PART THREE: LOCAL LAW ENFORCEMENT: A VITAL PART OF COMMUNITY INTEGRATION

As mentioned in the previous section, concurrent with preparing this briefing book the UNC Immigration and Human Rights Policy Clinic (IHRP) explored two practical projects that serve to accomplish the goals of building integrated communities. The second of the two projects relates to local law enforcement, and the vital role these agencies play in furtherance of community integration. The IHRP conducted research relating to the obstacles that prevent local law enforcement from developing working with immigrant communities, as well as the principles of community policing principles and examples of how such principles have been implemented. The IHRP also considered the ways that immigration law and policy have exacerbated the criminal victimization of immigrants, and how law enforcement’s conformity to, and cooperation with federal immigration law, specifically the Violence Against Women’s Act’s (VAWA) immigration-related remedies may provide for more effective community policing and ultimately serve community integration goals. The IHRP met and worked with non-profit legal organizations serving the immigrant population generally in North Carolina, as well as an immigrant support organization serving the local South Asian immigrant population in Wake County, North Carolina, and a non-profit providing support to immigrant victims of domestic violence in Wake County. The purpose of working together with these groups was to combine our particular strengths and experience and to begin communication with a local police department in North Carolina to discuss the role of law enforcement and community policing to better serve the interests of law enforcement and the local immigrant. Because the U visa remedy (part of VAWA) demonstrates the intersection between immigrants and law
enforcement, the IHRP decided to specifically focus on the promises and problems in connection with the U visa process.

I. Community Policing: Immigrants and Community Integration

It should come as no surprise that there are special challenges for law enforcement when interacting with immigrant communities. Misunderstandings and mistakes are bound to happen when dealing with residents who speak English as a second language or do not speak English at all. The differences in culture and values only add to the complexity of the relationship between law enforcement and immigrants. Often immigrants come from a country where local law enforcement is corrupt and cannot be trusted. In order to appreciate and understand the application of community policing strategies, the recurring problems that occur between law enforcement and immigrant communities should first be examined.

A. Law Enforcement: Unique Challenges

1. Language Barriers

At least one nationwide study has shown that cultural misunderstandings and language barriers cause immigrants to access public safety services less often than native-born citizens.\(^1\) As noted earlier in this report, nearly eight percent of the U.S. population speaks English less than very well.\(^2\) That group consists mainly of immigrants who live in linguistic isolation in their homes. According to the Public Policy Institute of California, approximately 31% of

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\(^2\) Broder & Blazer, supra note Error! Bookmark not defined., at 7.
immigrant homes have no one over the age of 13 who can speak English “very well.”

For those immigrants who do speak English well, the great majority speak English as a second language. This presents a challenge for police officers, especially because the nature of their work often puts them in tense and sensitive situations where accurate communication is a necessity. If an officer is proficient in the native language of the immigrant, accurate communication can still be a problem if the officer is less than fully bilingual and bicultural and is limited to providing a literal translation of what is being said. The following example illustrates the complexities in communication:

**Spanish:** El hombre del pelo chino dijo que lo había hecho para pagar una droga.

**Literal translation:** The man with the Chinese hair said he had done it to pay off a drug.

**Correct translation:** The curly-haired man said he had done it to pay off a debt.

It is not hard to imagine how a mistake in communication with the above example would lead to drastically different results; without an accurate interpretation, the police might pursue a Chinese man in connection with drugs although the speaker referenced a curly-haired man about a personal debt.

2. Lack of Trust

Negative perceptions of law enforcement create additional challenges for police officers when engaging the immigrant community. Reasons for the wide distrust of law enforcement among immigrants vary from bad personal experiences with local police to rumors and stories about police that are shared within the immigrant community. For example, in New York City

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an account about a police encounter with an Arab-American circulated in the Arab-American community. According to the story the Arab-American man tackled and held to the ground an arsonist trying to burn down a synagogue. When the police arrived they learned that the Arab-American was without status. He was subsequently taken into custody and deported. As the New York police report put it: “The intended moral on the street was clear: avoid all contact with police.”\(^5\) Additionally, some immigrants simply distrust police because of their experiences with the police in their home country where police corruption, repression, and violence may be common.\(^6\) Whatever the reason, the fact is that a distrust of law enforcement among immigrants is a fairly ubiquitous phenomenon throughout the United States.

3. Fear of Law Enforcement

In addition to the lack of trust for law enforcement, many immigrants have an active fear of the police. Many of the same reasons some immigrants do not trust law enforcement are the same reasons they fear the police. Some immigrants have had encounters with law enforcement in the United States or in their home country that make them fear the police. Some immigrants fear that no matter what they do, the police will either not understand them or unfairly blame them for a crime they did not commit. Undocumented immigrants have the additional fear of being deported; thus, undocumented immigrants have a reason to fear any interaction with law enforcement regardless of their perception of the police.

For example, in New York City, a victim who was stabbed and required 34 stitches across the chest refused to report a crime out of a fear of being deported.\(^7\) In another incident a victim was found curled up at the front of a house of a community organizer because he was

\(^5\) Vera Institute of Justice, *supra* note 691, at 9.
\(^6\) *Id.* at 3.
\(^7\) *Id.* at 1.
afraid of going to the emergency room out of fear that the hospital staff would turn him over to immigration authorities.  

Regardless of the reason an immigrant may have a fear of the police, the result is an absolute desire to avoid all contact with law enforcement despite the consequences. This limits the opportunities for positive interaction between the immigrant community and local law enforcement, and as a result negative perceptions of law enforcement largely remain unchanged. But perhaps more importantly for purposes of community safety, immigrants are much less likely to report crimes or seek help because they fear contact with law enforcement. As a result criminals go unpunished and neighborhoods become more dangerous. And because immigrants have a reputation for being reluctant to contact police, immigrants are often targeted by criminals. At a meeting held by the Department of Justice on community policing a community representative described how the immigrant community in his area was victimized by serious crimes, including murder and rape. The representative explained that although some members of the immigrant community could identify individuals who were committing crimes, they would not share that information or otherwise come forward because they feared that their immigration status would be questioned.

B. Complex Solutions

Many police departments across the country have implemented various policies and strategies that address the unique challenges associated with law enforcement and immigrant

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8 Id.  
10 Id.  
11 Id.
community relationship. Of course there is no set of rules or policies that will fulfill the needs of every community, but the policies and strategies listed below are meant to serve as a list of ideas that can prove helpful for law enforcement in engaging the immigrant community. Each police department must consider the particular problems and the demographic makeup of its jurisdiction before selecting the combination of policies that would be most effective in its community.12

1. Special Units and Designated Officers for Immigrant Communities

An effective way to create opportunities for positive interaction with immigrants in the community is to assign specific police officers to certain communities of immigrants within the jurisdiction. These officers should spend the majority of their on duty time in the communities to which they are assigned. This is an excellent way of addressing the problems of mistrust and fear of the police. These specially assigned officers will be recognizable and have opportunities to positively interact with the community. As positive word spreads about these officers, immigrants may be more willing to approach the police and place trust in the officers. Officers will also be more aware of local conditions and problems.

