OVCC
Webinar Transcript

An Overview of the T and U Visa Process

July 17, 2014
Welcome

Alejandra Acevedo: Hi, everybody. This is Alejandra Acevedo from OVC TTAC. I want to thank you all for joining us today for our Monthly TA Webinar. This month’s Webinar is about the T and U Visa Process. Before we get started, as a reminder, with all technology, we may experience a momentary lapse in the Webinar session. In the event of a problem, please be patient and remain on the line. The Webinar session will resume shortly. We also encourage you to keep a copy of the PowerPoint accessible during the presentation in case of any technical difficulties.

Alejandra Acevedo: One of the things that we wanted to mention is that we are moving towards a different way of doing roll call. We will be taking roll call through the registration process. So when you use your newly-created user name and password, it will note to us who is on the call. So we no longer need to do the roll call in the beginning of the Webinar, which will give us more time to ask questions from our speakers, and also give us more time to pass along any information that you may need.

Alejandra Acevedo: So I just wanted to go ahead and remind you that today’s call again is being recorded, and we are going to go ahead right now and mute the lines. Okay, so we have done that now. And then also, everyone, we will leave time at the end for our questions.

Alejandra Acevedo: Our presenter today is – our presenter today is Scott Whelan from the Department of Homeland Security (DHS), Office of Policy and Strategy, and Cindy Liou from the Asian Pacific Islander Legal Outreach (APILO). And they will be presenting, again, on the T and U Visa Process.
Alejandra Acevedo: I am going to go ahead and pass it over to Aashika Damodar right now who will present the Tip of the Month before we get the main presentation started. Aashika, are you ready?

**Tip of the Month: Gearing Up for Progress Reports: TIMS Tips and Tricks**

Aashika Damodar: Can you hear me okay?

Alejandra Acevedo: Yes, we can go ahead and hear you.

Aashika Damodar: Fantastic. Great, so hello, everyone. My name is Aashika. For those of you who are not familiar, I am one of the TTA specialists here at OVC TTAC, and today I am giving the Tip of the Month on “Gearing Up for Progress Reports, a Few TIMS Tips and Tricks.” Many of you are in the process of getting ready to submit your January through June 2014 data in just 2 short weeks, I think. So we thought that this would be a good time to share a few tips and tricks that will help ensure that you get your TIMS and your GMS entries right. Unfortunately, I cannot see the screen myself. If someone could advance for me to the next slide.

Alejandra Acevedo: Sure, no problem, Aashika.

**Tips and Tricks!**

Aashika Damodar: Okay. So here are a few tips and tricks that we would like to share. They are sort of based on some of our most frequently asked questions. The first one being, of course, “Can you unlock my account and my password?” And so, one thing we wanted to share here is that TIMS automatically locks you out of your account after three unsuccessful attempts to log in. And what we have learned is that sometimes I think one of the number one reasons why people get locked out is because they will copy and paste their password into the field, and sometimes by copying and pasting, it adds an extra invisible character to the field which makes the system think
that your password is incorrect. So in the future, try typing in directly, and if that does not work, of course, just reach out to us. But usually that is the quickest and easiest fix.

Aashika Damodar: Another frequently asked question we get is, “What service category do I use?” In this case, please use the Service Provision Measurement Chart. So it is available in two places. You can either click on the link to the Service Provision Chart in the service screen when you are entering your units of service, or you can check out the end of the TIMS User Guide. So we know that the Service Provision terms can be a little confusing, so if you do not get your answer there, then definitely reach out. But more often than not, you will be able to find some, some clarification there.

Aashika Damodar: We also have, “Where are my clients?” That is a very common question we get. And so, a few months ago, we did a Tip of the Month on the Client Search Filter, so we really encourage you, for those who have not given it a try yet, check it out. You can search for clients based on client ID, type of trafficking, age, gender, citizenship, all kinds of interesting criteria. And to a similar end, it is also going to help you identify who are your current active clients. If you want to know who is an active client, you can either check the last date of service that you provided through the Service Provision section, or again, use that Client Search Filter. And just as a reminder to folks, for those of you who may not know the definition of “active,” it is simply a client who has received services within a specified start and end date. So, in this case, it would be January 1 through June 30. So, yes, those are just a few tips for you. Could we advance to the next slide?

Tips & Tricks!

- **Password Resets** – Type in your password rather than copy and paste
- **What Service Category do I use?** – Check out the Service Provision Measurement Chart
- **Where are my clients?** – Use the Client Search filter
- **How do I know a client is “active”** – Check the last date of service or use the Client Search Filter.

**Date Submission Check-List**

Aashika Damodar: Okay, thank you. So here we have prepared a little bit of a check-list for you. They are just a few things that we recommend that you review before submitting your data, and we really hope that this check-list will help you in your data quality, you know, do a quality
check and all that kind of good stuff, and ultimately ensure that everyone has the most up-to-date information on the clients that are being served. I am not going to go into all of them in too much detail, but just a few that I want to flag. The first bullet, which is about making sure that you are using the correct grant descriptor in Grant Management. We have seen a couple of folks sometimes use “Other” as the grant type, when really it should only be like the “Services” or the “Enhanced Collaborative Model” grant category. Only use “Other” if you are going to track grants that are non-OVC specific, and, of course, that is optional. Note that if you select “Other,” then that is not data that we will be able to see on our end, so if you have any questions about that, just let us know and we are happy to clarify a little bit more as to how that works.

Aashika Damodar: We also want you, again, think Client Search Filter all over the place because using that search filter, check out who in the system is currently registered as “Unknown” for the trafficking type, or “Potentially Eligible.” And then update the status of those clients, if possible.

Aashika Damodar: We also want to encourage you to limit the use of “Other” to describe different services or activities that you are conducting in the reporting period. Oftentimes, the descriptor may already be in the drop-down menu, or there might be a close match. So when in doubt, definitely ask us. But only use “Other” if there really is not a close match already available.

Aashika Damodar: And, lastly, if you are serving a client that is simultaneously being served by another grantee, and the client is being logged into TIMS twice by both grantees serving them, please just let us know by e-mail what those respective client ID numbers are in each system so that we do not double-count the client. And, of course, anything else related to this or other TIMS related questions, please do not hesitate to reach out. I will type in my e-mail into the chat box. Thank you for listening and I really look forward to seeing your data soon.

