The top bar displays 'LEV Webinars (Default)' with audio and hand icons. The main content area shows a presentation slide with the IACP logo and the title 'Law Enforcement-Based Victim Services Program (LEV)'. The slide footer reads 'Shaping the Future of the Policing ProfessionSM'. On the left, the 'CAMERA' panel shows 'No video feed available'. Below it, the 'ATTENDEES (1)' list shows 'McKallen Leonard You' under the 'Participants (1)' section. At the bottom, the 'FILES' panel shows 'No files available to download', and the 'CHAT' panel shows a message input area with the text 'Type here'.

LEV Webinars (Default) [audio icon] [hand icon]

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 **IACP**
International Association of
Chiefs of Police

Law Enforcement-Based
Victim Services Program (LEV)

Shaping the Future of the Policing ProfessionSM

ATTENDEES (1) [icon] ...

> Hosts (0)

> Presenters (0)

▼ Participants (1)

McKallen Leonard You

FILES [icon] ...

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Everyone +

Start a conversation with everyone or
chat privately with the Hosts, Presenters or any Attendee

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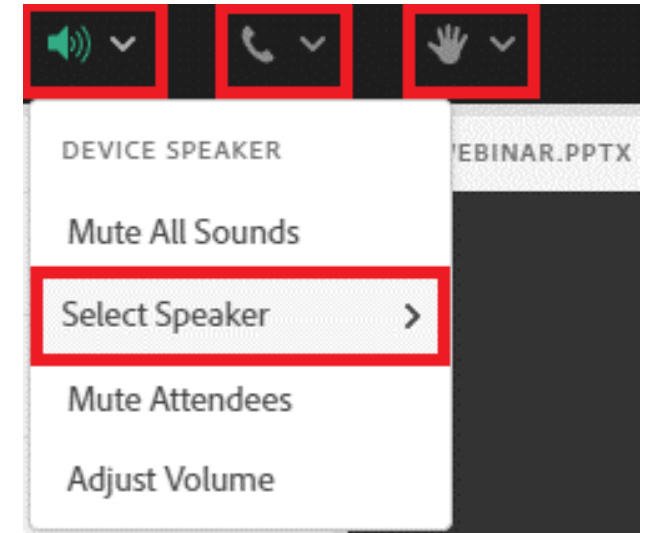
Housekeeping

Audio:

- Click the audio icon and then choose “Select Speaker” to use your computer’s speakers for sound.

Raise Hand:

- Raise virtual hand if you have a comment or when asked by facilitators. Select the dropdown for other options.



Housekeeping

Chat Box:

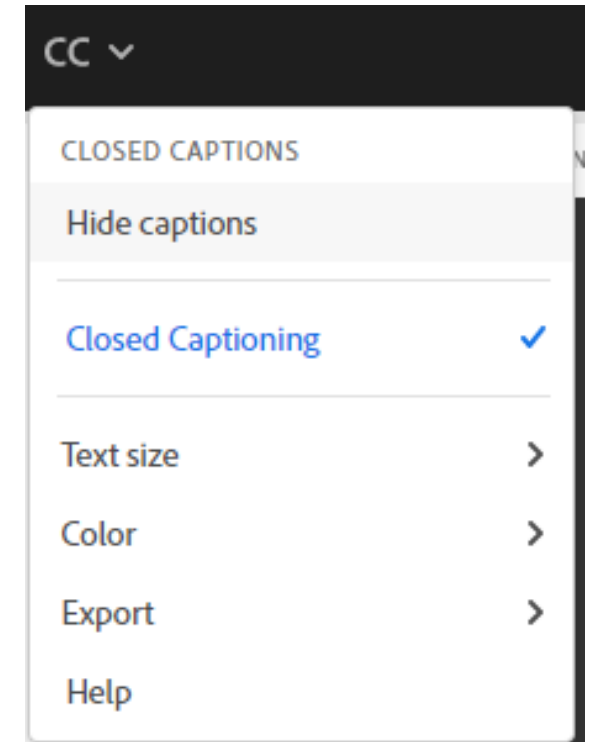
- Visible to attendees and hosts/presenters
- Use to chat to whole audience and to respond to presenter questions

Handouts:

- Handouts can be downloaded via the Files box

Closed Captioning

- Click the “CC” icon at the top of your screen to enable captions



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Presenters



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Who is Participating?