In Chicago the police department divided the city into 279 police neighborhoods and assigned teams of officers to cover each neighborhood 24 hours a day, 7 days a week.13 There were roving units sent around the city to respond to emergencies so team officers could stay within their assigned neighborhoods. These teams would usually attend monthly community

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12 Vera Bridging the Language Divide: Promising Practices for Law Enforcement (Vera Institute of Justice, New York, N.Y.), 2009, 9. For example the Storm Lake Police Department in Iowa developed two civilian Community Service Officer positions, one dedicated to providing services in Laotian, the other providing services in Spanish, because those were the two immigrant populations that had recently experienced large increases. In Nashville, where local clergy members play an important role, as with many other communities, the Metro Nashville Police Department determined a need for and began recruiting and training Spanish-speaking clergy who could deliver traumatic news to Spanish-speaking residents.

meetings which would provide an opportunity for residents to meet and exchange ideas with the assigned team members. During these meetings, thousands of residents were trained on their roles in the community policing scheme. In addition, the city of Chicago also created a special-request process so that officers could include other city agencies to address the various non-law enforcement related concerns of residents during their meetings. Officers that are assigned to a specific neighborhood should also participate in proactive outreach programs to show goodwill and establish relationships in the immigrant community.14

2. Diversifying the Police Force

The diversity of the community should be reflected in the makeup of the police department. Recruiting police officers from different backgrounds and cultures is an effective way to build trust with the immigrant community. Not only are police officers of the same nationality often better able to communicate with and understand immigrants, they are also likely to have connections in the community that will help in building trust and respect for local law enforcement. A diverse police force will also provide more multilingual officers who can be assigned as designated officers to a particular community. In addition, recruitment of individuals from immigrant populations does not have to be limited to sworn positions. Hiring immigrants

14 U.S. Department of Justice, Enhancing Community Policing with Immigrant Populations: Recommendations from a Roundtable Meeting of Immigrant Advocates and Law Enforcement Leaders, supra note 699, at 13. “The community policing philosophy of long-term assignment of officers to specific neighborhoods or areas and the geographic deployment of officers to facilitate contact with residents should remain core practices for local law enforcement. Other creative outreach efforts, such as officers spending a day helping immigrant residents in their community remove graffiti, can have immediate, short- and long-term benefits. In addition to making physical improvements to the neighborhood, officers convey the message that local law enforcement wants to address crime in this particular community. Furthermore, those officers and residents who work on such an event become acquainted and can more easily call on one another in the future.”
for both sworn and civilian positions within the law enforcement agency can generate goodwill between the agency and immigrant community.\textsuperscript{15}

3. Cultural Training in the Police Department Curriculum

Every police officer should be given training about how best to engage immigrants and other residents who cannot speak English. As discussed earlier, police officers often find themselves in tense situations while carrying out their responsibilities. The ability to understand and accurately assess the situation is critical in many of these situations. Even when there is very little potential for violence, a simple misunderstanding could lead to strained community relations.

Cultural training should be tailored to the demographic composition of the community. If there is a large Cambodian community in the community, the police department should include in its cultural training the practices of Cambodians that are relevant to law enforcement concerns. For example, according to some experts Cambodians often keep their wallets in their socks, so they might reach for their socks when asked for a driver’s license. The police officer might believe the Cambodian is reaching for a weapon.\textsuperscript{16} Simple training adapted for the demographics of the local immigrant community can go a long way to preventing misunderstanding and accidents.\textsuperscript{17}

\textsuperscript{15} U.S. Department of Justice, \textit{Enhancing Community Policing with Immigrant Populations: Recommendations from a Roundtable Meeting of Immigrant Advocates and Law Enforcement Leaders}, supra note 699, at 7. See also Vera Institute of Justice, \textit{supra} note702, at 9-10. Hiring civilians can be a good strategy when resources are limited. The Storm Lake Police Department in Iowa chose to develop two Community Service Officer staff positions to provide interpretation and translation, because attempting to hire bilingual sworn officers was difficult in the current environment and civilians who already spoke the needed languages were easier to recruit, hire and train.

\textsuperscript{16} U.S. Department of Justice, \textit{Community Policing and “The New Immigrants,”} supra note 703.

\textsuperscript{17} \textit{Id.} at 9. It has been suggested that “rebranding” these cultural trainings and titling the course: “Maintaining Tactical Advantage” and avoiding titles such as “Cultural Diversity” will be more effective and more well received by police officers. \textit{See also} U.S. Department of Justice, \textit{Enhancing Community Policing with Immigrant}
Police agencies should also publicize the agency’s mission and policies to uphold the rights of all people in its jurisdiction, regardless of nationality or immigration status.18 These materials may encourage immigrants to contact law enforcement when needed, while they otherwise may have been reluctant.19

4. Engage the Immigrant Community

A central goal for police departments that want to improve relations with the immigrant community is to obtain their involvement with community policing. Immigrants, just like any other population, have a desire to create a safer community. Mutual distrust between law enforcement and immigrant groups can be overcome as they work together to achieve their shared aspiration of crime free streets.20 As immigrants participate with law enforcement, trust may be established and the safety of neighborhoods may improve.21 Such participation also gives immigrants an opportunity to voice their opinions and feel a part of the community.

Populations: Recommendations from a Roundtable Meeting of Immigrant Advocates and Law Enforcement Leaders, supra note 699, at 9. Police officers should be given encouragement and provided with incentives to enroll in basic language training courses in the dominant non-English languages of the locality. As long as the police officer has an appreciation for his lack of full language comprehension, just a fundamental grasp of a foreign language can be helpful for a police officer working in an immigrant neighborhood.

18 Id. at 10.
19 Interview with Dae Hyun Chang, President of the Raleigh Korean Association (January 24, 2011). Additionally, police agencies should create, translate into several languages, and distribute pamphlets or handbooks which explain local law enforcement practices and what to expect from interaction with the police. For example, Mr. Dae Hyun Chang, suggested these materials were needed to help immigrants adjust to life in America and avoid misunderstandings with local law enforcement. He said that many immigrants do not know that they are supposed to stay in the car when directed to pull over by a police officer. Having access to this type of information in their native language can help immigrants to stay calm and act in accordance with law enforcement policies during what can be a stressful situation.
21 Id. Police leadership should also expect officers within the agency to take extra time to positively engage the immigrant community when such opportunities arise throughout the day. “Although finding time for such outreach is challenging, the payoff in reduced tension between immigrants and law enforcement is worth the commitment of time.”
Agencies should seek out and create opportunities to educate immigrants about U.S. laws and encourage their input and participation.\textsuperscript{22}