Alejandra Acevedo: Thanks so much, Aashika, we really appreciate you giving us some tips and tricks for gearing up for the progress report process.

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**Data Submission Check-List**

- Use the correct Grant Assignment in Grant Management.
  - You should only use “Services to Victims of Human Trafficking” or “Enhanced Collaborative Model.” Only use “Other” if you want to track NON OVC grants.
- Search for Trafficking Type “Unknown” clients and update as status becomes known.
- Search for “Potential Eligible” clients and switch to “OVC- Eligible” if possible.
- Review New, Active and Inactive client count.
- Make sure Trafficking Type & Subtype match.
- Limit the use of “Other” for Services, Trafficking Subtype/Settling, Immigration Actions, Training Topics etc.
- Notify OVC TTAC if you have served another client in partnership with or had a client referred to you by another OVC grantee.
T and U Visa

Alejandra Acevedo: With that said, at this time I will go ahead and hand it over to our guest speakers who will be presenting on the overview of the T and U Visa process.

Cindy Liou: Hi, this is Cindy calling in from Asian Pacific Islander (API) Legal Outreach here in San Francisco, California. And presenting with me today is Scott. Scott, I will let you present, uh, present yourself.

Scott Whelan: Hi, my name is Scott Whelan. I am with the Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services (USCIS), and I am in the Office of Policy and Strategy. And my portfolio is the U Visa and I also back up on the T Visa, so that is what we are going to be talking about with you today. My contact information will be on the last slide. It is also [unclear] so I am pretty easy to find. So if you ever have any questions or need to get a hold of me on anything policy related, or you are just having issues with anything T or U related, feel free to – e-mailing me is the best way to go. My phone number will be up there, but e-mail is definitely the best route to take. And hopefully we will get to all your questions today, and if not, you will have my contact info, so I look forward to talking and hearing from you.

Cindy Liou: Thanks, Scott, and this is Cindy again. I am an attorney at API Legal Outreach, and my information will also be available at the end here as well. We are just going to go through a quick overview of the T and U Visa, and I understand some of you may be familiar with this, but for those of you who are not, we hope that this will provide just a nice overview of the two immigration options that can really assist trafficking survivors. So if we could get the first poll just so we have a sense here of who is in the audience.

Cindy Liou: Poll question #1. What is your professional capacity? Just so we have a sense of who we have here on the phone today. If you could take this poll, that would be great. Okay, and it seems like most of you here today are victim service providers, and some of you are social service providers. A little bit different. That is helpful to know.

Cindy Liou: And if we could also get a sense of, from our second survey, if you provide direct services to survivors of trafficking. I am hoping that we get a sense of that, to make sure. Okay, it seems that most of you do provide services, provide direct services to survivors of trafficking. Okay, I am going to move on to the next slide here.
T and U Visa Purpose and Overview

Cindy Liou: So, the basic overview of a T and U Visa is to provide temporary immigration status to immigrants who have been under what we call [unclear] severely victimized by trafficking in persons or some other kind of qualifying criminal activity. And we will divide up the T and U to explain the difference. This is something that was originally created and conceptualized in the Amendment, the 2000 Amendment to the Violence Against Women Act, and also the passage of the Trafficking Victims Protection Act in 2000. It is, essentially, in some ways not only to support immigrant victims of trafficking and other crimes, but in a lot of sense it is a tool for law enforcement agencies. That is what the LEA there stands for. And a lot of law enforcement realized that it was very difficult to investigate and prosecute criminal activity against certain immigrants, sorry, on behalf of immigrants because many of them were facing additional barriers related to their immigration status, fear of reporting to law enforcement, fear of deportation, etc. And so it is really to facilitate and help report crimes by trafficked, exploited, and victimized, and abused immigrants who may be undocumented or Visas may have expired.
Cindy Liou: So, today we are going to be talking about just two particular immigration remedies. There are other immigration remedies that are available for different trafficking survivors, but these tend to be the two main ones that many of us look to. When we say T Visa, it is really also the same as T nonimmigrant status, and that is Form I-914. So sometimes if we use jargon and we say I-914, I-918, you will know that I-914 is for the T nonimmigrant status and I-918 is for the U nonimmigrant status.

Cindy Liou: And, USCIS, the agency where Scott is from, has sole jurisdiction in adjudicating the U and T Visa applications. And so that means that it is USCIS who is making decisions on who can be granted the U and T Visas. It is not ICE (Immigration and Customs Enforcement). It is not the FBI (Federal Bureau of Investigations), although they can have a role in influencing this decision.

Cindy Liou: Other benefits is that it can grant temporary status for both of them for up to 4 years. It allows immigration and temporary status for certain family members, so that means that if you have a client who has, who wants to bring over certain family members or has certain family members who are also without documents in the U.S., you sometimes can petition for them as well to also get status. And to also get employment authorization or work permit. This is really important for immigrant survivors of trafficking in particular, and just immigrants in general, because many of them are here to work or have been exploited. And in the process and in the course of the investigation of the criminal case, prosecution, or adjudication of their Visa, they, sorry, in the course of recovering from their experience, they really need to be able to support themselves, and having a work permit is really helpful to be able to work and earn that income to pay off debts that might be existing back home. But also just to live and survive, or just to even have federal, some sort of federal ID.

Cindy Liou: And over time, usually 3 years for U Visas, and we will go over this later, usually 3 years but sometimes earlier for T Visas, it gives you the ability to apply for a Green Card to have
lawful permanent residence, which is not something that every Visa can do. So it is quite special in that aspect.

Cindy Liou: The annual cap for a T Visa is about 5,000 in a year, and we have never seen this cap get hit, so the T Visa to this day is still very underutilized, and I want people to think about that. And the annual cap for the U Visa is 10,000, although we have been hitting this quite early, and I am just going to let Scott chime in a little bit about that cap getting hit for the U Visas.