- A. Law enforcement
- B. Community-Based Victim Services
- C. Systems-based Victim Services
- D. Other

Other – Please type in the Chat Box

Learning Objectives



Immigrant Crime Victim Dynamics, & The U and T Visa

General Caveats

- Women, men, and children can qualify for U and T Visas
- Victims of almost all violent crimes, and many other crimes are eligible to apply for U and T Visas

That said, many examples in this presentation will refer to female victims of domestic violence and/or sexual assault because they make up a large majority of the U and T Visa applications filed

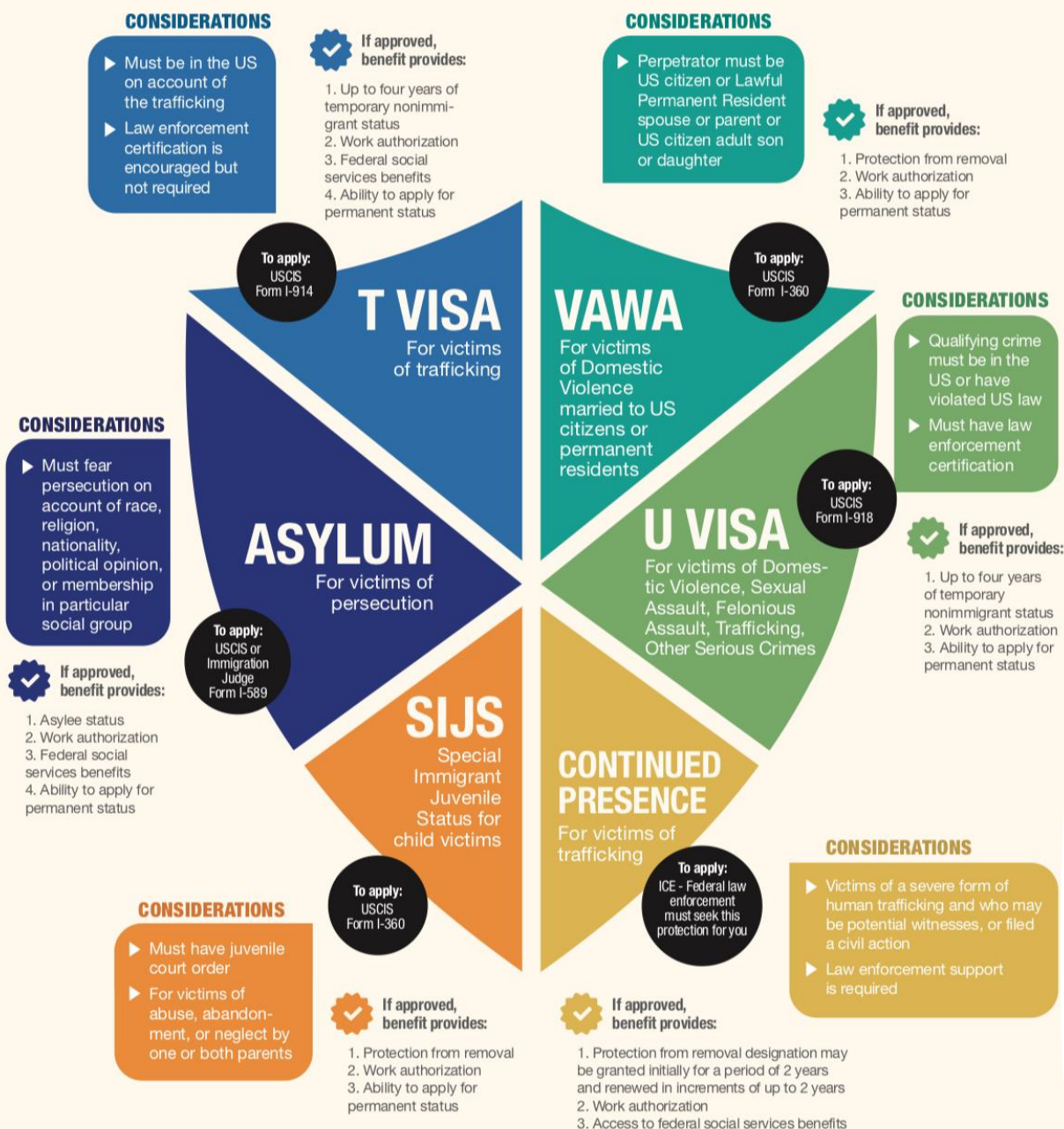
Why is Immigration Relief Available to Victims of Crime?



**Please type your
answers in the
Chat Box**

Legislative Intent

- We want crimes reported to police
- Improved community policing helps everyone
- No one should be a victim of crime
- Offenders prey upon the most vulnerable in our communities, often immigrants
- Without victims reporting crimes, we won't know about dangerous offenders
 - Domestic violence
 - Sexual Violence
 - Stalking



Primary Immigration Protections for Victims

- U Visas and T Visas are one of many “crime fighting” immigration relief pathways.
- Congress created these humanitarian visas to hold perpetrators accountable who target immigrant communities.
- Immigration relief encourages victims to come forward and report abuse and criminal activities.

