

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

**NIWAP**



# Improving Crime Fighting Outcomes in Cases of Immigrant Victims: The Role of Continued Presence and U and T Visas as Tools for Law Enforcement

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## Introduction

Immigrant and Limited English Proficient (LEP) victims of domestic and sexual violence, child abuse, stalking, and human trafficking can be very reluctant to call for help, talk about the crime with someone else or report a crime to law enforcement. In 42% of cases involving immigrant victims, abusers, traffickers, and other perpetrators threaten to turn victims and their families into immigration enforcement officials, making it difficult for victims to report crimes they suffered.<sup>1</sup> Fortunately, there is help. Congress created several forms of humanitarian immigration relief to assist law enforcement agencies in building trust with, protecting, and assisting immigrant and LEP crime victims in communities across the country.<sup>2</sup> This immigration relief prevents perpetrators of high recidivism crimes including domestic violence, sexual assault, stalking, incest, child sexual abuse, and human trafficking<sup>3</sup> from continuing to exploit or control victims.

This training bulletin will provide information and describe the benefits of three types of federal immigration protections on improving victim, officer, and community safety:

- U and
- T Visas and
- Continued Presence (CP)



### Law Enforcement Resources

Although this training bulletin focuses primarily on the forms of immigration relief that involve a specific certification role for law enforcement, immigrant crime victims may also qualify for other forms of immigration relief including primarily the VAWA self-petition (for abused immigrant spouses and children of citizens and lawful permanent residents and abused parents of over 21 year old U.S. citizens) or Special Immigrant Juvenile Status (for immigrant children who have been abused, abandoned, or neglected by one of their parents). DHS has developed an excellent “know your rights” brochure that law enforcement can distribute describing the full range of immigration remedies available to help immigrant victims of crimes perpetrated in the United States. For more information on other forms of immigration relief for immigrant crime victims, see [Improving Crime Fighting Outcomes in Cases of Immigrant Victims: The Role of Continued Presence and U and T Visa as Tools for Law Enforcement](#).

<sup>1</sup> Krisztina E. Szabo et. al., Work Authorization for VAWA Self-Petitioners and U Visa Applicants (Feb. 12, 2014); Rafaela Rodrigues et. al., [Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: National Report](#) from a 2017 *National Survey 50* (May 3, 2018). [Hereinafter “Promoting Access to Justice Report”]

<sup>2</sup> DHS [Immigration Options for Victims of Crimes](#) (English Version).

<sup>3</sup> Stacey Ivie et. al, [Overcoming Fear and Building Trust with Immigrant Communities and Crime Victims](#), 85 *The Police Chief* 34 (2018). (These crimes make up 76% of the U visas filed nationally)

## Obstacles to Seeking Help from Law Enforcement

Immigrant victims have other fears and barriers that may keep them from sharing information with law enforcement, such as language barriers, fear of deportation, and lack of knowledge about U.S. laws. Many are new to the United States and may be unfamiliar or uninformed about what services and laws are available to protect them. It is also challenging for those who are not fluent in English to communicate with police, prosecutors, judges, attorneys, or victim advocates about what has happened to them. Language barriers can prevent victims from calling law enforcement or other agencies for assistance.

When victims of crimes do not have legal status, abusers, sexual assault perpetrators, and human traffickers often use threats of immigration enforcement and separation from children as effective witness tampering tools to silence victims and undermine their cooperation with law enforcement. When this happens, victims may be less likely to report crimes and stay engaged with state and local law enforcement agencies to pursue an investigation and possible prosecution.