Scott Whelan: Thank you, Cindy. Yes, so as Cindy was saying, we have never hit the T Visa cap. The U Visa cap we have hit now for 5 years running. It is a statutory cap so it, that was established by Congress, you know, DHS cannot raise its cap at all. One thing I really want to note from this on the U Visa side, we have been, when I first started with the U Visa program going back to 2009, we were maybe getting 1,000 U Visa applications per month. Right now, we are averaging anywhere between 2,200 and 2,400 a month. So just looking at the, you know, the math on that, obviously we run out of Visas very quickly. For instance, in fiscal year 2014, which is what we are in right now, and our fiscal years go from October 1 to September 30, we have hit the U Visa statutory cap of 10,000 since December. So we were fresh out of Visas in December of this year.

Scott Whelan: Per regulation, what we have is a U Visa wait list process. So we still keep working, people can still keep applying for U Visas and we will keep doing our thing on our end. We adjudicate the case and then when we get to the end, if we can, if we could approve it if we have a Visa, what we do is we place that person on what is called the U Visa wait list. While they are on the wait list, they are, they are placed in deferred action so they are in the quote/unquote “back of the line” for removal. And, of course, while they are in deferred action they are eligible for their work authorization, so they can legally work here in the United States while they are on the U Visa wait list process.

Scott Whelan: Again, just to show you the numbers that we are getting, we have, we have already gone over 10,000 on the wait list, which means the fiscal year 2015 Visas are already spoken for, and we are already into fiscal year 2016 putting people on the wait list. Again, this just shows the recognition, the popularity of the program. But, again, there are rumors out there that once we hit the cap, obviously we do not, you know, people say like, “Oh, well, we cannot apply anymore.” I definitely want to put that rumor to bed. Still, if you have somebody who is eligible for a U Visa, please apply. If they are eligible for the U Visa, we will put them on the U Visa wait list moving forward. So that is just something to note there.
T & U visa Purpose and Overview

- T nonimmigrant applicants use Form I-914
- U nonimmigrant petitioners use Form I-918
- USCIS has sole jurisdiction for the T or U visa adjudication
- Benefits:
  - Grants temporary status for up to 4 years
  - Allows temporary status for certain family members
  - Provides employment authorization (work permit)
  - Allows for lawful permanent residence (Green Card)
- Annual Cap of 5,000 (never been met) for the T visa
- Annual Cap of 10,000 (meeting this year) for the U visa

Basic T Visa Requirements
Cindy Liou: All right. Thank you, Scott. And now we are going to go next to just going over the basic T Visa requirements. And these are what we in the law call the elements of proving a T Visa. And so here we are going to take another quick just survey from everyone.

Cindy Liou: Survey question #3. Have you...Who here has ever filed a T Visa before? Or I guess it could be from your agency as well. So it looks like quite a number of you have actually filed a T Visa before, or been a part of this process, which is really great to see. Because, again, as you can tell from our discussion about the waiting list requirements, the T Visa, T Visas are quite underutilized. And so here we are going to take another quick just survey from everyone.

Cindy Liou: So these are the four elements to prove, for the elements to file a T Visa. And the first element here is a victim of trafficking in persons. And it seems like quite a broad statement, but, in reality, this definition is quite rooted in the law. There is a very specific legal definition of what it means to be a victim of a severe form of trafficking, primarily for trafficking laws, and something that was really changed with the passage of the Trafficking Victims Protection Act in 2000 was to recognize that people could be held in not just slavery, but slave-like conditions. And that oftentimes that this is conducted and done through forms of psychological coercion or other forms of threats and of abuse of the legal process, such as threats of deport, threats of law suits, and not just through physical harm. And although in many of our trafficking cases we can see that sometimes traffickers do use physical threats and harm, but there are other ways to also subject people to different forms of servitude and to be held in different slave-like conditions. And this could also be through the form of, of putting a giant debt on somebody. So that, that is quite a definition to unpack, but that is the first requirement to demonstrate, that you will want to show, usually through a declaration is one of the most important things of your client.
Cindy Liou: Secondarily, the second element there is to be physically present in the United States on account of trafficking. Now, it does not mean that you have to be trafficked and physically smuggled into the country or forced here. Again, smuggling and trafficking are very different definitions. Smuggling is a border violation. Trafficking is a rights violation. But you have to demonstrate that you are still in the U.S. and you are physically present here because of the [unclear] trafficking. And that is quite important because it means that if you are working with a trafficking survivor, and after they leave the situation, they leave the United States, you cannot apply for a T Visa for them unless they are paroled or brought back in on account of an investigation or on account of the trafficking. So this is quite important because this physical presence requirement is not required for U Visa, and those who are victimized in the U.S. who then leave can sometimes still be eligible to apply for U Visas abroad, but that is not the case for T Visas. So when working with a trafficking survivor, you need to stress that if they want to apply for a T Visa, that their physical presence, that they not leave the United States without understanding how that affects the potential application.

Cindy Liou: The third one there is compliance with any reasonable requests for assistance in the investigation or prosecution of acts of trafficking. So, again, as we mentioned earlier, both the U and T Visas were designed to assist victims, but also to assist law enforcement to prosecute these cases. And so, this, this compliance requirement with law enforcement is required, unless you were under 18 at the age, at the time of the trafficking, or, under the 2005 Amendment, you have suffered such exceptional trauma that this would be really difficult. I imagine that would require also showing evidence of that trauma in a way that is very, you would probably want to produce documents from a therapist or a psych eval of some sort to demonstrate that as well.

Cindy Liou: Other ways to demonstrate this requirement is to, to discuss and show copies of police reports that have been filed, or to show that you have reported the case to the federal agent. And you as the advocate can sometimes also write a declaration to demonstrate this. Sometimes when I meet with law enforcement, a great thing I like to do is also to get a, their business card and to incorporate a copy of the business card in the T Visa application.

Cindy Liou: Now, the fourth one is demonstration of extreme hardship upon removal, and this definition is also in the regulations, so there is a specific legal definition. And it usually is extreme hardship upon the individual who is applying for the T Visa. And so, if the person is a young person, you are going to want to bring up their age into consideration, medical issues that they would not be able to get treated abroad, if they have suffered from extreme psychological harm and their need for therapy, their fear of retaliation if they were to return home. This kind of stuff is important. I think something that is important to demonstrate is not just to leave it as, “If I were to return home I would not be able to work again.” But if you can make the connection, “If I were to return home I would be put in the same circumstances of poverty that led to my trafficking to begin with, I am vulnerable to being retrafficked,” that is a lot more useful to put out and demonstrated.