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

Goals of Immigration Relief



A Venn diagram with three overlapping circles. The top circle is grey and labeled 'Misconceptions'. The bottom-left circle is light blue and labeled 'Fear'. The bottom-right circle is light green and labeled 'Barriers'. The intersections of these circles are shaded in darker tones of their respective colors. To the left of the circles is a large blue arrow pointing downwards, containing the text 'IMMIGRATION RELIEF'. To the right of the circles is a large green arrow pointing downwards, containing the text 'LANGUAGE ACCESS'. At the bottom of the image is a red banner with the text 'NIWAP' in white serif font.

Misconceptions

Fear

Barriers

IMMIGRATION RELIEF

LANGUAGE ACCESS

IACP 2018 Resolution

- Recognizes U and T Visas as significant crime fighting tools and using them as best practice
- Supports training, education, communication and “increased police leadership involvement”
- Committed to increasing collaboration

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

U Visa Basics

- The U Visa grants a temporary 4-year stay
- Only 10,000 U Visas awarded per year
- Application for a U Visa requires a certification from a designated government official
- Certification is one part of the overall application
 - Victim must submit additional documentation and proof in their full application
- DHS conducts a bona fide determination and provides
 - Work authorization
 - Protection from deportation

U Visa Requirements

The victim will indicate that they satisfy the three eligibility components in their U visa application

The person is a U visa victim

- Victim of a qualifying criminal activity
- Victim possesses information about the crime
- Criminal activity occurred in U.S. or violated U.S. law

Victim is “Helpful”

- Victim “has been, is being, or is likely to be helpful” in “detection, investigation, prosecution, conviction, or sentencing”

Victim suffered harm

- Substantial physical or mental abuse as a result of the qualifying criminal activity

T Visa for Trafficking Victims

- A victim of a severe form of trafficking in persons
 - Sex or labor trafficking involving victim under 18 subject to force, fraud or coercion.
 - Adult subject to force, fraud or coercion
- Victim is physically present in the U.S. on account of trafficking
- Victim must comply with reasonable requests for helpfulness in investigating or prosecuting trafficking. Exceptions
 - Under age 18
 - Physical or psychological trauma impede helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship

Sex Trafficking

22 U.S.C. § 7102; 18 U.S.C. § 1591

Act	Means	Purpose
<ul style="list-style-type: none">• Recruits• Entices• Harbors• Transports• Provides• Obtains• Advertises• Maintains• Patronizes• Solicits• Benefits, financially or by receiving anything of value	<ul style="list-style-type: none">• Force• Fraud• Coercion	<ul style="list-style-type: none">• Commercial Sexual Activity