## The Importance of Immigration Relief

When immigrant victims are unwilling to report sexual assault, intimate partner violence and human trafficking crimes, or speak with law enforcement<sup>4</sup>, crimes committed become harder to detect and investigate. In 2017, the National Immigrant Women's Advocacy Project (NIWAP) conducted a survey with 232 law enforcement professionals; 69% reported that domestic violence cases involving immigrant victims were harder to investigate due to factors that included threats of deportation, difficulties building trust, and language barriers that can undermine victims' willingness to cooperate with their agency.<sup>5</sup> Building relationships and trust with immigrant communities is important to increase reporting, making all our communities safer. Immigration relief is not only beneficial to better serve and protect immigrant victims of crime; these tools can help law enforcement agencies detect, investigate, and prosecute crimes.

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<sup>4</sup> If victims are able access formal support, victims can benefit in a variety of ways. Positive effects can be seen as a result of: language access for Limited English Proficient victims (Lee, Quinones, Ammar & Orloff, [Immigrant and Limited English Proficient Victims' Access to the Criminal Justice System: The Importance of Collaboration](#), 2013); issuance of protection order ( Anver & Orloff, [Protection Orders and Battered Immigrants: The Impact of Attorneys and Advocates](#), 2014); forensic medical care by a specially trained nurse (Campbell, Patterson, & Bybee, [Predicting Sexual Assault Prosecution Outcomes: The Role of Medical Forensic Evidence Collected by Sexual Assault Nurse Examiners](#), 2011); victim advocacy services (Patterson & Campbell, [Why rape survivors participate in the criminal justice system](#), 2010); Victims who receive a positive response from law enforcement (described as believing, nonjudgmental, or validating) also experience positive effects (Greenson, Campbell, & Fehler-Babral, ["Nobody Deserves This": Adolescent Sexual Assault Victims' Perceptions of Disbelief and Victim Blame From Police](#), 2016), as do those who work with a victim advocate. Specifically, victims who work with an advocate experience less distress and are less likely to experience negative outcomes such as self-blame or feeling bad about themselves, guilty, or depressed. Significantly, they are also *less reluctant to seek further help* (Patterson & Tringali, [Understanding How Advocates Can Affect Sexual Assault Victim Engagement in the Criminal Justice Process](#), 2015).

<sup>5</sup> [Promoting Access to Justice Report](#) at 52.

DHS highlights the importance of the victim-centered approach that crime victim-based forms of immigration relief can provide. Law enforcement agencies, prosecutors' offices and judges are finding that implementing active U visa and T visa certification practices help certifying agencies build and maintain trust with immigrant community members, particularly in times of increased immigration enforcement. When victims feel more secure about coming forward and telling their stories, they are more likely to be helpful during the investigation and prosecution of their offenders.<sup>6</sup> That is exactly what happened in the case of Ana<sup>7</sup>, an undocumented immigrant from Bolivia.

Detective Ivie, City of Alexandria Police Department, met Ana when she called the police seeking help after her then-boyfriend, Mark\*, a law enforcement officer, beat her. The assault Ana suffered was not an isolated incident. After several follow-up interviews, Detective Ivie better understood the dynamics within this abusive relationship. Detective Ivie established trust and Ana began to disclose details of forced sexual acts, filming of physically painful sexual encounters, increasing isolation, and starvation. Det. Ivie's Department signed the U visa certification for Ana based on her helpfulness in reporting the domestic abuse and her participation in Mark's criminal investigation and prosecution. Unfortunately, as a first conviction of a law enforcement officer for domestic violence, Mark did not receive a significant sentence.

Eventually, as is often the case, Mark moved on to harm another victim. When a second victim came forward, Detective Ivie reached back out to Ana on behalf of the second victim. Detective Ivie was able to locate Ana again because the U visa program allowed Ana to live in the U.S. while the final approval of her U visa was pending. Detective Ivie recalls that Ana "could not come any faster to the department to help a woman she had never met."