The New York City Police Department has recently targeted three immigrant groups (Arab-American, African, and Latin-American communities) to develop new strategies in community policing.\textsuperscript{23} The New York Police Department held separate meetings with representatives with each group to share ideas and goals of the community policing project.\textsuperscript{24} At first there was some skepticism on the part of the community members. But as the project went forward, relationships were established that allowed trust to develop between the groups. One of the community participants said, “My [initial] concern was that this was a post-9/11 strategy to identify immigrants. I was wrong. The NYPD’s only concern was to better serve our community.”\textsuperscript{25} The New York Police Department report listed other positive responses such as the following:

Another [community member] said, that after years of advocacy, she felt “listened to” by government officials for the first time. The simple act of asking for community input in itself seemed to [generate] good will and support. The police representatives [warmed] to the forums as well. An officer who had originally expressed doubts said afterward, for example, that he had learned things about the community that were helping him in his role as a community liaison.\textsuperscript{26}

\textsuperscript{22} \textit{Id.} at 14. Suggestions include: “Invite immigrant advocates to ride along with patrol officers so they can better understand officers’ responsibilities, the nature of calls for service received, and the challenges officers encounter in policing immigrant communities. Some jurisdictions offer citizen academies to: familiarize interested residents about the role of law enforcement and services available; address law enforcement-related rumors and media reports; and solicit community support. These citizen academies, with the help of immigrant advocacy organizations, can be the model for immigrant academies that include an overview of U.S. laws, the U.S. judicial system, and related topics. Other settings in which to proactively reach out to immigrant populations are: Neighborhood Watch meetings; school and after-school programs and community recreation center activities; gatherings of faith-based organizations; English as a Second Language classes; and day labor employment sites. Finally, develop informational materials in the appropriate languages for distribution at these settings.”

\textsuperscript{23} Vera Institute of Justice, \textit{supra} note 691, at 5.

\textsuperscript{24} \textit{Id.} at 6.

\textsuperscript{25} \textit{Id.} at 7.

\textsuperscript{26} \textit{Id.}
The New York Police Department was careful to select a wide range of immigrant community leaders to participate in meetings to establish the community policing initiative. The department was concerned with ensuring that community leaders fully represented the diverse immigrant groups. In an effort to include all voices from within the community, the department contacted community-based social services, as well as religious organizations and political leaders, when searching for community representatives.

By reaching out to social services in the community for suggestions on “leaders” for immigrant groups, the New York Police Department was able to diversify the representation of the community and include representatives who had access to the most vulnerable and the most disengaged members of the community.

5. Create Policies Which Encourage Community Policing

Immigrants must be engaged for community policing to be effective. The local immigrant community should know their rights and feel comfortable contacting local law enforcement. In order for this to happen, police departments should adopt policies which encourage immigrants to participate in the process of law enforcement.

For example, the City of El Paso’s Police Department established a Victim Services Unit to work with immigrants and inform them of their rights. The police department, aware that

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27 Id. at 9.
28 Id. at 10.
29 Id. at 11.
immigrants who are victims of crime feel powerless to seek help or protection, has adopted the policy to not require victims of crimes to report their immigration status.\textsuperscript{31} The Victims Services Unit also assists immigrant victims by informing and educating immigrants about their legal rights and the dignity and respect they deserve as victims.\textsuperscript{32}

Law enforcement agencies should also partner with other government agencies that work with immigrants. Other government agencies are often in a position to encourage community policing policies and immigrants may be less suspicious of these agencies than law enforcement. For example, staff at the local health department can urge immigrant victims to report sexual assault and domestic violent crimes.\textsuperscript{33} If the health department staff is armed with information reassuring the victims that law enforcement’s interest in the crime is only to aid the victim and apprehend the perpetrator, then immigrants may be more willing to aid with the investigation and, if need be, testify at any related judicial proceedings. Working with other government agencies helps law enforcement with limited resources to establish contact with immigrants and spread the word of community policing policies.

\textbf{6. Address Immigrant Concerns about Deportation}

A police agency cannot successfully or effectively adopt community policing policies if it does not alleviate immigrants concerns of deportation. Many immigrants, even those who are documented, fear what effect interaction with the police may have with their immigration status. Since there is no federal law that dictates what immigrants can expect from local law

\textsuperscript{31} \textit{Id.} at 10.
\textsuperscript{32} \textit{Id.}
\textsuperscript{33} U.S. Department of Justice, \textit{Enhancing Community Policing with Immigrant Populations: Recommendations from a Roundtable Meeting of Immigrant Advocates and Law Enforcement Leaders, supra note 699, at 8.
enforcement, there is no standard by which immigrants can rely on to ease their fear of the police. Some agencies may adopt a policy of not asking about immigration status; another agency may look into a resident’s immigration status only in cases which involve certain crimes; while agencies in other jurisdictions may actively pursue immigration enforcement. In order for police agencies to achieve a successful community policing relationship with immigrant groups, they should not adopt policies which blur the lines between local law enforcement and federal immigration agencies. They should also ensure that immigrants have accurate information about local law enforcement practices and ICE. A roundtable of law enforcement leaders and immigration advocates, organized by the Department of Justice’s Office of Community Oriented Policing Services and the National Sheriff’s Association, offered the following suggestion:

Local law enforcement can work with immigrant advocates and ethnic media outlets to dispel rumors and reliably inform immigrant populations about: the policies of ICE; what situations trigger local law enforcement to contact ICE; and resources that may be available to assist immigrants and their families who are subject to ICE investigations, for example, U and T visas.

C. Conclusion

Community policing is more than simply enacting immigrant-friendly policies. It is subscribing to the idea that immigrants are members of the community who are entitled to police protection, assistance, and involvement in local policing efforts. Any law enforcement policy which embodies this concept will be in accordance with community policing principles.

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34 Id. at 15-16.
35 Id. at 16.
36 Id.
Agencies across the country, from the New York City Police Department to the Storm Lake Police Department in Iowa, have implemented community policing policies according to the needs of their respective communities. As noted earlier, it is up to each police agency to look to the demographics of its jurisdiction and choose community policing strategies tailored to the local community. As police agencies implement these policies and positively engage immigrant communities, relations will improve and immigrants will be more likely to report violent crimes and assist police officers with investigations. Subsequently, police officers will find it easier to fulfill their duty and obligation to serve and protect all residents, including immigrants, within the community.

II. The Relationship between Local Law Enforcement and Immigrant Crime Victims

U.S. policies aimed at deterring undocumented immigration have led to the “development of an enormous, uniquely isolated and vulnerable population that criminals can prey on with impunity” as an “unintended consequence.”37 As mentioned previously, language barriers, negative perceptions or fear of police on behalf of the immigrant community have caused a disconnect leaving many immigrants in a situation where they are unlikely to report crimes. This is particularly true with respect to undocumented immigrants. This disconnect between the undocumented community and law enforcement is well-known, and unfortunately leads many undocumented individuals to fall victim to crimes as a result. Criminals that prey upon the undocumented immigrant population do so conscious of the fact that for their victim, reporting a crime carries with it the risk of exposing his or her undocumented status and the possible result of triggering deportation proceedings.