Labor Trafficking

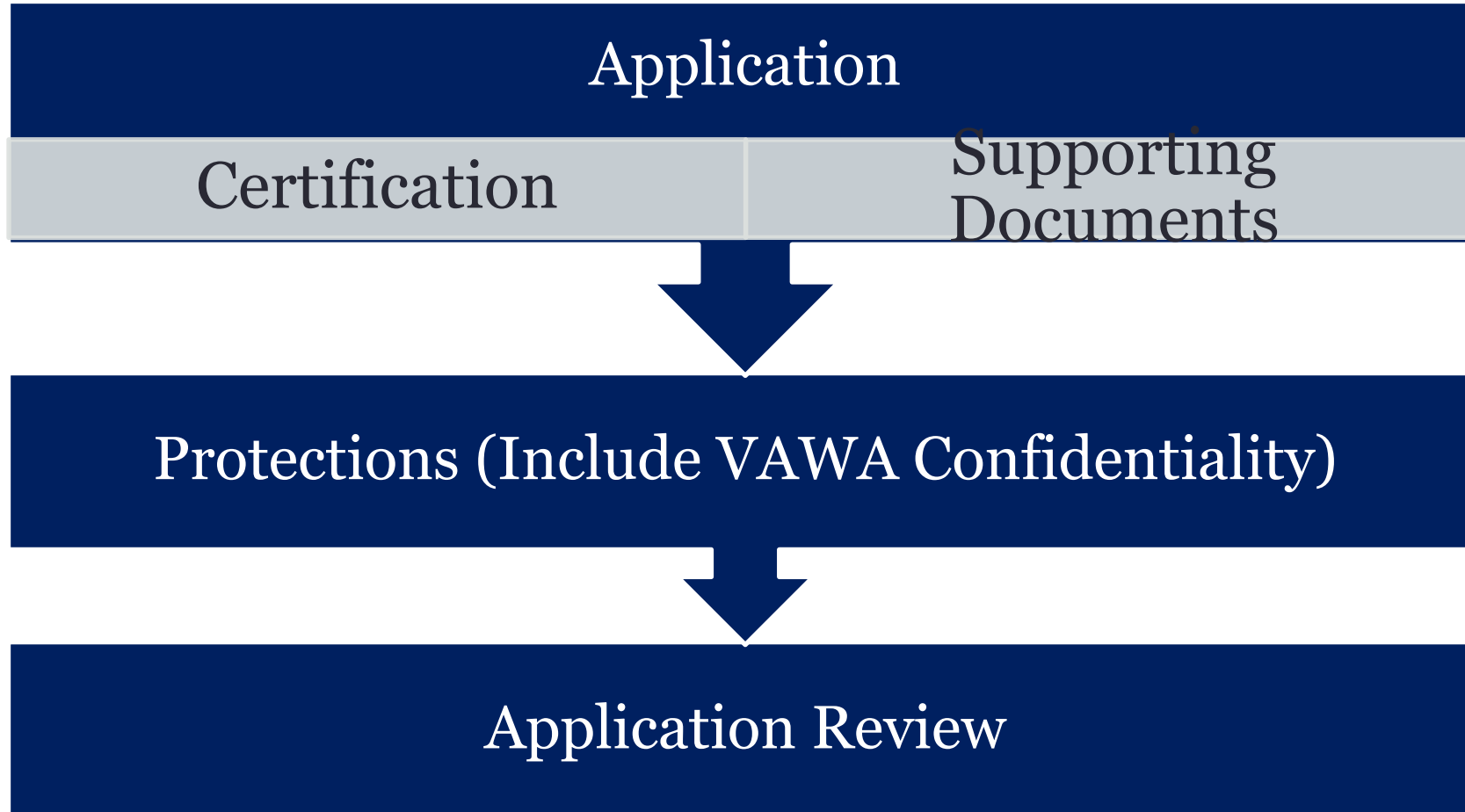
22 U.S.C. § 7102; 18 U.S.C. § 1590

Act	Means	Purpose
<ul style="list-style-type: none">• Recruits• Harbors• Transports• Provides• Obtains• Benefits, financially or by receiving anything of value	<ul style="list-style-type: none">• Force• Restraint• Threats of harm• Abuse or threatened abuse of the legal system• Any scheme, plan, or pattern intended to cause the person to believe that if they did not perform labor, they would suffer serious harm or restraint	<ul style="list-style-type: none">• Involuntary servitude• Peonage• Debt Bondage• Slavery

Continued Presence and the T Visa Application



U Visa Protections



U and T Visa Victims “Red Flagged”



- Department of Homeland Security (DHS) computer system “red flags” victims who have filed for, or have been granted victim-based immigration relief
- Reminds DHS staff of legal obligation not to rely on “tips” from perpetrators regarding victims of
 - Domestic violence, sexual assault, stalking, human trafficking

Rationale

- 25% of perpetrators actively report the victim for removal
- 36% of perpetrators get immigrant and LEP victims who called police for help arrested for domestic violence
- U visa applicants have over 70% cooperation rates in criminal investigation and prosecutions and have 36% higher future crime reporting rates

Krisztina E. Szabo, et.al., *Work Authorization For VAWA Self-Petitioners and U Visa Applicants*, NIWAP (Feb. 12, 2014); Rafaela Rodrigues, et. al., *Promoting Access to Justice for Immigrant and Limited English Proficient Victims (2017)*; Leslye E. Orloff, et.aal., *Transforming Lives: How the VAWA Self-Petition and the U Visa Change the Lives of Victims and Their Children After Work Authorization and Legal Immigration Status* (April 12, 2021)

U Visa 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	

Additional U Visa Applicants

- Parents and guardians can apply as an “indirect victim” if:
 - The victim is a child under 21 years of age and/or
 - The victim is incompetent, incapacitated, or deceased due to murder or manslaughter
 - Indirect victims must demonstrate that they were helpful
- Bystander victimization – very limited
- When the victim is a child, the helpfulness requirement can be met by a “next friend” being helpful

Family Members Can Also Be Protected

- U and T visa victims can also apply for certain family members :
 - If victim under the age of 21:
 - Spouse
 - Child under 21
 - Parent
 - Unmarried siblings under the age of 18
 - If victim is over the age of 21
 - Spouse
 - Child under 21