Cindy Liou: So those are the main elements of a T Visa here. And at this point in time, I just want to take another quick survey here.
Cindy Liou: So Question #4. How many people here are aware of any labor trafficking cases in your community? And, I mean, by this I really mean that you have actually seen it, and not in theory, that you have actually seen and heard of labor trafficking cases. Okay, the poll shows that most of you have said that you have seen it, and that is really great because I think, and this is not designed to be a trick question, but there are labor trafficking cases everywhere. And the question is just how to identify the cases most of the time.

Cindy Liou: So, and then, let us see. Can we go on to Question #5 as well? In what setting are most people usually seeing these labor trafficking cases? And, you know, it could be “other,” but just do your best among the four options that we were able to provide here. Okay, so it seems that many of you are seeing a lot of cases in the agricultural sector. And there was that large case involving many Thai workers in Washington State and Hawaii called the Global Horizons case that we saw a while ago. Many of you are seeing domestic work cases, and many of the cases that have been criminally prosecuted have been domestic work cases. And some of you have seen hospitality cases. And, actually, that is something about, for the last 2 or 3 years, has been one of the top types of cases that we have seen as well. They are usually, clients are usually here on what is called an H-2B Temporary Guest Worker Visa, that actually I am going to give you a hypothetical example on.

Cindy Liou: So, in this particular case, and this is something just to think about for cases that we see. [unclear name] is from the Philippines and was recruited on an H-2B Visa to work in hotels. He takes out a $10,000 loan, U.S. loan, to come to the U.S. and to pay the recruiters. Once he arrives in the United States, there is not enough work and he is placed in inhumane conditions with 10 other Filipino workers living in one apartment. He is very scared of the labor crew that he works for because they threatened to cancel his Visa. So, after 2 months, he runs away to another situation in California where he starts working as a caregiver for a family friend from his home town in the Philippines. At one of the home care that he is being a caregiver, he is underpaid, has to sleep on a clinical bed in the medical exam room as a place to sleep at night, and is not given any days off. He is threatened by the family friend with consequences if he complains.
Cindy Liou: So, in a case like this, usually it is very easy to dismiss this kind of case as just a contract dispute and it can be a little bit confusing. Was he trafficked the first time or the second time, or maybe both times? But we have seen cases like this and it is definitely worth parsing out the kind of elements to think about how he was recruited and obtained and came to the United States. Has he left the United States since he has come here? Is he willing to cooperate with law enforcement? And what are the problems that he might suffer if he were returned to the Philippines?

Cindy Liou: For many cases like this, many of them take out large debts on the front end to come to the United States, and that abroad, being in debt is something that can be quite dangerous. There is no debtors’ prison in the United States, but there are definitely very scary ways that people collect debts abroad. So it is something to think about as well when considering psychological aspects of coercion of what might keep someone in this kind of work environment that they do not want to be in. So that is one example of a common case that we have been seeing in recent times quite a bit.

Cindy Liou: Okay, and just to kind of move on really quick, if we can look at Poll Question #6. How many people here are aware of any sex trafficking cases in your community? And I am imagining this is going to be most people. Seems like everybody is pretty aware of that and has seen it. One thing I want to mention before we finish this poll, too, is that labor trafficking cases can also have aspects of sexual assault, even though it is not the basis of the trafficking, that is something also that form, can also form a version of coercion and force to keep someone in the situation.

Cindy Liou: And if we can get the Survey Question #7. What setting do you usually see sex trafficking in your community right now? And, again, it could be other options, but these are just a few that we have seen. Okay, so quite a few in the hotel/motel industry and [unclear]. Not as many in the massage parlors as I thought we would see.

Cindy Liou: Usually in sex trafficking cases, something that you want to assess for is not the fact that this person does not know that they are not entering sex work, because sometimes some of our clients know that they are entering into sex work. The question is whether or not they can leave the situation and what that looks like. And in some of our sex trafficking cases we have also seen traffickers kind of induce or create drug addictions to keep people [unclear] in the situations. Sometimes they increase debts by charging money for condom and birth control pill that is used. It can be indirect threats where they are not threatening your client or physically harming your client, but they are threatening and harming someone else that they see.

Cindy Liou: So these types of cases, you just want to be very careful to also, aside from being thinking about those questions of what makes someone qualify, is to kind of work with them to see if they are willing to work with law enforcement on these cases. Because many of them could have been told untrue things by the traffickers, they may have had bad encounters with law enforcement in the past, so these are some things to consider in these types of cases. Okay, now we are going to move on to the next slide.
T Visa I-914, Supplement B, Declaration of Law Enforcement (Optional)

Cindy Liou: So, an I-914, Supplement B, is a Declaration of Law Enforcement. It is optional for T Visa. So, although you have to demonstrate that your client has worked with law enforcement, the actual submission of this form is not required the way that it is required with a U Visa, Supplement B.

Cindy Liou: So, just a quick question. Who here in Question #8 has filed a T Visa without an I-914, Supplement B, Declaration before? Can we get the survey for this, Question #7? Oh, great. So it seems like a lot of you have applied for this. And I would say that oftentimes people get very hung up on this because they are very used to applying and submitting U Visas and not T Visas. So that is great to see. So definitely do not be afraid to submit that if you think that that is necessary, or submit it first and supplement it once you get the T Visa, Supplement B.

Cindy Liou: Okay, I am going to turn it over to Scott.
Basic U Visa Requirements

Scott Whelan: Thanks, Cindy. Okay, so we are going to be jumping into the basic U Visa requirements here, and we have got another poll question, talking about if you have ever filed a U Visa before. Wow, yes, normally it is the other way around, normally it is a lot of yeses and, you know, maybe a handful of nos. So I am glad we are hearing [unclear] on the call so we can go over the, to go over the U Visa requirements and what we are looking for in the U Visa world.