A. Background on the Criminal Victimization of Immigrant Community

1. Immigrant Victims of Domestic Violence

Immigrant victims of domestic violence are perhaps one of the most vulnerable groups. Historically, pursuant to the doctrine of coverture, a wife took on the “legal identity” of her husband. In terms of immigration status, this meant that a U.S. citizen or Lawful Permanent Resident (LPR) male spouse could control the immigrant status of his foreign born wife; however, a U.S. citizen or LPR female spouse did not possess the same control. Her lack of control over her immigration status gave an extraordinary amount of power and control to her citizen or LPR spouse creating a grave potential for domination and abuse.

Although the premises of the doctrine of coverture have been periodically removed over time from state law with respect to family law, tort law, contract law, and property law, the doctrine is perpetuated, however indirectly, in U.S. immigration law. To understand how this is the case, one must first understand the process for obtaining legal status based on marriage. These processes impact women immigrants disproportionately due to the fact that more women

38 Leslye E. Orloff et al., Mandatory U-Visa Certification Unnecessarily Undermines the Violence Against Women Act’s Immigration Protections and Its “Any Credible Evidence” Rules - A Call For Consistency, XI:II Geo. J. Gender & L., 619, 622.; Janet M. Calvo, Spouse-Based Immigration Laws: The Legacies of Coverture, 28 San Diego L. Rev. 593, 595 (1991). “Under the doctrine of coverture, a wife could not make a contract with her husband or with others. She could not engage in litigation. She could not sue or be sued without joining her husband. She could not sue her husband at all. She could not make a will. The personal property which a woman owned before marriage and that she acquired during the marriage became her husband's property. A husband had the use of his wife's real property during the marriage. If the marriage produced a child, the husband was entitled to the rents and profits of the wife's property during the husband's life. The husband was the sole guardian of the couple's children.”

39 Id.

40 Calvo, supra note 38, at 613 (noting that the law gives so much power to the citizen or resident spouse that the alien spouse is faced with a Hobson’s choice: either remain in an abusive relationship, or leave and confront deprivation of home, livelihood, and ability to promote a child’s best interests”).

41 Id., at 598. During the mid-nineteenth century states began to pass laws to remove coverture principles that were known as Married Women’s Property Acts. “These laws afforded married women rights including: the right to joint custody of children; the right to sue and be sued; the right to contract; and the right to own and control real and personal property.” Later, the women’s movement of the 70’s and 80’s made similar progress in removing the premise of chastisement, a “subsidiary doctrine” of coverture permitting restrain his wife from “misbehavior” and punish her for it.
than men immigrant as spouses as well as the gender dynamics of domestic violence which result in more women than men being victimized.

In order for a noncitizen immigrant spouse to gain legal permanent residence based upon his or her marriage to a United States citizen or LPR, the qualifying citizen or LPR spouse (the petitioner/sponsor) must petition for the immigrant spouse (the beneficiary).\(^{42}\) Despite eligibility to adjust status to lawful permanent residence as an immediate relative of a citizen, or as the spouse of a LPR, a beneficiary may not file a petition for immigration benefits for herself; instead she has the status of “beneficiary” of her husband’s petition.\(^{43}\) Until 1986, the immigrant spouse, if her husband had indeed filed the necessary paperwork for her, would obtain permanent residency after an interview with the Immigration and Naturalization Service (INS) (now reorganized as United States Citizenship and Information Services or USCIS) to determine that the marriage was valid and entered into in good faith.\(^{44}\) However, the Immigration Marriage Fraud Amendments (IMFA) of 1986, enacted by Congress as an attempt to prevent fraudulent marriages for immigration benefits, further exacerbated the problem.\(^{45}\)


\(^{43}\) Id. U.S. immigration considers parents, spouses, and children under the age of twenty-one to be “immediate relatives” for the purpose of family sponsored petitions. There is no quota restriction on the amount of individuals that fall within this category. Spouses of LPRs are assigned a preference category (second preference) and are subject to waiting periods as visas are limited by quota based upon preference. See 8 U.S.C. §§ 1151(b); 1153(a) (1994).

\(^{44}\) Jones, supra note 42, at 681. On March 1, 2003, as a result of the Homeland Security Act of 2002 (Pub. L. No. 107–296, 116 Stat. 2135), the INS was dismantled and those duties previously carried out by the agency now fall under the three separate components of the Department of Homeland Security (DHS): the United States Citizenship and Immigration Service (USCIS), Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP). USCIS is now responsible for holding interviews in consideration of family petitions. See Our History, United States Citizenship and Immigration Service, available at http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=e00c0b89284a3210VgnVCM100000b92ca60aRCRD&vgnextchannel=e00c0b89284a3210VgnVCM100000b92ca60aRCRD. We will refer to the agency as the INS when describing acts and circumstances were in effect before the reorganization and USCIS when referring to circumstances after the reorganization, and INS/USCIS when referring to ongoing acts and circumstances that were and are applicable to both periods of agency organization.

Under the IMFA, family-sponsored immigrant spouses are presumed to have entered into marriage with the petitioner spouse fraudulently for the purpose of immigration benefits if qualifying marriage is less than two years old.\textsuperscript{46} After the citizen or LPR petitioner initiates the process by filing for his or her immigrant spouse, and that initial petition is approved, the immigrant will receive lawful permanent resident status on a conditional basis for two years.\textsuperscript{47} At any time during these two years INS/USCIS “can terminate the conditional status . . . if the marriage is determined to be a sham used to confer a beneficial immigration status upon the alien.”\textsuperscript{48} Within ninety days of the end of the two year period, the petitioner spouse may apply to remove the conditional status of their immigrant spouse.\textsuperscript{49} Additionally, both the petitioner and beneficiary must attend an interview with INS/USCIS “to re-determine if the marriage is bona fide.”\textsuperscript{50} If the citizen or LPR spouse refuses to apply to remove the conditions, does not make a timely filing, or does not attend the interview with INS/USCIS, the immigrant spouse can be deported as a result.\textsuperscript{51} Only after all these steps are taken, and the INS/USCIS adjudicator determines that the immigrant spouse entered into the marriage in good faith, will she obtain unconditional permanent residency.\textsuperscript{52}

The protocol that creates a petitioner/beneficiary paradigm that excludes immigrant spouses from being able to file their own petitions but instead requires them to reply on their spouses, coupled with the IMFA’s joint application and interview requirements create the unfortunate effect of “forc[ing] those spouses and children in abusive relationships to prolong the

\textsuperscript{46} Orloff \textit{et al.}, \textit{supra} note 38, at 623.  
\textsuperscript{47} Id.; Jones, \textit{supra} note 42, at 682.  
\textsuperscript{48} Calvo, \textit{supra} note 38, at 606-611  
\textsuperscript{49} Id.  
\textsuperscript{50} Id.  
\textsuperscript{51} Id.  
\textsuperscript{52} Id.
relationship in order to secure their permanent residency status and avoid deportation.”