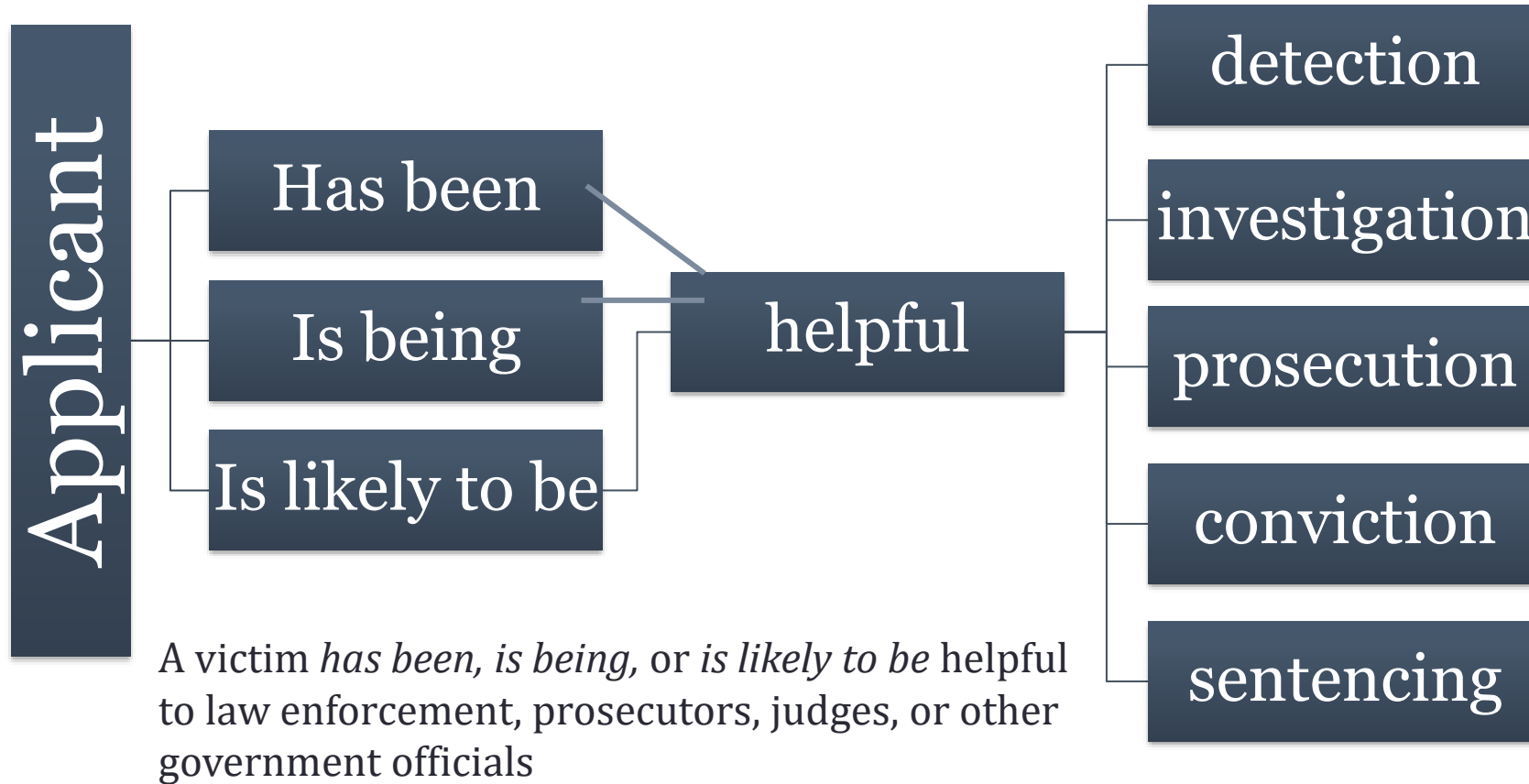


A closer look at what the U Visa
certification attests to:

THE VICTIM'S HELPFULNESS

Definition of “Helpfulness”

INA 245(m)(1); 8 U.S.C. 1255(m)(1) and 8 C.F.R 214.14(b)(3)





Determining Helpfulness

- Certifying agency determines “helpfulness”
 - No degree of helpfulness required
 - DHS regulations – totality of the circumstances
 - Any agency may complete U Visa certification as soon as they assess victim’s helpfulness
 - The investigation or prosecution can still be ongoing
 - Certification can be “revoked”
-

The following are **Not Required** in order to certify that a victim has been helpful

- Certification signed within the statute of limitations of the qualifying criminal activity
- Conviction
- Charges filed
- Offender arrested/prosecuted
- Victim provides testimony at trial
- Victim is a necessary witness
- Offender is identified
- Offender alive



Victim-
centered
approach

Helpfulness

Calling 911

Having a Rape
Kit performed

Providing a
description of
offender

Allowing
photographs to be
taken

Giving information
about the
offender's
whereabouts

Bringing a minor
victim to a Child
Advocacy Center

Providing a
statement about
"other bad acts"

Reporting crime in
another case
against the
perpetrator

Testifying at a
bond hearing, trial,
or sentencing

Who Can Certify?