It was because the U visa program enables U visa victims awaiting final adjudication of their U visas to live and work in the U.S. and be protected from deportation that Ana was available to Detective Ivie to be the key witness in this second successful prosecution of Mark, who received a significant sentence. Detective Ivie noted that "the U visa established the very relationship that law enforcement tries to promote."<sup>8</sup>

## Types of Relief Available to Immigrant Victims

There are several types of relief available to immigrant crime victims which provide tools to help law enforcement prevent abusers from using deportation as a threat to deter victims from reporting crimes or assisting law enforcement. CP, T visas, and U visas are three types of relief that can allow victims like Ana to safely remain in the U.S. with work authorization. They include a statutorily designated role for law enforcement in the victim's application process. However, the U or T visa certification and the CP request

<sup>6</sup> Dept. of Homeland Sec., [A Victim-Centered Approach](#) (last visited Apr. 9, 2018).

<sup>7</sup> The asterisk indicates a pseudonym is being used. Except for Detective Ivie, the names of all individuals have been changed to protect and honor their privacy.

<sup>8</sup> Corrin Chow, et. al., *Helping Convict a Serial Perpetrator*, in [Stories from the Field: The Crime Fighting Effectiveness of the U Visa](#), NIWAP (August 27, 2020).

signed by law enforcement do not provide immigration status to the immigrant victim applicant. DHS has the exclusive authority to decide who receives a CP or a T or U visa.



DHS provides tools to assist law enforcement, prosecutors and other professionals in screening, identifying, and referring immigrant crime victims and abused immigrant children who qualify for the special forms of immigration relief designed to protect victims and help law enforcement detect, investigate and prosecute crimes. For more information, see [DHS Interactivate Infographic on Protections for Immigrant Victims](#) (2017) and [Screening for Victims Who Qualify for Immigration Protection Relief Eligibility Questions for Protective Relief](#) (2018). The National Immigrant Women's Advocacy Project also has a [Directory of Service Providers](#).

## Continued Presence

[Continued Presence](#) (CP) is a temporary form of immigration protection provided by DHS to individuals identified by federal, state or local law enforcement or prosecution officials as potential victims or witnesses in human trafficking investigations or prosecutions. It allows victims to remain in the U.S. temporarily, to work and have access to public benefits that can help to stabilize the victim during the course of an investigation.

CP is the first form of immigration relief available to help immigrant victims of human trafficking. CP is appropriate if the totality of the circumstances indicates the individual is a trafficking victim and may be a potential witness in an investigation or prosecution related to human trafficking. To be eligible for CP, a person must be:

- Identified as a "victim of a severe form of human trafficking" (the definition is identical to the definition that applies for T visa eligibility, discussed below); and
- The individual is or may be a potential witness in an investigation or prosecution of human trafficking.

Any state, local, or federal government agency with authority to investigate or prosecute human trafficking can request that federal officials sponsor an immigrant victim for CP. The federal agency (e.g., HIS, FBI, DSS, DOL, EEOC and any USAOs) files the CP request with U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI), which is responsible for investigating human trafficking and granting requests for CP.

CP and the T visa are related, but independent of each other. In the early stages of a case, the victim may apply for CP first and receive its temporary protection while putting together their T visa application. However, some CP recipients never apply for a T visa, and some T visa recipients never apply for CP. Finally, CP is not a guarantee that a victim who was granted CP and applied for a T visa will receive T visa approval.

## U Visas

The Violence Against Women Act of 2000 created the [U Visa](#) to assist victims of criminal activity perpetrated against immigrant victims. Congress created this visa to (1) strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, child abuse, stalking, human trafficking, and other criminal activities and (2) to offer protection from deportation and a path to stability and healing. In creating the U visa, Congress stated: "This visa will encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens."