Although the IMFA permitted waiver of the joint application requirement in some circumstances, the immigrant beneficiary faced a difficult standard of proof and the ultimate decision fell to the discretion of the INS/USCIS. In practice these waivers “were available only in very limited circumstances . . . [and] were not granted for immigrant women abused by their citizen or lawful permanent resident husbands.”

In recognition that the framework of the IMFA “aggravated already pernicious domestic situations for immigrant women by providing their assailants with control over whether they would be permitted to remain in the United States,” Congress passed the Immigration Act of 1990, which created a “battered spouse waiver” to the joint application requirement. Under this option an abused spouse must demonstrate that “the qualifying marriage was entered into in good faith . . . and during the marriage the alien spouse . . . was battered by or was the subject of extreme cruelty perpetrated by his or her” citizen or LPR spouse . . . and that failure to meet the joint application and interview requirement” was not his or her fault. The Act also included a confidentiality provision aimed at protecting battered spouses from further abuse. Although Congress intended for the battered spouse waiver to be granted broadly and did not limit the type

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53 Id. If the citizen or LPR spouse does not apply with the immigrant spouse or attend the interview, the immigrant spouse faces deportation proceedings.

54 See 8 U.S.C.A. § 1186(a)(c)(4) amended by Pub. L. 101-649 § 701(a), 104 Stat. 4978; Orloff et al., supra note 38, at 623; Jones, supra note 42, at 685. To qualify for a waiver an immigrant beneficiary had to demonstrate that “extreme hardship would result from deportation, or that the marriage had been entered into in good faith, the marriage had been terminated by her for good cause, and she had not been at fault in failing to meet the requirements of the petition to remove the conditional status.”

55 Orloff et al., supra note 38, at 623.

56 8 U.S.C. § 1186a(c)(4)(C) (1994); Orloff et al., supra note 38, at 624; Jones, supra note 42, at 686.

57 Supra. This provision has also been referred to as the battered spouse/child waiver. In its entirety it includes the language “the alien spouse or child was battered” by the citizen or LPR “spouse or parent.”

58 Jones, supra note 42, at 688. The confidentiality provision imposed the requirement of a court order for the release of waiver related information. In addition to creating the battered spouse waiver, the Immigration Act of 1990 amended the hardship waiver provision of 8 U.S.C. § 1186a(c)(4) to remove the conditions that the marriage was terminated for good cause, and the immigrant spouse had to initiate the divorce. These conditions conflicted with state divorce laws, and permitted the abusive spouse to prevent the immigrant spouse from being eligible for the waiver by filing for divorce first.
of supporting evidence that could be used, the INS issued regulations limiting the type of
evidence that may be used in applying for the waiver, “creat[ing] an approach that was not
feasible for most battered immigrants.”

Significant barriers still existed for battered immigrant spouses after the Immigration Act
of 1990. The battered spouse waiver only applied in a situation where the citizen or LPR abuser
filed an initial petition for the immigrant spouse, giving that spouse conditional residency. This
left several battered immigrants whose abusive spouses refused to file the initial I-130 as a
means of control without relief, and mainly benefited those in relationships where this type of
abusive and controlling behavior manifested later in time. Additionally, even those immigrant
spouses initially awarded conditional status faced challenges in obtaining a waiver due to the
high evidentiary standard and the waiver’s discretionary nature. Battered immigrant spouses
remained particularly vulnerable, as the law still required them to depend on the abusive
qualifying relative spouse to petition on their behalf for legal status in the United States.

These residual problems left by the IMFA and the Immigration Act of 1990 led Congress
to enact the Violence Against Women Act (VAWA) of 1994. The new legislation was enacted
with the vision of “a nation with an engaged criminal justice system and coordinated community

59 Id.; Orloff et al., supra note 38, at 625. Legislative history suggests that “battering or extreme cruelty [could be
proved by] evidence that included, for example, reports and affidavits from police, medical personnel, psychologists,
school officials, and social services agencies.” The INS regulations stated that these forms of evidence were
acceptable to prove physical abuse (battery), but distinguished extreme cruelty, or mental abuse, declaring that “only
an affidavit of a licensed mental health professional would suffice to meet the definition of extreme cruelty under
the statute.” This restrictive requirement created significant barriers for immigrant spouses in applying for a
battered spouse waiver, as abused immigrant spouses do not generally have access to the financial resources
necessary to obtain a professional mental health evaluation and “few mental health professionals had the requisite
domestic violence training.”

60 Jones, supra note 42, at 688. An abusive spouse could also commit perjury with regard to the good faith marriage
requirement still in place after the Act, leaving the spouse ineligible for a hardship waiver.

L. No. 103-322, 108 Stat. 1796 (1994); Orloff et al., supra note 38, at 625; Jones, supra note 42, at 691; Laura
Carothers Graham, Relief for Battered Immigrants Under the Violence Against Women Act, 10 Del. L. Rev. 263,
265.
responses.”62 Congress intended to remove the “obstacles inadvertently created” by previous immigration laws so that they could “no longer be used as a weapon by the abusive family member.”63 Specifically, VAWA of 1994 amended the Immigration and Naturalization Act (INA) to permit an abused spouse or child of a United States citizen or LPR to apply for status on their own behalf, (self-petition), without having to depend on their abusive relative.64 Additionally, the statute provided additional relief to abused immigrant spouses already in deportation proceedings by making victims of battery or extreme cruelty eligible for suspension of deportation.65 A VAWA self petitioner must submit proof demonstrating that he or she:

(A) Is the spouse of a citizen or lawful permanent resident of the United States; 
(B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship; (C) Is residing in the United States; (D) Has resided in the United States with the citizen or lawful permanent resident spouse; (E) Has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage; . . . (F) Is a person of good moral character; (G) Is a person whose deportation would result in extreme hardship to himself, herself, or his or her child; and (H) Entered into the marriage to the citizen or lawful permanent resident in good faith.66

Additionally, VAWA of 1994 overruled the overreaching then INS regulations requiring an affidavit from a licensed mental health professional as proof of extreme cruelty.67 Congress corrected INS’s misinterpretation of the Immigration Act of 1990 by “mandat[ing] that the INS

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63 Carothers Graham, supra note 751, at 265.
64 Id.
65 Jones, supra note 42, at 692. See also Carothers Graham, supra note 751, at FN 10-11. Suspension of Deportation is currently referred to as Cancellation of Removal as a result of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA). Under either name, a grant will stop deportation proceedings and give the petitioner lawful permanent resident status. “Unlike VAWA self-petitioners, . . . VAWA applicants for suspension of deportation or cancellation of removal must demonstrate three years of continuous physical presence in the United States and that departure from the United States would cause extreme hardship.”
67 Orloff et al., supra note 38, at 626.
must accept “any credible evidence” in all VAWA and battered spouse waiver cases.”

Congress recognized that access to evidence is a significant obstacle to domestic violence victims, especially undocumented immigrant victims, as abusers tend to control any important documents.