Head of the agency or someone in a supervisory role who is specifically designated by the head of the agency:

“law enforcement” & “law enforcement agencies” =

- Federal, state, and local
 - Police, sheriffs, FBI, HIS, ATF
 - Prosecutors
 - Head of agency or designee
 - Judges, Magistrates, Commissioners
- Departments of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC)
- Child and Elder Abuse agencies
- Other government agencies with investigative authority

There is **NO** statute of limitations on signing a certification. However, there is a **six month** window after signing the certification in which the U visa application must be filed.

When should you sign the U Visa certification ?

- A. Immediately upon receipt of certification
- B. Once your agency has knowledge of a victim's past or present helpfulness or believes a victim is likely to be helpful
- C. When you are certain that the victim will testify at trial
- D. When the defendant is convicted

Analyzing Requests for Certification

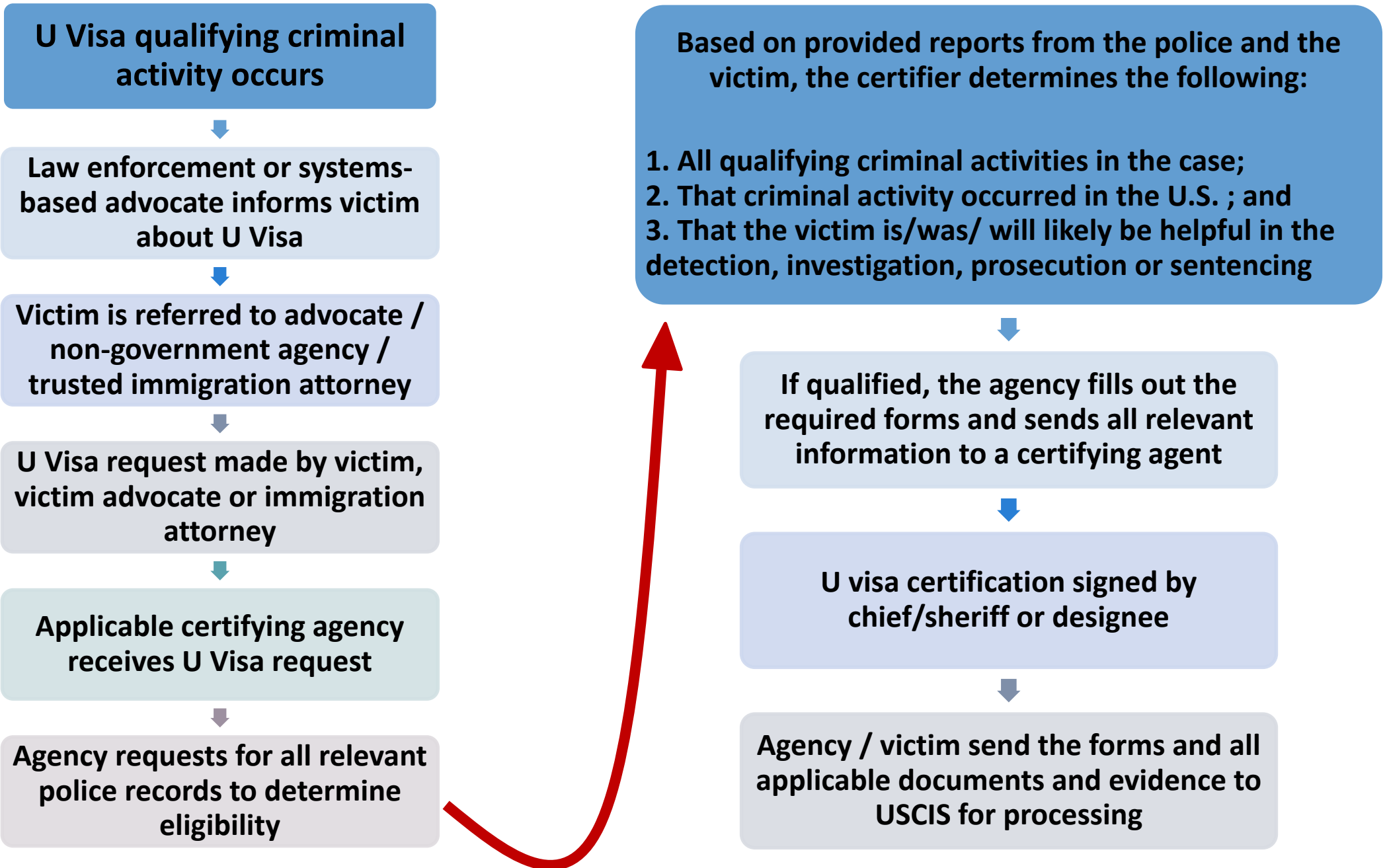
What criminal activity occurred?