Obtaining a U visa is a multi-year process that includes multiple background checks, gradually providing greater access to stability and protection from deportation. Following an initial review of a victim's U visa case, the case is provided, which includes some initial protection against deportation.<sup>9</sup> Then, U visa cases are adjudicated and successful cases are granted.<sup>10</sup> At this point, victims receive formal protection from deportation and legal work authorization and can apply for driver's licenses in most states.<sup>11</sup>

To qualify for a U visa, the crime committed against the victim must be a "qualifying crime." These crimes categories include, but are not limited to:<sup>12</sup>

### Qualifying Criminal Activity<sup>13</sup>

Abduction	Hostage	Involuntary Servitude	Sexual Assault
Abusive Sexual Contact	Incest	Kidnapping	Sexual Exploitation
Blackmail	Murder	Manslaughter	Slave Trade
Domestic Violence	Obstruction of Justice	Perjury	Stalking
Extortion	Peonage	Trafficking	Torture
False Imprisonment	Female Genital Mutilation	Witness Tampering	Unlawful Criminal Restraint

<sup>9</sup> See Alina Husain & Leslye Orloff, [VAWA Confidentiality: Statutes, Legislative History, and Implementing Policy](#), (Apr. 4, 2018).

<sup>10</sup> In 2018, the wait time for wait-list approval was between 42 to 54.5 months, See <https://egov.uscis.gov/processing-times/#mainContent>; U visa applicant victims' case is wait list approved the wait to receive the U visa as of 2018 is approximately 11 years, See Sara Ramey, [Eliminating the U Visa Cap Will Help Catch Criminals](#), THE HILL (Feb. 14, 2018).

<sup>11</sup> See [Public Benefits Charts](#).

<sup>12</sup> A non-exclusive list of qualifying activities is in Part 3 of the U visa Certification [Form I-918B](#); See also Dept. of Homeland Sec., [DHS U and T Visa Law Enforcement Guide](#), at 7 (2015)

<sup>13</sup> Child abuse and elder abuse usually fall within the definition of domestic violence as defined under state protection order and/or criminal laws.

Felonious Assault	Fraud in Foreign Labor Contracting	Perjury	Prostitution
Rape	Attempt, conspiracy, or solicitation to commit crime or similar activity		

Applicants must apply with supporting documentation including a required U visa certification signed by a law enforcement, prosecution, judicial, or other authorized government official. Many victims are not aware of U and T visas and whether they might qualify for protection. Providing victims with information about immigrant relief can help them to feel more comfortable collaborating with criminal investigations.

## The U Visa Law Enforcement Certification Process

The U visa certification [Form I-918B](#) is a six-part short form that must be completed by a certifying official or agency. The form asks the certifying agency to verify the following:

- That the applicant was a victim of a crime;
- That the victim has knowledge of a crime; and
- That the applicant ***is, has been, or is likely to be helpful*** to law enforcement, prosecutors, or other certifying agencies in the detection, investigation, prosecution, conviction, or sentencing of the crime.

The form also encourages agencies to provide the following information:

- Identifying whether the perpetrator is a family member of the victim.
- Providing, notes, facts, or photos that could help document the harms the victim suffered as a result of the criminal activity.



The Department of Homeland Security published the [Law Enforcement Resource Guide](#) (2015) to clarify and further explain the role of certifying agencies in the U and T visa application process. This guide addresses concerns, answers common questions, and provides accurate information on signing [I-918B](#) and [I-914B](#) forms.

The U visa does not require a criminal investigation or successful prosecution. It is sufficient for U visa helpfulness requirements if a victim comes forward to report, to speak with investigators, or to obtain a protection order. The victim has up to 6 months after receiving a certification to file their U visa application. We encourage Law enforcement certifiers to process requests for U visa certification expeditiously because once victims file their U visa applications, USCIS enters victims' information into a computer system that informs DHS officials not to respond to "tips" they receive from a

victim's trafficker, abuser, or the perpetrator of sexual assault or another U visa listed criminal activity against a victim.<sup>14</sup>

Completing the certification does not guarantee that the victim will receive a U visa, but it is a required part of the victim's U visa application. If DHS approves the U visa, the victim will receive legal status to remain in the United States for up to four years. After three years as a U visa holder, the victim can apply for lawful permanent residency.<sup>15</sup> There will be cases in which law enforcement may have a difficult time locating the perpetrator, prosecutors decide not to prosecute the case, or the person committing the crime may have diplomatic immunity. Congress and DHS recognized these possibilities and designed the program so that victims who came forward to report a crime or assisted in an investigation or prosecution could receive U visa certifications even if a case isn't referred for prosecution by law enforcement, charges are dropped or prosecutors cannot secure convictions of the perpetrators.