The problem of access to necessary evidence is an area in which law enforcement officials can and should assist VAWA self-petitioners. Law enforcement provides an essential service to victims of domestic violence by responding to reports and becoming involved in cases. As mentioned, immigrant victims are less likely to report crimes to the police for various reasons. Victims of domestic violence who are highly dependent on a citizen spouse face unique challenges in their decision to contact law enforcement. When law enforcement responds to an incident of domestic violence involving a battered immigrant spouse it is important that the officer understand these unique circumstances, and assist the victim appropriately. The officer should be sure that the immigrant victim understands that law enforcement is present to assist them and should provide her with information regarding victim advocates and battered women shelters.

68 Id. With respect to the misinterpretation by INS of the intended evidentiary standard for the battered spouse waiver, the legislative history of Congress in enacting VAWA of 1994 states: “This [battered spouse waiver] regulation focuses the inquiry on the effect of the cruelty on the victim, rather than on the violent behavior of the abuser, and it may be discriminatory against non-English speaking individuals who have limited access to bilingual mental health professionals. This section overrides this regulation by directing the Attorney General to consider any credible evidence submitted in support of hardship waivers based on battering or extreme cruelty whether or not the evidence is supported by an evaluation by a licensed mental health professional.” Id., quoting H.R. REP. NO. 103-395, at 38 (1993).

69 Id. at 627. This standard was modeled after the more flexible evidentiary standards used in domestic violence and family law proceedings for similar reasons.
Many battered immigrant spouses are unaware of U.S. domestic violence law, and law enforcement or victim advocates working with law enforcement should be sure to relay that incidents of domestic violence are not tolerated, are taken seriously in the United States, and that the victim should not fear contacting law enforcement regardless of immigration status. Many of the evidentiary obstacles faced by VAWA self-petitioners may be solved through the regular course of a police investigation, without additional burden on a reporting or assisting officer. If an officer is made aware that an abuser has lawful permanent or citizen status during the investigation, arrest, or booking stage of a case, this should be documented and made available to the victim if requested. Any injuries to the victim should be carefully documented and photographed. Additionally, law enforcement officers involved in domestic violence cases regularly accompany the victim to the residence previously shared with the abuser so that she may safely collect any belongings. Reports should reflect the fact that the victim and the abuser shared a mutual residence, and victims should not be rushed but be encouraged to take their opportunity to remove family photos, utility bills, and other personal items that will prove useful in their VAWA case that will become unattainable upon leaving the shared residence.

Within the years following the enactment of VAWA of 1994, it became obvious that lawmakers had only taken a small step towards addressing the criminal victimization of the undocumented immigrant population as a result or “unintended consequence” of United States immigration policy. Congress’ previous legislation aimed at protecting undocumented immigrants from criminal activities was focused too narrowly, leaving several battered immigrants unprotected. A newsletter by the Department of Justice’s Office of Community Oriented Policing Services (the COPS Office) illustrates this problem with reference to a specific case:
Eva is married to a man who has assaulted her in the past—and now it has happened again. But this time she is even more frightened. She is about to have the couple’s first baby and her husband has just threatened her once more, only this time he’s said that if she reports him to the police, he will have her deported.

If Eva’s abuser were not a United States citizen or LPR or had she been unmarried, she would not have been protected by prior VAWA legislation.

2. Domestic Violence and Beyond: Victimization of Immigrants in Other Realms

Congress recognized that U.S. immigration policy does not just “facilitate exploitation” by abusive USC or LPR spouses or parents, but also by boyfriends, non USC/LPR intimate partners and spouses as well as “employers, landlords . . . and other criminals.”\textsuperscript{70} As noted above, for an immigrant victim of domestic violence where the perpetrator is neither a USC or LPR husband or USC or LPR parent of her child, VAWA offers no remedy. Additionally, as discussed in the previous section, the common perception that immigrants are hesitant to contact law enforcement makes them particularly vulnerable to criminal activity.\textsuperscript{71} Another case mentioned in the above mentioned COPS newsletter illustrates this dilemma:

The owner of a small restaurant says he is concerned about one of his employees. The employee is undocumented and was robbed recently after leaving work one night. The owner says, “He’s afraid to talk to the police and he has seen these guys before. These guys are going after people they know aren’t from this country

because they figure they are walking ATMs. They always have cash on them—not credit cards or debit cards—cash.”

The case of the restaurant worker is not an unfamiliar one. In fact the National Association of Chiefs of Police stated that “criminals may believe immigrants tend to carry cash instead of relying upon bank accounts; therefore these immigrants are more likely to be targets of robberies…” These victims that are specifically targeted for criminal activity because they are perceived to be undocumented immigrants also found no protection from VAWA of 1994. In response to this gap left by previous legislation, Congress created the U visa as part of the Violence Against Women Act of 2000. Although the new visa remedy was embedded in legislation that focused on violence against women, the statute created protections for a broader group of immigrants vulnerable to other categories of crime and exploitation.

In creating the U visa, Congress specifically stated its purpose: “to strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes . . . committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States.” Congress reasoned that “[p]roviding temporary legal status to aliens who have been severely victimized by criminal activity” would “facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused aliens who are not in lawful immigration status.” Accordingly, an additional purpose of the U visa is to “encourage

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74 VAWA of 2000, supra note 760.
75 Id.; Orloff et al., supra note 38, at 634.
76 Id.
law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.”\textsuperscript{77}

To be eligible for a U visa, a noncitizen must prove that he or she (1) has suffered substantial physical or mental abuse as a result of having been a victim of a qualifying crime; (2) possesses information concerning such criminal activity; (3) has been helpful, is being helpful, or is likely to be helpful in the investigation and prosecution of the crime; and (4) is the victim of a criminal activity that occurred within the United States or that violated U.S. law.\textsuperscript{78} The statute contains a list of serious crimes that qualify under the U visa; however, this list is not exclusive and includes a catch-all provision for “any similar activity.”\textsuperscript{79} Although the visa category was created in 2000, implementing regulations were not issued until seven years later, when

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\textsuperscript{77} Id.
\textsuperscript{79} Julie E. Dinnerstein, \textit{The “New” and Exciting U: No Longer Just My Imaginary Friend}, AILA Immigration & Nationality Law Handbook 451 (2009), available at http://www.aila.org/content/fileviewer.aspx?docid=31996&linkid=223769. The list includes, “the crime, the criminal activity, or the attempt, conspiracy, or solicitation to commit the criminal activity involved one or more of the following acts: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, or perjury.” In cases where the crime committed does not fit one of these categories, an advocate should demonstrate similarities between the elements of that crime and one of the qualifying crimes as permissible under the catchall provision. This is often done in states that do not have a domestic violence statute but have an assault statute that would qualify as domestic violence based on the relationship of the perpetrator and victim.
the United States Customs and Immigration Service (USCIS) started accepting petitions for U visa status.80 Prior to the regulations, individuals applied for interim relief under the statute and those who appeared to be eligible were granted deferred action.81 Following the issuance of the regulations, those approved for a U visa obtain legal status for up to four years; at the conclusion of the third year, the U visa recipient may be eligible to apply to adjust status to lawful permanent residency.82