Scott Whelan: So just the basic eligibility requirements here. We have to have a victim of a qualifying crime that occurred in the United States or violated U.S. law. The victim is going to have to possess credible and relevant information about that crime. This third prong here, there are a lot of questions that come both from the public and from law enforcement on this, so we will dive into more detail in a second. But the third prong is the victim either has been, is being, or is likely to be helpful in the investigation or prosecution of the criminal activity.

Scott Whelan: And the fourth prong, the victim must have suffered substantial physical or mental abuse based on that crime. One thing to note on the substantial physical or mental abuse part, we get a lot of questions from law enforcement, in particular, where they ask us how are they supposed to determine substantial physical or mental abuse. What we always tell law enforcement is that they do not have to do that, they are not tasked with that, that is not their responsibility. This is a core eligibility requirement that USCIS has to make before we can grant the U Visa. And, obviously, we are governed by federal guidelines when we start evaluating the evidence on what, indeed, rises to the level of substantial physical or mental abuse. So, again, if you are working with law enforcement, and if law enforcement has questions on this, you know, you can let them know that they do not have to make that determination.

Scott Whelan: What we are looking for from law enforcement on the physical or mental abuse, there is a section on the I-918 B form that actually asks law enforcement to list any known or documented injuries to the victim. And, of course, we always tell law enforcement to put that information there, and law enforcement can attach any other documents that they wish to the law enforcement certification. And, again, we will be talking about that in a second.

Scott Whelan: We also tell law enforcement, if they do not have any information about injuries, to put that there. Obviously, that is where you would come in representing, you know, representing a U Visa victim or someone who is going to apply for a U Visa, and any evidence that you have to show substantial physical or mental abuse, we would certainly want that information, information sent in to us to help bolster that file and for evidence for us to look over.

Scott Whelan: A couple of different hypotheticals, just very quickly. A lot of times, and we will get into the criminal activity here in a second, but a lot of times the victim will find themselves in situations where they actually might be victims of multiple crimes in the U Visa. For instance, someone can be a victim of domestic violence, but there also may be, in that domestic violence situation, there could be instances of, obviously, felonious assault, other types of abuse, that kind of thing. So there may be multiple, there may be multiple qualifying criminal activities that are taking place in one situation. Of course, you can put down, when you are helping someone apply for a U Visa, it is not that you have to pick a crime. If they are a victim of multiple crimes, you will certainly want to put that down to help bolster that, bolster that petition.

Scott Whelan: Also, we see a lot of, the most of what we see in U Visas is we see a lot of domestic violence and sexual assault. That is the main crimes that we see when we, when we get
U Visa petitions. And then we can go ahead and move to the next slide, moving on to the actual criminal activities.

**Basic U Visa Requirements**

- Victim of a qualifying crime (occurred in U.S. or violated U.S. law)
- Possesses credible, relevant information about that crime
- Has been, is being or is likely to be helpful in an investigation or prosecution of that crime
- Suffered substantial physical or mental abuse based on that crime

**U Visa Qualifying Criminal Activity**

Scott Whelan: The criminal activities include attempts, conspiracy, or solicitation to commit any crimes on the statutory list. And, Cindy, if you want to bring up the next slide as well, we can go ahead and start showing our list of statutory crimes for the U Visa.

Scott Whelan: So, right now we have got 28 eligible crimes where if somebody is the victim of one of these crimes, that person can indeed be eligible for, be eligible for a U Visa. You will notice that trafficking is one of the qualifying crimes for a U Visa. If someone, for whatever reason, does not meet the federal definition of trafficking, so if they do not meet that federal definition of sex or labor trafficking, but they meet a state definition of trafficking, for instance, they still may be eligible to apply under trafficking but it would be in the U Visa context. Again, domestic violence and sex assault are what we see the most of. You will notice on here as well that a lot of the crimes are either sex trafficking or labor trafficking related. Some of the labor trafficking crimes that you will see could be anywhere from slave trade to torture, involuntary servitude. You will also see witness tampering, obstruction, you know, we certainly see a lot of those, peonage as well. And, of course, a lot of crimes that are a part of sex trafficking. We have seen a U Visa petition come in for every one of these crimes that you see listed. So we have certainly seen all of them. But, again, the most prevalent are domestic violence and sex assault.

Scott Whelan: And just one thing to note. Stalking and fraud in foreign labor contracting were actually added by the TVPRA (Trafficking Victims Protection Reauthorization Act) of 2013. So fraud in foreign labor contracting, if someone is a victim of that, they may be eligible for, for a U Visa now as well. We can go ahead and move to the next slide.
U Visa Qualifying Criminal Activity

- Includes attempt to commit, conspiracy to commit or solicitation to commit any of crimes on the statutory list and other similar activity
- General crime categories
- USCIS will make the determination of whether criminal activity on certification is “qualifying” for visa purposes

<table>
<thead>
<tr>
<th>Abduction</th>
<th>Murder</th>
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<td>Abusive Sexual Contact</td>
<td>Obstruction of Justice</td>
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<td>Blackmail</td>
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<td>Domestic Violence</td>
<td>Perjury</td>
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<td>Extortion</td>
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<td>False Imprisonment</td>
<td>Rape</td>
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<td>Felonious Assault</td>
<td>Sexual Assault</td>
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<td>Female Genital Mutilation</td>
<td>Sexual Exploitation</td>
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<td>Hostage taking</td>
<td>Slave Trade</td>
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<td>Incest</td>
<td>Torture</td>
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<td>Involuntary Servitude</td>
<td>Trafficking</td>
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<td>Kidnapping</td>
<td>Unlawful Criminal Restraint</td>
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<td>Manslaughter</td>
<td>Witness Tampering</td>
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<tr>
<td>Stalking</td>
<td>Fraud in Foreign Labor Contracting</td>
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U Visa Possesses Information

Scott Whelan: So, just moving on to the possesses information requirement. This is really, really straightforward. Again, it is a core requirement but, again, the victim is going to have to have relevant and reliable specific facts about the criminal activity that took place and what, and what they suffered from. So, again, this is just real, real straightforward. They are just going to have to have the specific knowledge, facts, and details of the criminal activity that took place against them in their victimization.

