

## Screening for Victims Who Qualify for Immigration Protective Relief Eligibility Questions for Protective Relief (December 2, 2014)

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Immigration protective relief is an important tool for community policing that strengthens the ability of law enforcement agencies to detect, investigate, prosecute, and solve cases of domestic violence, sexual assault, trafficking, and other types of criminal activity. Without adequate language assistance, many immigrant victims cannot obtain police protection, obtain emergency medical assistance, or give police crucial information. Use this card as a checklist to screen for potential immigration relief and language issues.

### **VAWA Self-Petitions (domestic violence victim)**

- What is the victim's relationship to the abuser?
  - Is the victim married to a U.S. citizen or lawful permanent resident and living with his/her spouse, *or*
  - Is the victim divorced from a U.S. citizen or lawful permanent resident spouse within the last two years, *or*
  - Is the victim the child of a U.S. citizen or lawful permanent resident, *or*
  - Is the victim the parent of an adult U.S. citizen son or daughter?
- Has the victim been a victim of battery or extreme cruelty?
- Has the victim resided with the abuser?
- Does the victim have good moral character?

### **VAWA Cancellation of Removal (domestic violence victim)**

- What is the victim's relationship to the abuser?
  - Is the abuser a current or former spouse who is a U.S. citizen or lawful permanent resident, *or*
  - Is the abuser a citizen or lawful permanent resident parent or step parent if they are under the age of 21, *or*
  - Is the abuser a citizen or lawful permanent resident the other biological or step-parent of the victim's abused child?
- Is the victim currently in deportation or removal proceedings?
- Has the victim lived continuously in the U.S. for at least five years?
- Has the victim been physically hurt or suffered extreme cruelty? Where did the abuse occur?
- What would happen to the victim and his/her child if the victim were deported?

### **Battered Spouse Waiver (domestic violence victim)**

- What is the victim's relationship to the abuser?
  - Is the victim a battered immigrant married to a U.S. citizen spouse?
  - Is the victim a battered immigrant victim divorced from a U.S. citizen spouse?
- Was the victim battered or subjected to extreme cruelty by the citizen spouse?
- Does the victim have a lawful permanent residency card "green card" that ends 2 years after it was issued?

*Law Enforcement's Role*

*Inform the victim that he/she can file for full lawful permanent residency without the abuser's knowledge or help*

### **T Visa (trafficking victim)**

- Is the individual a victim of a severe form of trafficking in persons?
- Is the victim physically present in the United States on account of the trafficking?
- Has the victim complied with any reasonable requests for assistance in the investigation or prosecution?, *or*
  - Is the victim under the age of 18?
- Victim would suffer extreme hardship involving unusual or severe harm if removed from the United States

*Law Enforcement's Role*

- *Identify the victim*
- *Describe the severe form(s) of human trafficking the victim was subject to:*
  - *Sex trafficking by force fraud or coercion, sex trafficking of a minor, or*
  - *Labor trafficking by force fraud or coercion*
- *Describe victim cooperation*
- *Determine if any family members were implicated in the crime*

## **U Visa (crime victim)**

- Has the victim been a victim of a qualifying criminal activity (listed below)? Did the criminal activity violate a U.S. law?
- Has the victim suffered substantial physical or mental abuse as a result of the criminal activity?
- Does the victim possess information about the qualifying criminal activity?

### Helpfulness of the victim...

- Is the victim being helpful? , *or*
- Has the victim been helpful? *or*
- Is the victim likely to be helpful?

### Helpfulness in regards to the...

- Detection, *or*
- Investigation, *or*
- Prosecution of the qualifying criminal activity

## **Qualifying Criminal Activities of the U Visa**

Rape	Prostitution	Abduction	Manslaughter
Torture	Female genital mutilation	Peonage	Murder
Trafficking	Involuntary servitude	False Imprisonment	Felonious assault
Incest	Slave trade	Blackmail	Witness tampering
Domestic violence	Being held hostage	Fraud in Foreign Labor	Obstruction of justice
Sexual assault	Kidnapping	Contracting	Abduction
Stalking	Attempt, threats, conspiracy or solicitation to commit any of these crimes	Extortion	Perjury

### *Law Enforcement's Role*

- *Identify that 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*

## **Language Access**

- Does the individual speak English?
- Does the individual have a limited ability to read, write, speak or understand English?

### *Law Enforcement's Role*

- *Identify whether the victim is in need of language assistance by asking open-ended questions and questions that require an opinion*
- *Determine what language is needed using the "I Speak" cards*
- *Find an interpreter, or provide the victim with the phone number for the language lines*
- *If you choose to use an interpreter at the scene, make sure the interpreter is not:*
  - *A child or family friend*
  - *A family member of the victim or the perpetrator/primary aggressor*
  - *The perpetrator or primary aggressor*
  - *The interpreter used by the perpetrator/primary aggressor*

## **Special Immigrant Juvenile Status (abused, abandoned or neglected child)**

- Is the individual under the age of 18 or 21 (depending on state's legal definition of "child")?
- Is the individual unmarried?
- Is he or she the victim of abuse, abandonment or neglect by one or both parents?
- Would it be against the best interest of the child to be reunited with the abusive or neglectful parent?

## **Deferred Action for Childhood Arrivals (individual brought to the U.S. at a young age who is attending school)**

- Did the individual arrive in the U.S. before her/his 16<sup>th</sup> birthday?
- Has the individual been present in the U.S. since January 1, 2010?
- What is the individual's education attainment or military background?
  - Is the individual currently in school?, *or*
  - Has the individual graduated high school, obtained a certificate of completion from high school or a GED?, *or*
  - Is the individual an honorably discharged veteran of the Armed Forces?
- Has the individual not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors?

For Additional Resources or Technical Assistance contact the National Immigrant Women's Advocacy Project at 202-274-4457 or [info@niwap.org](mailto:info@niwap.org). DHS Blue Campaign information on human trafficking is available at [www.uscis.gov/humantrafficking](http://www.uscis.gov/humantrafficking).