B. The U Visa and Community Policing: How Law Enforcement Can Help End the Victimization of Immigrants

The U visa has been a powerful tool for law enforcement officers who participate in community policing to overcome “the challenge of how to get undocumented immigrants to report or admit that they are victims of crime.”83 Law enforcement plays a critical role in the U visa process. The U visa regulations established the requirement that the noncitizen crime victim obtain certification verifying their helpfulness or cooperation in the investigation or prosecution of the crime.84 By signing the I-918 Supplement B, the form required by USCIS, law enforcement or other designated officials are not making any immigration decisions, nor are they certifying any other element required for U visa relief other than the helpfulness of the victim.85 However, if an official does not sign the certification, the immigrant victim is essentially denied

80 Id. New Classification for Victims of Criminal Activity; Eligibility for ‘‘U’’ Nonimmigrant Status, 72 Fed. Reg. 53,014 (Sept. 17, 2007).
81 Id. Those individuals that received interim relief were able to apply for employment authorization documents, and, may also apply for some types of public assistance in some states, for example, New York.
82 Hafiz, supra note 768, at 6.
83 Flores and Estrada, supra note 36.
84 72 Fed. Reg. 53,014; Zota, supra note Error! Bookmark not defined., at 1; Hafiz, supra note 768, at 5; Abrams, supra note 760, at 382. The power to certify is not limited to law enforcement. Prosecutors and judges may also certify as to the helpfulness of the victim.
85 Abrams, supra note 760, at 382.
any relief under the U visa statute.\textsuperscript{86} For this reason, it is vital that officials eligible to sign the form and certify helpfulness be educated on the U visa and cooperate with its broad use to benefit both law enforcement in their community policing efforts, and to end the victimization of the immigrant community in their jurisdictions by helping to alleviate the fear immigrants experience when considering whether to report crimes. Congress recognized, by enacting the U visa with near unanimous support that undocumented immigrants should no longer be afraid to cooperate with local law enforcement, and that law enforcement agencies charged with the duty of policing these individuals should make use of the U visa through community policing efforts that would be assisted by this valuable tool.

Unfortunately, because the Department of Justice and the Department of Homeland Security have not been allocating sufficient funding to provide U visa training and assistance, law enforcement agencies are being educated on an ad hoc basis mainly by immigration attorneys and other victim advocates seeking certification on behalf of individual clients’ behalves.\textsuperscript{87} Although local practitioners have made significant efforts to educate law enforcement and advocate for the broad use of the U visa, this approach is at times ineffective because of the “ad hoc, alarmingly under-resourced, slow roll out of information,” causing some local officials to develop opinions and policies that undermine the U visa before they are fully educated regarding its use and purpose.\textsuperscript{88} Some local law enforcement agencies seemed to have completely dismissed the U visa.\textsuperscript{89} Others have been hesitant to cooperate with certification because of perceptions of negative local opinion regarding immigrant benefits.\textsuperscript{90}

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\textsuperscript{87} NIFVI, supra note 727, at 3.
\textsuperscript{88} Id.
\textsuperscript{89} Id., at 4. These dismissive agencies have the attitude that “I did not vote for that law.”
\textsuperscript{90} Id., at 5. The San Francisco Police Department at one point became nervous about the U visa “after the city’s Sanctuary policy was attacked.”
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agency’s improper denial to sign a U visa certification is based on a misunderstanding of the law. Helpfulness as described in the statute accounts for past, present, and potential future helpfulness.\textsuperscript{91} The investigation of a case need not reach prosecution for the law enforcement agency to certify that the victim was helpful.\textsuperscript{92} Misinterpretations of the helpfulness by law enforcement agencies unfortunately result in unfounded denials to certify in conflict with the intentions of Congress. Regardless of the reasoning or assumptions behind an agency’s refusal to certify, once they are in place “it is extremely difficult for victim advocates . . . to overcome them.”\textsuperscript{93}

This problem is further exacerbated by the 2007 U visa regulations, issued by the Department of Homeland Security (DHS), “requiring that . . . the government official signing the I-918 Supplement B certification form must be an official with a supervisory role and must be specifically designated as a certifying official by that official’s agency heads.”\textsuperscript{94} This “supervisory official certification requirement,” is reminiscent of and equally problematic as the previously discussed INS regulation requiring an affidavit from a licensed mental health professional for immigrants seeking a battered spouse waiver.\textsuperscript{95} This requirement halted U visa processing for a period of several months, and has caused law enforcement agencies to hesitate in signing U visa certifications, and in some cases to stop certifying altogether.\textsuperscript{96} In reaction to

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\textsuperscript{91} Supra note 42. \\
\textsuperscript{92} Zota, supra note \textcolor{red}{Error! Bookmark not defined.}, at 4. \\
\textsuperscript{93} NIFVI, supra note 727, at 3. \\
\textsuperscript{94} Id., at 6; Orloff \textit{et al.}, supra note 38, at 636. \\
\textsuperscript{95} Id. “The U-visa regulations have had the effect of directly undermining Congressional intent to facilitate the reporting of crimes, the fostering of better relationships between justice system officials and immigrant crime victims, the encouragement of law enforcement to better serve immigrant crime victims, the prosecution of crimes perpetrated against immigrants, and the furtherance of the humanitarian interests of the United States in protecting crime victims.” \\
\textsuperscript{96} Id. Prior to the 2007 regulations, the Lexington, Kentucky Police Department “received national recognition for its U-visa certification work.” Only a few months after the issuance of the regulations the Lexington PD was issued an award from the National Network to End Violence Against Immigrant Women. Within a year, the agency stopped issuing certifications altogether because of the new regulations. This agency is not the only police department to stop issuing certifications as a result of these regulations.
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this, there have been efforts to amend the U visa statute to remove the certification requirement and rather use the “any credible evidence” standard, which has applied to “all forms of crime-victim-related immigration relief since VAWA 1994.” Just as Congress enacted VAWA of 1994 to reinforce its broad evidentiary standard of “any credible evidence,” and to overrule INS’s narrowing regulations, it should do the same in reaction to DHS’s overreaching U visa regulations requiring certification from the head of agency. Under the governing “any credible evidence” standard, the U visa certification should serve as primary evidence, and not as a threshold requirement for applicants, especially in light of the fact that many law enforcement agencies are uncooperative or simply not educated to the extent that their certification policies conform with the intent of Congress in creating the U visa.