Any law enforcement agency may complete U Visa certification as soon as the agency assesses the victim's helpfulness, regardless of whether the investigation is ongoing or closed. U visa certification is also appropriate when the perpetrator is charged with unrelated crimes. For example, suppose an offender is being investigated for embezzlement, but law enforcement learns that the offender is also abusing their spouse. In that case, the abused spouse who revealed the domestic violence to the officer is eligible for certification as a victim of domestic violence even if police and prosecutors decide not to charge the perpetrator with domestic violence. When law enforcement signs a U visa certification based on domestic violence, the victim receives protection through their U visa application that enables them to serve as a witness in the embezzlement case.

USCIS requires that all applicants submit fingerprints. The agency conducts multiple background checks over the many years it takes from filing an application, through receipt of the U visa, until the victim is granted or denied lawful permanent residency. DHS is the only agency authorized by federal statute to adjudicate petitions and grant U visas and T visas.

## **Helpfulness and Ongoing Assistance**

Law enforcement agencies and other certifiers are encouraged to sign certifications as soon as they observe the victim's helpfulness<sup>16</sup> in a criminal investigation or prosecution.<sup>17</sup> After the victim files their U visa application, U visa regulations require

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<sup>14</sup> Dept. of Homeland Sec., [Instruction Number 002-02-001, Implementation Of Section 1367 Information Provisions](#), in Natl., Immigrant Women's Advocacy Project, 10 (Nov. 7, 2013).

<sup>15</sup> To gain lawful permanent residency as a U visa holder, the victim is required to prove that they cooperated with reasonable requests from certifying government agencies or if they did not cooperate, victims must prove to DHS that the victim's non-cooperation was not unreasonable. They must also prove that they need to remain in the U.S. for public interest, humanitarian, or family unity reasons. Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status, 73 Fed. Reg. 75540, 75548 (Dec. 12, 2008).

<sup>16</sup> Peter Helein et. al., [U-Visa Helpfulness Checklist](#) (October 2019).

<sup>17</sup> Leslye Orloff et. al., [U Visa Toolkit for Law Enforcement Agencies and Prosecutors](#) (October 2018).

that the victim not unreasonably refuse to provide ongoing assistance in the criminal investigation or prosecution reasonably requested by law enforcement and prosecutors. Under DHS regulations whether a victim's failure to cooperate was unreasonable is evaluated based on the totality of the evidence in the victim's case.<sup>18</sup> Victims can reasonably refuse the request to help if, for example, as a result of threats, intimidation, danger to themselves or their family members, or if due to the perpetrator's actions they were unaware of the request by law enforcement. Law enforcement should also consider the victim's specific experience or trauma when considering whether it is reasonable or unreasonable for the person to cooperate with law enforcement requests.<sup>19</sup> Research has found that the U visa program results in the vast majority of victims over the course of time being able to actively participate in criminal investigations or prosecutions of perpetrators (70%) or being willing, but not being asked to participate (29%) because the perpetrator could not be located, prosecutors decided not to prosecute or the perpetrator agreed to enter a plea.<sup>20</sup>



To help agencies through the process of identifying a victim's helpfulness, NIWAP collaborated with national trainers from the fields of law enforcement, prosecution, and the judiciary, to develop a [Helpfulness Checklist](#) (2019).

### Helpfulness Examples



<sup>18</sup> Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status 73 Fed. Reg. 75540, 75560 (codified at 8 C.F.R. § 245.24(a)(5)) (2008).

<sup>19</sup> [Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status](#), 73 Fed. Reg. 75,540,75,547 (Dec. 12, 2008); 8 C.F.R. §245.24(a)(5) Refusal to Provide Assistance in a Criminal Investigation or Prosecution.