U Visa Helpfulness

Scott Whelan: And then moving on to U Visa helpfulness. As I mentioned before, this, in terms of helpfulness, this is, this creates a lot of questions not only from law enforcement and from, and from stakeholders, representatives, attorneys, etc. The language that we have in statute and in regulation is that the alien has been, is being, or is likely to be helpful in the investigation or prosecution of the criminal activity. Notice like the “has been” language there, there is no federal statute of limitations on when a crime occurred and when somebody can be eligible for a U Visa. For instance, a crime could have taken, could have taken place 5, 10, 15 years ago. Someone is still potentially eligible for a U Visa. Again, there is no federal statute of limitations on that.

Scott Whelan: One thing to note, kind of a growing trend that we have seen. It is still a minority of jurisdictions but I have certainly had law enforcement tell me this and I have heard from other areas of the country, where a lot of law enforcement – well, again, not a lot, but a minority of jurisdictions, but it is growing, where law enforcement will not sign a U Visa certification if the crime occurred outside of their local statute of limitations. They have the authority on whether or not they are going to sign. So that is completely under their discretion. There is no federal law, DHS, USCIS, do not have the authority to tell them when or when not to sign. You know, we have to remain completely neutral because we will be the ones adjudicating the case. So I definitely wanted to make you aware this may come up if you are working with law enforcement,
they may have this. Of course, you can get a hold of me if that comes up. But, again, I just wanted you to be aware that you may run into this situation.

Scott Whelan: One other thing to note with U Visa helpfulness. The helpfulness requirement is an ongoing requirement, and once someone applies for a U Visa, that requirement attaches to them and if they are approved, that requirement will follow them the entire time that they are in that U Visa or that U nonimmigrant status. So, for instance, if somebody applies for a U Visa, the entire time while that U Visa petition is pending, and if they are approved, the entire, the entire time they are in that U nonimmigrant status they are going to have to cooperate with law enforcement if law enforcement needs them down the road.

Scott Whelan: A couple of different instances can pop up with this, and, again, it is very, very important that they continue to cooperate. One instance that we have actually seen is where someone has applied for a U Visa, they have been granted that Visa, and a couple years down the road law enforcement is actually ready to make an arrest. They have found the individual that has committed the crime or they get more information, and they are going to need, they are going to need the victim to come back in, you know, whether it is to look at a lineup or just to provide more information, you know, just any type of reasonable request, or even to testify in a trial. The victim then at that point says, we have seen instances where the victim says, “Well, I do not want to revisit that. I have got my Visa now, I am all good, you know. Thank you very much but I do not wish to cooperate anymore.” Well, right there, they are now violating that requirement. Law enforcement has and they will contact USCIS at that point and they will withdraw their law enforcement certification, which they have the right to do. And if they withdraw the law enforcement certification, we at USCIS have to begin the revocation process, basically revoking that Visa. So if you are working with a victim and if law enforcement is, is requesting their assistance, and it is a reasonable request, you definitely want to stress to your client or to the victim that, yes, they do have this duty to cooperate.

Scott Whelan: One of the things to note with that as well, and obviously this is done without malintent from anyone, you will have somebody who has been granted a U Visa and they move. They will move from one city to another, you know, everything is fine, they are certainly free to do that, it is not a big deal at all. But the city that they moved from has now made an arrest and now they want, they need that, they need that victim to just provide them with information or, you know, assist them further in the investigation. But now that local law enforcement agency cannot get a hold of that person. They did not know that that victim moved so they have no idea how to get a hold of that victim. Law enforcement will then get a hold of USCIS and say, “Hey, this person is not cooperating. We have no idea where they are at, you know, they are hindering, they are now hindering our investigation. We are going to need to pull our certification.” So what I want to stress to you here is if you can always make sure to maintain some type of contact information with your client or with the victim, you know, as simple as a phone number, just any way that you can get a hold of them just in case law enforcement needs them down the road. This way we can avoid that possible violation of that requirement of cooperation. Just something really simple like that can, can really help out law enforcement and then help out the victim where they are not going to have to worry about, they are not going to have to worry about that being taken away from them.

Scott Whelan: So then you can go ahead and…

Cindy Liou: And this is Cindy. Oh, sorry. Go ahead, Scott.

Scott Whelan: [overlapping comments]
Cindy Liou: I was just going to say you have, if you have large labor trafficking cases with, for example, a lot of men, this is an issue because they will move around because there is just less shelter options and they are looking for work. So another thing you can do is they have, oftentimes they change their phone numbers because it is like Metro PCS or a cheap provider, so if you could get case workers or people to teach people how to use a simple e-mail account and ask them to login every 2 weeks, those are just really good tips to keep in touch. Because the ongoing requirement for cooperation for both Us and Ts is very important. Sorry, go ahead.

**U Visa Helpfulness**

- The alien has been, is being or is likely to be helpful in the investigation or prosecution of the criminal activity
- Alien has not, since the initiation of cooperation, refused or failed to provide information and assistance reasonably requested
- **Ongoing** requirement of cooperation

**Who is a Victim?**

Scott Whelan: Oh, no problem, yes. So just moving on very quickly to who is a victim. I would say, generally, we are looking at the individual who had the crime committed against them. But there are certain instances where family members can, can apply for U status. If we have, if our main victim has been killed, whether we have a murder or a manslaughter case, certain individual immediate family members may come forward and may be assisting law enforcement, provide the information, and they may be able to apply for a U Visa if they meet all the eligibility requirements. They would be known as an indirect victim at that point and they would be applying as the principal, even though they are not the principal victim. Obviously, the principal victim has been killed. But they can come forward and provide that information.

Scott Whelan: Another example that we see quite, quite a bit in terms of indirect victims is where we have a United States citizen minor child. So we will have a child that is born here in the United States, but their parents may be undocumented. The child then becomes a victim of, what we see a lot of is child abuse, sexual abuse, rape, that kind of thing. The parents find out about this, so the parents immediately run to law enforcement and report the victimization to their child. Well, the child is not eligible for a U Visa because the child is already an American citizen, so there is nothing in terms of immigration that we can give to an American citizen. They are already a citizen. However, the parents in this instance, if they have knowledge of the crime and they are the ones that are cooperating with law enforcement, and if they are otherwise eligible,
they can, again, apply as indirect victims and they may be eligible for U Visa status in this situation. So that is definitely something that we wanted to give you a heads up on there as well.