Identify the victim or indirect victim

Determine helpfulness

Identify if any family members were implicated in the crime

Note any injuries observed; provide documentation



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 04/30/2021



Certification form is available to download at
<https://www.uscis.gov/i-918>

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

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

“Unreasonable Refuse to Assist”

Part 4:

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

Part 6:

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.

Have you ever had a case where the victim became “uncooperative” at any point?


Please check the box that best describes you:

A. Yes

B. No

*If **yes**, type in the chat what you know about why*

Ongoing Assistance



Continuing obligation to provide assistance when reasonably requested



Certification

Application

U Visa

Two Distinct Requirements

“Helpfulness” and “Cooperation/Assistance”

Helpfulness: **For Certification** Before Filing the U Visa

- Has been helpful *Or*
- Is being helpful *Or*
- Is likely to be helpful

TO.....

- Detection *Or*
- Investigation *Or*
- Prosecution *Or*
- Conviction *Or*
- Sentencing

Cooperation: **After Filing** the U Visa until Permanent Residency

- Ongoing obligation to provide cooperation or assistance
 - Reasonably requested by law enforcement or prosecutors
- **Exception:** *Victim may show that refusal to cooperate or assist was not unreasonable*

Victim Does Not Unreasonably Refuse to Cooperate

Although a case does not require prosecution or conviction, DHS still requires the victim to cooperate from filing, to receipt of the U visa, until receipt of lawful permanent residency.

The requirement to cooperate is **modified** when the victim's refusal is reasonable. **Look at totality of the circumstances.**

Is the request
for cooperation
reasonable?

8 C.F.R. 214.14(b)(3)
8 C.F.R. 245.24(2)(2)(ii)

AND

Is the victim's
refusal
unreasonable?

8 C.F.R. 245.24(a)(5)

Is the victim's refusal to help unreasonable? 8 C.F.R. 245.24(a)(5)

This question is analyzed from the victim's point of view. Does the victim have a good reason for saying "no" to law enforcement's request?

The victim may refuse in cases where they are:

- In danger
- Unaware of request (e.g. language barrier)
- Being intimidated
- Being threatened or subjected to force, fraud or coercion
- Concerned about the safety of their family
- Under the belief that participating is more dangerous than not
- Increased trauma to the victim
- Due to the victim's age, maturity or capacity

If you still believe the victim is unreasonably refusing...

Note on the certification, sign, and return to victim or victim's attorney

Burden shifts to victim to prove the refusal is not unreasonable

DHS provides the victim an opportunity to explain

DHS makes the ultimate decision

Practice Tips


- Identify tactics used by offender to assert power and control including immigration related abuse
- Work with law enforcement to address witness intimidation
 - Check in on victims when appropriate
 - Recognize changes in communication patterns
- Collaborate with victim service professionals
- Communicate with victim's immigration or family law attorney or victim advocate
- Establish safe points of contact with friends and family
- Continually safety plan with victim



U Visa and T Visa Policies

IACP 2018 Resolution

- Improves relationship between law enforcement and immigrant communities
- Increases “trust between law enforcement officials and otherwise reluctant immigrant communities who fear that contacting police will lead to their deportation”
- Provides an opportunity to increase collaboration with victim advocacy groups

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What are some
benefits of having U
and T visa
certification policies?

Please type your answers in the Chat Box.

Benefits of a Written Certification Policy

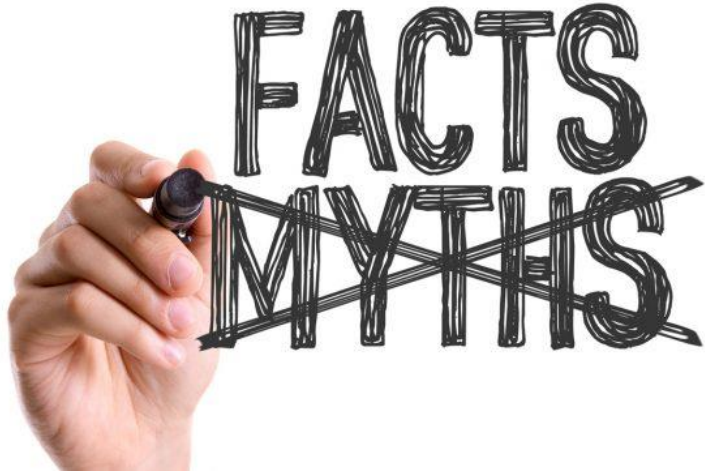
- Ensure consistency throughout the agency
 - Provides certifiers with clear guidance on how to handle these requests
- Ensure continuity through changes in personnel
- Memorialize and make accessible the certification process
- Informs the public about the process and protocol they must follow to have their requests reviewed
- Streamline that process to ensure agency resources are utilized in the best way possible
- Enhances community policing and public safety