<sup>20</sup> Leslye Orloff et. al., [U-Visa Victims and Lawful Permanent Residency](#).

## **T Visas**

The T Visa provides long-term immigration relief for victims of severe forms of human trafficking who cooperate with state, federal or local law enforcement or prosecution officials investigating and prosecuting human traffickers.<sup>21</sup> To be eligible for a T visa the applicant must be a person who:

- (1) Is or was a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), as defined by federal law;
- (2) Is in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands or at a U.S. port of entry due to trafficking;
- (3) Has complied with any reasonable request from a law enforcement or prosecution agency for assistance in the investigation or prosecution of human trafficking<sup>22</sup> (except victims who are under 18 or those who are unable to cooperate due to physical or psychological trauma);
- (4) Would suffer extreme hardship involving unusual and severe harm if removed from the United States.

In cases of trafficked children under the age of 18, proof of force, fraud, or coercion is not required for the child to meet the definition for having suffered a severe form of either sex or labor trafficking. If the victim is under 18, then any commercial sex act is defined as human trafficking.

Unlike the U visa, the T visa certification [Form I-914B](#) is supplementary evidence of a victim's assistance to law enforcement, but it is not a required prerequisite of the T visa application. The T visa certification form allows law enforcement agencies to provide evidence that helps the victim prove to DHS adjudicators that the T Visa applicant is, or was a victim of a severe form of human trafficking, and how the victim has complied with reasonable requests to aid in the investigation or prosecution of human trafficking-related crimes.

If approved, the T Visa is valid for up to 4 years. T visa holders can apply for lawful permanent residency status after 3 years or when the investigation or prosecution is complete, whichever occurs earlier.

Compared to the T visa, CP has a lower standard of proof, offering protection to a broader number of victims who may not ultimately qualify for a T visa. Unlike the T visa, a victim is not required to prove that they would suffer extreme and unusual hardship upon removal. CP applicants are only required to potentially help in the detection, investigation or prosecution of a human trafficker and they do not need to meet the T visa cooperation/assistance requirement. CP was specifically created to provide temporary protection for victims who may be too traumatized to initially assist law

<sup>21</sup> See INA § 101(a)(15)(T), 8 U.S.C. § 1101(a)(15)(T).

<sup>22</sup> 72 Fed. Reg. 92266, 92305 (codified at 8 C.F.R. § 214.11(b)(3)(i)) (2016).

enforcement. However, due to its short-term nature, CP does not provide a path to lawful permanent residency.

### **Why is it important for law enforcement and prosecution agencies to develop U and T Visa certification policies and submit CP requests?**

State, federal, and local law enforcement and prosecution agencies are among the primary entities authorized to sign U and T visa certifications. Personnel in these agencies directly encounter immigrant victims in their work, have direct knowledge about whether someone is a victim, and they are in an excellent position to describe a victim's helpfulness in the detection, investigation, prosecution, sentencing, or conviction of the perpetrator of qualifying crimes. Therefore, it is crucial for officers who have direct contact with victims to know what forms of immigration relief are available to help immigrant crime victims. In November 2018, the [International Association of Chiefs of Police](#) adopted a [Resolution on Education and Awareness of U and T Visa Certifications](#). The resolution recognizes that law enforcement agencies taking advantage of these tools can strengthen trust and build more effective community policing relationships with immigrant communities, and research findings support this conclusion.<sup>23</sup>

And yet, two common challenges for some law enforcement agencies are the lack of a formal visa certification policy or officers' lack of awareness of such policies. NIWAP's 2017 survey showed that 50% of the law enforcement officials reported not knowing if their departments signed U visa certifications and 64% reported not knowing if their agencies signed T visa certifications. Additionally, law enforcement agencies reported that immigrant victims' hesitation to cooperate with law enforcement was due to three major reasons:<sup>24</sup>

- Fear of retaliation by the perpetrator (54%);
- Fear the perpetrator will retaliate by turning the victim in to immigration enforcement officials (47%) and
- Threats of deportation by the perpetrator (42%).