Who is a victim?

• Generally, it is the individual acted upon during the crime

• Includes certain family members when the crime is murder/manslaughter

• Includes parents as “indirect victims” when the victim is under the age of 21

I-918, Supplement B LEA Certification Required

Scott Whelan: So then going on, moving on to the, the law enforcement certification for U Visas. The main difference between the T Visas and the U Visas in the certification world is that for the T Visas, the certification is an optional form. Meaning somebody can apply, and the poll question was up there earlier, you know, folks can apply for a T Visa without the law enforcement certification. In the U Visa world it is actually required. We have to have the law enforcement certification before we can move forward on anything. So if somebody does apply for a U Visa without the I-918, Supplement B, that, that U Visa petition will be denied as soon as USCIS receives it. So we have to have that before we move forward.

Scott Whelan: The fact that a law enforcement certification has been signed by law enforcement certainly does not grant any benefit. Of course, USCIS is going to be doing a full adjudication, going over all the bells and whistles to make sure we have a petition that we can approve. Law enforcement will have that question quite a bit and they may be hesitant to sign a certification. They may be thinking they are giving immigration benefits. Some law enforcement agencies have actually come to me and said, “I do not want to grant citizenship. I do not feel comfortable with that.” We certainly tell those law enforcement agencies, “Do not worry. You are not. You know, this is a nonimmigrant visa, and the fact that you are signing this certification does not grant any immigration benefit. Only USCIS can grant the immigration benefit moving forward.” So if law enforcement is giving you those concerns, you can, you know, just simply tell them, “All that you are doing on that law enforcement certification form is telling us that we have a victim of a qualifying crime, that that victim had knowledge, and that the victim is helpful.” Those are the three main things that law enforcement is telling us and that is it. They are not giving a benefit. They are not vouching for future conduct. They are just telling us those three simple things.
Scott Whelan: Again, this is signed by law enforcement at their discretion, and whatever policies and procedures they come up with. There is no requirement for law enforcement to sign these declarations.

Scott Whelan: Additional evidence is needed to support the U Visa petition, so, again, the certification does not grant any benefit.

Scott Whelan: Once law enforcement signs the certification and they fill everything out, they will then hand that back to you. We do not want law enforcement sending that in and creating, you know, documents for one individual that are flying all over the place. Law enforcement will hand that back to you and then you will send that back to us with the complete application package. And, of course, law enforcement can attach any other information they want to the I-918 B when they are, when they are moving forward.

Scott Whelan: So, go ahead and move on over to the next slide.

I-918, Supplement B LEA Certification
Required

- Provides USCIS with basic information about the claimed criminal activity
  - Does not grant any benefit
- Is required evidence
- Signed by the law enforcement agency at its discretion. There is no requirement to sign the declaration.
- Additional evidence needed to support an approval
- Submitted with the petition by the alien/victim
- Should be completed entirely by the law enforcement agency
- If providing any additional documents with the certification, law enforcement should indicate on the I-918, Supplement B, with a note of “see attachment” or “see addendum”
Supplement B Overview
Scott Whelan: This is, basically, who can sign. It is a long definition but it is actually really, really simple. Any federal, state, or local law enforcement agency that has, that has responsibility for the detection, investigation, or prosecution of any qualifying criminal activity. Now, this also includes civil agencies as well, such as family and adult protective services, the EEOC (Equal Employment Opportunity Commission), and the Department of Labor, and this includes state Departments of Labor as well.

Scott Whelan: One example of this would be, you know, we will see child or family protective services going into, and they are doing an investigation into habitability of a house and whether or not there is child endangerment going on. They go and do their investigation and they see instances of domestic violence or sexual abuse, sexual assault, child abuse, that kind of thing. Now, child and family protective services, they are not your traditional law enforcement agency. They are not showing up in squad cars. They are not, they are not booking people up. They are not taking people to jail or anything like that. However, in their day-to-day operations if they can detect these qualifying criminal activities, and, therefore, they can sign off on the I-918 B. So civil agencies, if they detect any type of qualifying criminal activities, they may be able to sign off on the I-918 B as well. So that is just something …

Cindy Liou: And, Scott, I just…Sorry. Scott, I just also want to add that there are a lot of agencies that have more U Visa certification protocols than for T Visas. But, like for example, the Department of Labor and the EEOC. But definitely do not let that deter you from getting a copy of that Supplement B that you get for a U Visa and filing a T Visa, and submitting a copy showing that your client has still cooperated or keeping the options for both U and T open. You cannot have U and T status simultaneously, and you will have to tell USCIS which one you would like to have adjudicated first. But you should always keep those options open and do not let that limit you just because they, some of the agencies have limited protocols.

Scott Whelan: Thanks, Cindy. And then just moving on to the Certifying Official slide.

Supplement B Overview

• Who can sign?
  – Any Federal, State, or Local law enforcement office or agency that has the responsibility and authority for the detection, investigation, or prosecution. Includes agencies with criminal investigative jurisdiction in their respective areas of expertise, including but not limited to child and adult protective services, the Equal Employment Opportunity Commission and the Department of Labor.
Certifying Official
Scott Whelan: Basically, what this is is who can actually sign the certification, who can put the pen to paper. We are going to need the head of that certifying agency or anyone who has been designated, specifically designated as in a supervisory role. Those are the only folks that can sign the certifying, or that can sign the certification. So we either need, again, the very head or someone, someone in a supervisory role. So, obviously, with larger police departments or just larger agencies, in general, you know, that role has typically been delegated to somebody in a supervisory role, and that is who will be signing the certifications.

Scott Whelan: And also to note. Any federal, state, or local judge can sign these as well, and this also includes, obviously, prosecution offices. So any DA office, I know the AUSA (Assistant United States Attorneys) and DOJ (Department of Justice), they sign, so again, prosecutors may sign off on these as well.

Certifying Official
• Who qualifies?

– The head of the certifying agency or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue T or U nonimmigrant status certifications on behalf of that agency; or

– A Federal, State or local judge.