Despite the arguments for legislative reform, the current state of the law requires certification for U visa clients. When facing law enforcement agencies that do not broadly utilize the U visa, that make certification decisions based on a narrow interpretation of the U visa statute, or that have rejected it altogether, advocates “must . . . promote an innovative approach” to convince law enforcement officials of the many benefits of the visa, particularly that it “will help them fight crime.” Some advocates have “argue[d] that because law enforcement certification is required, law enforcement refusal to sign the I-918 Supplement B Certification of Helpfulness is malfeasance or incompetence.” Under this approach, advocates have sued local law enforcement, and others have taken to the media “to publicize a department’s failure to enforce a federal victim rights law.” Although these methods may be appropriate for agencies

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97 Id. at 635.
98 Id., at 64.
99 NIFVI, supra note 727, at 4.
100 Id.
101 Id.
that have fully considered the U visa and flatly rejected to issue any certifications, for agencies
that have not taken such a drastic stance, training and outreach are preferable.

In conducting a U visa training, advocates must convey the benefits of the U visa to
convince law enforcement officials to certify the helpfulness of the immigrant victim and
educate officials on what they may do to further assist U visa applicants. As mentioned in the
previous subsection, officers should be sure to carefully document any injuries suffered by the
victim with reports and photographs. If the officer has reason to know that the victim is
suffering trauma or emotional harm, this should be reported. Law enforcement officials should
inform victims of victim advocate services. As the purpose of the U visa is to protect victims as
well as generate cooperation with investigation and prosecution of cases, officers should inform
victims of their obligation to assist by providing statements and testifying in court, provide all
necessary contact information, and explain the concept of the U visa so that victims are aware of
their potential eligibility and may seek counsel.

C. Lessons Learned from Promoting the U Visa as a Tool for Community Integration:
   Working with Local Police Departments

   As a practical application of the community integration project, the UNC Immigration
and Human Rights Policy Clinic sought to organize a meeting with a N.C. local police
department regarding community policing and the usefulness of the U visa. The experience of
organizing and arranging this meeting has provided Clinic participants with valuable information
about how to reach out to local law enforcement to promote the U visa as a community policing
tool.
In general, it is preferable that advocates for U visa applicants develop relationships with local law enforcement agencies because of their role in signing the required certification and generally protecting and assisting crime victims. As mentioned, opinions regarding the U visa vary from agency to agency, as do policies with regard to the agency’s designation of a certifying official. Moreover, policies regarding responses to crime affecting the immigrant community also vary depending on the department. Advocates should not just reach out to agencies with known or suspected negative attitudes and/or policies surrounding the use of the U visa, but also to agencies that clearly understand the law and use it broadly in their community policing efforts. As immigration law frequently changes, and trends in U visa adjudications shift, even legal practitioners find that they need to be re-educated on how to better serve immigrant crime victims. This point should be emphasized when approaching law enforcement agencies that have already undergone some sort of U visa orientation, or that have had requests to certify, and may believe that meeting with advocates will be inefficient and redundant.

When approaching law enforcement officials, advocate groups should include a broad range of voices of all interested parties who may best represent the needs of the immigrant community in any meeting with law enforcement and so that the officials involved in U visa cases can develop relationships with the individuals they will be working alongside in the greater effort to eliminate the criminal victimization of the immigrant population. These advocate
groups should include legal organizations that represent U visa clients, immigrant organizations or committees that represent the local immigrant community, victim advocate organizations such as domestic violence or rape crisis centers, and immigrant crime victims themselves.\textsuperscript{102} Involving victim voices and stories in meetings with local law enforcement helps illustrate the reality of the problem of criminal victimization of immigrants within the local community or jurisdiction that the agency serves and protects. If possible, meetings should involve specific individuals that have received police assistance from the local law enforcement agency and who have received a U visa as a result of their cooperation. It is important that decision-making officials are able to appreciate the impact of their community policing efforts within the immigrant community in their area, and to recognize the realization of Congress’ intent to increase the willingness of victims to expose themselves to police to cooperate and help eliminate crime in their community.

If specific immigrant crime victims are unavailable to present their stories as examples to promote the U visa, advocates may present on behalf of their clients. Additionally, in areas where the local law enforcement has a policy, whether explicit or perceived, against signing U visa certifications, there will not likely be a successful U visa applicant that has been served by the agency to involve in the meeting. In this scenario advocates should include stories of immigrant victims with lawful permanent residence that have benefited from local law enforcement efforts, or successful U visa applicants from nearby jurisdictions.

\textsuperscript{102} The meeting with local police department was organized by the UNC Immigration and Human Rights Policy Clinic, with the support and participation of: Interact of Raleigh, NC, a non-profit agency that provides services to victims of domestic violence and rape/sexual assault in Wake County; Kiran, a multi-cultural, non-religious, community based, South Asian organization that supports domestic violence victims; the North Carolina Justice Center’s Immigrants Legal Assistance Project, a non-profit organization that provides legal services to indigent clients throughout North Carolina in their immigrant cases, such as U visa cases; and Legal Aid of North Carolina’s Battered Immigrant Project, also a North Carolina non-profit that provides legal services to local immigrant crime victims.
All involved organizations should sign onto a formal letter to the Chief, as the U visa regulations require certification from the head of agency or a designated official. Because of this requirement, the Chief is in the best position to know who should attend the proposed meeting, such as police attorneys, specific designated officials, and even patrolling officers likely to respond to crimes within the immigrant community. Organizers should attempt to meet with the Chief personally to discuss the goals of the proposed meeting and make personal contact with decision makers within the local law enforcement agency. Be sure to keep the time of the proposed meeting/discussion/presentation to a minimum, below an hour, out of respect for the valuable time of law enforcement officials. If the proposed meeting is accepted, the U visa law should be thoroughly explained with specific regard to the broad statutory definition of helpfulness. Discussions and presentations may be tailored specifically to the local area and the community population to benefit from a positive and broad U visa policy. The previously discussed suggestions regarding what law enforcement officials may do in their regular course of duty to better serve potential VAWA or U visa clients should be mentioned or incorporated. Handouts should be utilized for later reference including legal points, links to resources, as well as contact information for participating advocates. The ultimate point of the meeting should be to establish continuing relationships that will work towards the elimination of the criminal victimization of immigrants and to integrate the immigrant community within the local area.

D. Conclusion

Law enforcement officers face special challenges in their interactions with immigrant communities. Immigrants are likely to mistrust, fear, or have negative perceptions of law enforcement for a variety of reasons. U.S. immigration laws aimed at punishing unlawful presence and fighting marriage based immigration fraud have had the unfortunate consequence
of criminal victimization of the immigrant population. Congress has attempted to address this through specific legislation, most importantly through the Violence Against Women Act, and its subsequent reauthorizations. The policy behind creating crime related forms of immigration relief like the VAWA self-petition process and the U visa was to encourage immigrant crime victims to report crimes and to assist law enforcement in the investigation and eventual prosecution of such crimes to ultimately decrease the prevalence of victimization of the immigrant community. Law enforcement officials should shape agency policies to conform to the Congressional intent behind VAWA and the U visa. Advocates for immigrant victims should develop continuing relationships with local law enforcement agencies to promote VAWA and the U visa, and to work together towards the ultimate goal of building safe integrated communities.