Perpetrators who commit acts of domestic violence, sexual assault, human trafficking, or other U visa listed crimes are likely to be recidivist criminals who prey on vulnerable community members, including but not limited to immigrant victims. These perpetrators will likely continue to threaten a community's safety until someone makes a report. Perpetrators of crimes against immigrant victims are often actively involved in efforts to report victims to immigration enforcement officials to trigger the immigrant victim's removal and elude prosecution. The likelihood that the perpetrator's deportation threats and efforts will be successful are much greater before a victim obtains certification and

<sup>23</sup> [Promoting Access to Justice Report](#) at 51-54.

<sup>24</sup> Stacey Ivie et. al, [Overcoming Fear and Building Trust with Immigrant Communities and Crime Victims](#), 85 [The Police Chief](#) 34,37 (2018).

files their U or T visa immigration case.<sup>25</sup> Once an immigrant victim obtains the certification and files their U or T visa case, they receive some protection from deportation through the Violence Against Women Act (VAWA) confidentiality protections. Consequently, when victims know that U and T visa certification is part of the agency's community policing efforts and that local law enforcement will take action against abusers, crime perpetrators, and traffickers, law enforcement agencies are able to build trust with immigrant victims and the immigrant community.<sup>26</sup>

NIWAP's 2017 survey found that immigrant victims are more willing to work with officers on criminal cases when the immigrant community and its victim advocates know that law enforcement agencies regularly sign U and T visa certifications when appropriate. Building ongoing collaborative working relationships between immigrant communities, law enforcement, and victim service providers helps keep communities, officers, and victims safe.

It is important to emphasize that law enforcement certification is just one piece of evidence that a victim is required to submit in their application for a U or T visa. Also, it is important to remember that completing the certification does not automatically guarantee that the applicant will be granted a U or T visa. When the law enforcement or prosecution agency collaborates with federal law enforcement requesting CP for a victim of human trafficking or completes the U or T visa certification, the agency does not become liable for future conduct of the applicant for immigration relief.

Ultimately, implementing a U and T Visa certification policy can help identify some of the most dangerous and violent offenders within your communities and dramatically increase the overall safety of the community and the law enforcement officers tasked with serving and protecting.<sup>27</sup> Additionally, policy and training on U and T visa certification can help to counter common misconceptions about U and T visa programs and to emphasize that law enforcement can play an important role in providing helpful evidence to DHS concerning U and T visa applications.

## Suggested Steps for Developing U and T Visa Certification Policies

Many law enforcement agencies have found it useful to have a U and T visa certification policy. Establishing a certification policy can promote greater awareness among law enforcement agencies on U and T visas and, consequently, help many crime victims. By implementing U and T Visa certification practices and adopting certification policies, law enforcement agencies demonstrate to the community that they are receptive to and interested in protecting and helping immigrant and LEP victims. We encourage law enforcement agencies to adopt certification policies, but agencies do not need to wait for a policy to be developed before signing certifications.

<sup>25</sup> Jane Anderson, Leslye E. Orloff & Benish Anver, [Certifying Early: When Should You Sign a U or T Visa Certification for a Victim?](#) (2017).

<sup>26</sup> Rodolfo Estrada, [The U-visa: An Important Tool for Community Policing](#) (2011).

<sup>27</sup> Michael LaRiviere, [Community Policing Breaking Down Barriers](#), 71 Sheriff & Deputy 68 (Sep/Oct. 2019).



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To help agencies with this process, NIWAP, in collaboration with nine police departments, several subject matter experts, and in consultation with DHS staff, developed a [Model Policy](#) and a [Discussion Paper](#) for U and T visa certifications. The Model Policy can be adopted by state and local law enforcement agencies and can be adapted to meet local needs.