Elements of an Effective Certification Policy

- Assignment of agency certifying officials
 - (supervisors of specialized units recommended)
- Defines the “helpfulness” requirement clearly
- Gives guidance for unique circumstances
 - (Delayed request, no criminal charges, no official report)
- Identifies the mechanisms for responding to a request
- Follows the spirit of the role DHS intended for law enforcement in the certification process

Implementing a Certification Policy: Tips

- Train designated certifiers and their direct colleagues who may assist with the U visa requests
- Identify a trusted resource to assist with policy implementation and answer specific on-going questions
- Periodic review your policy and practice to look for opportunities for improvement
- Partnering with legal service providers or law enforcement agencies/prosecutors with successful U visa policy



**ETHICAL
CONSIDERATIONS**

True or False

- A. DHS requires law enforcement to complete the U visa or T visa certification.
- B. Signing the certification gives the U visa and T visa victim citizenship.
- C. U visa certifiers are not required to determine substantial physical or mental abuse.
- D. Certifiers cannot sign a U visa or T visa certification for victims with criminal histories.

Are there times it is not appropriate for a certifier to sign the U visa or T visa certification?



Addressing Safeguards Against Fraud

- Applications are adjudicated by a specialized unit
- USCIS conducts FBI fingerprint and background checks, and review of inadmissibility issues
- USCIS may ask for further evidence –supporting evidence
- Additional fraud checks when applying for lawful permanent residency and U.S. Citizenship

Certifying Early

PROS

Establish
trust

Build
rapport

Protect from
offender

Protect from
deportation

CONS



Elynnne Greene



**Victim Services Supervisor,
Las Vegas Metro Police Department**

Las Vegas Metropolitan Police Department Response to U-Visa Certification Requests

- Policies & Procedures
- Official Letter Authorizing Signer/s
- Provide Training Department wide to Address the Myths

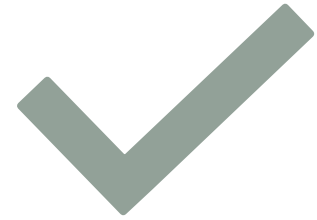
Lessons Learned



Develop a Tracking
System



Prepare Letters of
Denial on Letterhead



Have Multiple
Authorized Signers

Resources, Training and Technical Assistance



Resources

- **Model Policies and IACP Resolution:** <https://niwaplibrary.wcl.american.edu/iacp-resolution-u-t-visa-certification-nov2018>
- **NIWAP's Library:**
<https://niwaplibrary.wcl.american.edu/iacp-june-21>
- **Materials and tools for law enforcement and prosecutors available at:**
<http://niwaplibrary.wcl.american.edu/language-access-materials-for-police-and-prosecutors/>
- **Annual Report on Immigration Applications and Petitions Made by Victims of Abuse – FY19:**
https://www.uscis.gov/sites/default/files/document/reports/Annual_Report_on_Immigration_Applications_and_Petitions_Made_by_Victims_of_Abuse_-_Fiscal_Year_2019.pdf

OVC Resources

- **Coalition to Abolish Slavery & Trafficking (CAST) TTA Program:** <https://casttta.nationbuilder.com/>
- **CAST Program Ends-Means-Purpose Model:** https://casttta.nationbuilder.com/emp_model
- **IACP Webinar – Language Access and Immigration Relief Tools in Labor Trafficking Investigations in the US:** <https://bit.ly/2Tvw6t3>

Virtual Roundtables

- Only law Enforcement & Prosecutors
- Interactive discussion
 - Strategies to build rapport, establish trust, and ensure safety
 - Ask questions from subject-matter experts and peers
- To register, visit
<https://www.surveymonkey.com/r/85FM5NV>



Trainings

- Onsite training on immigrant crime victim issues and language access
- Available for law enforcement, prosecutors, judges, victim service professionals, allied professionals, and others
- To sign up to have us bring a training to your jurisdiction please email: molina@wcl.american.edu

Technical Assistance

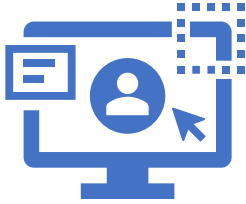
NIWAP

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IACP

- LEVProject@theiacp.org

Reminders



Program Staff Webinars

July 2021



Quarterly Meetings

August 2021



LEV Network

Getting Started Guide available!

Questions