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There are four steps that can help law enforcement agencies to implement successful U and T visa certification programs that will work to build and support community policing with immigrant communities:

1. **Certification Practices:** U visa certification can be completed within the agency's routine activities. This could mean that as police reports are completed, the agency's Chief, Sheriff or District Attorney (or designee) can sign the certification form. The official approving the certification form does not have to be the head of the agency. USCIS regulations allow multiple officials with supervisory authority to serve as an agency certifiers. Agencies can document those with authority to sign through a "Designee Letter" that the department provides to the victim accompanying the signed certification.
2. **Certification Policy and Language Plan:** The U and T Certification policy can be adapted from the Model Policy and the Discussion Paper. This policy can also inform state and local law enforcement officials who investigate or prosecute human trafficking cases on how to collaborate with federal DHS officials to obtain CP.
3. **Train law enforcement and prosecution agency staff on T and U visa certification:** Technical Assistance and Training is useful for certifying officials, supervisors who are potential certifiers, prosecutors, investigators, and patrol officers who may be the first in the department to identify that a crime victim may be an immigrant victim eligible for the U or T visa programs. Training should include information about how the agency will handle certifications to ensure that relevant information is collected from victims and witnesses during investigations or interviews.



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DHS, the Federal Law Enforcement Training Center (FLETC) and NIWAP developed two short [roll call videos](#) describing local law enforcement's role in collaborating with DHS to improve their ability to identify immigrant victims of human trafficking, domestic violence, sexual assault, stalking and other crimes and the importance of signing U visa certifications and T visa endorsements for immigrant crime victims.

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4. **Access to Technical Assistance:** It is important that certifiers, officers, and prosecutors have access to technical assistance from national experts on the U and T visa programs.



### Technical Assistance

NIWAP can help agencies access these resources and provide in-person training on best practices and model policies. Law enforcement officers and prosecutors are invited to attend bi-monthly roundtables open only to officers and staff working at government agencies authorized to sign U and T visas. These roundtables offer the opportunity to receive peer-to-peer technical assistance for law enforcement and prosecution officials.<sup>28</sup>

## Conclusion

Congress created immigration relief programs to help law enforcement and prosecutors hold perpetrators accountable and make communities safer. U & T visas and Continued Presence are effective tools for law enforcement to increase an immigrant victim's ability to participate in criminal investigations and prosecutions.

In fact, research shows that victims are more willing to collaborate with officers on criminal cases when immigrant victims and victim advocates know that law enforcement agencies regularly sign U and T visa certifications in cases involving immigrant victims. Collaborating with the immigrant community and encouraging victims to report crimes improves law enforcement's ability to detect, investigate, and prosecute crimes.

Best practices for law enforcement agencies are to implement U and T Visa certification practices and adopt certification policies. Implementation of U and T visa certification programs is an essential component of an effective community policing strategy that builds trust and develops strong working relationships with immigrant crime victims, as well as victim advocates and community-based organizations that support immigrant victims. Building trust, breaking the barriers of language access and fear of deportation allows law enforcement agencies to undertake criminal investigations that would not otherwise be possible, often revealing other crimes and identifying dangerous criminal offenders in the community. We hope this training bulletin helps you to identify the advantages for law enforcement agencies adopting U & T certification practices, training, and policies that can help us in moving forward, ensuring safer communities for all.

<sup>28</sup> See NIWAP's [training flyer](#) for additional information about technical assistance, training and resources for professionals serving immigrant and refugee women and children. To request training, contact [info@niwap.org](mailto:info@niwap.org). NIWAP may be able to provide training at no-cost to the local jurisdiction, depending on the federal funding available at the time of the request. Alternatively, training can be arranged at low cost. All training faculty includes a law enforcement or prosecutor official and a national expert. To register for roundtables contact: NIWAP at (202) 274-4457 or [info@niwap.org](mailto:info@niwap.org).