Scott Whelan: And then go ahead and moving on to the next one. What we note to law enforcement, and you can note this to law enforcement as well, it is helpful but it is not necessary if the certifications are accompanied by a letter from law enforcement showing that that person who is signing it is, indeed, a designated official. It could be something very simple just on official letterhead just saying, yes, you know, Detective so-and-so or Supervisor so-and-so or Chief so-and-so is allowed to sign off on these certifications. So, again, if law enforcement is asking about that, that is something that you can highlight there as well. If we have questions on who actually signed the certification, USCIS is going to have to either reach out to the victim or reach out to law enforcement, and that can obviously delay the adjudication of the file. So just something to note for you there.

Scott Whelan: And then, I am all wrapped up, so the, or I am wrapped up for that. The next slide, Cindy, I think you are jumping back in on this one on the notes?
Certifying Official

• Helpful (but not necessary) if each certification is accompanied by letter showing designation as signing official
  
  – Can also send a single letter to VSC on the LEA’s letterhead specifically designating signing officials
  – Helpful if the signature of both the agency head and signing official(s) on the letter

• VSC will send request to the alien for clarifying evidence if it does not appear the signing official meets the definition of certifying official.
Cindy Liou: Sure. And just a quick, the last Poll Question #10. Has anyone here ever had law enforcement refuse to sign a U or T Visa certification because the case was never criminally charged? And it could be also if they are holding off on... So this is the case. Conviction, prosecution, or arrest is not necessary for someone to be eligible for possible immigration relief. And if you are seeing this issue happen a lot in your jurisdiction, I really think Scott, not to volunteer him, is someone who would be great to talk to to brainstorm, to reach out to law enforcement to talk about these requirements. So, again, it is not necessary. The requirement that they are really looking at is compliance in reporting the case, compliance in being willing to cooperate in the investigation and the prosecution.

Cindy Liou: And, if the defendant is acquitted or convicted for a different crime, the victim may still be eligible for immigration relief. So, there have been cases we have heard where someone has been convicted for DUIs and other issues before. Use your discretion when thinking about this. I mean, definitely you have to explain how this person has rehabilitated themselves, how they qualify for some [unclear], etc., but it is something to note.

Cindy Liou: USCIS does conduct full background checks on every applicant, including doing fingerprints, doing name and date of birth information. So they are going to actually find out a lot of information about your clients and their criminal histories and records, regardless of whether it is something you may or may not disclose, and that is something to keep in mind. So we usually kind of err on the side of disclosing and being able to explain what has happened with your client and how they have changed since then, etc., rather than withholding that information.

Notes

- A conviction, prosecution, or arrest are not necessary for a victim to be eligible for possible immigration relief.

- If a defendant is acquitted or convicted for a different crime, the victim may still be eligible for immigration relief.

- USCIS conducts full background checks on every applicant, including fingerprints, name/DOB, and immigration records.
**T and U Adjustment of Status**

Cindy Liou: As I mentioned earlier, both recipients of U and T Visas and nonimmigrant status can apply to be legal permanent residents after having 3 years of continuous physical presence in the United States. However, if you do have a T Visa and you are able to obtain a letter, a compliance letter from the Department of Justice, you would contact [unclear] there and ask for this letter to say, “Hey, my client has cooperated. The case is over.” And if you are able to obtain this, you can technically, with the T status, apply to adjust your status sooner than the 3 years.

Cindy Liou: Make sure when you are applying to adjust your status that your derivatives are in the country before you apply. Otherwise, the derivatives abroad will lose their derivative status as well.

Cindy Liou: Applicants may submit a new Supplement B, but it is not necessarily always required, and this is something to keep in mind. And this is provided at the discretion of law enforcement because they can decide, as Scott gave an example earlier, someone earlier was cooperating, but maybe in the subsequent year that the case has been going on the client has turned hostile, does not want to cooperate in the investigation anymore. Law enforcement can always have the ability to reach out to USCIS to let them know that the cooperation is not ongoing, to affect the adjustment process.

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**T and U Adjustment of Status**

- T and U nonimmigrants are eligible for adjustment of status after having 3 years of continuous physical presence in the U.S. in T/U status

- Applicants may submit a new I-914B/I-918B, a letter on official government/LEA letterhead, or a re-signed and newly dated copy of the previous I-914B/I-918B

- This will be provided at the discretion of law enforcement, similar to the signing of the original T or U law enforcement certification
Withdrawing or Disavowing Certification

Cindy Liou: So this is kind of just repeating what we just said earlier. The certifying agency can withdraw or disavow the certification. So your clients, when they are cooperating, this is something you need to explain to them, this is something that they need to do through and through from beginning to end, again, on the reasonable standard, but that it can affect, just because they have their U and T Visa, it can affect their adjustment process and vice versa in the future.

International Travel

Cindy Liou: Scott, I am turning this last slide back to you with me. In terms of international travel, a lot of people ask questions about this. I mentioned earlier if you have a T Visa, it is really important for the physical presence prong to advise your client about not traveling while the application is pending, that it can really – or even while you are preparing the application, because that can really destroy that prong, and this can result in cancellation of the application. And once it is approved, you should really apply for advance parole to travel outside the U.S. And this is something that is best, and I think while your adjustment of status application is pending as just a practice tip, but it is, it is something that can be risky and you should advise your client about. Scott, do you have other comments on this slide?

Scott Whelan: Yes. Obviously, we, you know, we understand that, you know, emergencies come up where, you know, people are going to have to travel. But if you have got a T Visa, we – you can apply for an advance parole to leave the United States. But, again, that may throw into, that may throw into question the extreme hardship if you were removed from the United States. So you really, really want to be careful on the T Visa side, you know. Not that we can, you know, say what to do or whatever, I highly recommend not traveling, and the same goes for U Visas.

Scott Whelan: U Visa folks do not have to apply for advance parole to leave the United States. They can, they can leave freely and come back freely once they have been granted that U Visa.
However, if they are overseas and now the, the U Visa holder wants to reenter the United States, they are going to have to consular process with the State Department. Meaning they are going to have to go to a U.S. Embassy, they are going to have to, well, they are a) the first thing to do is they are going to have to make an appointment online with the consular officer at a, at a U.S. Embassy or consulate overseas. They then have to go in and have an interview with that consular officer. Now, that consular officer that they have an interview is an employee for the Department of State. USCIS has no jurisdiction and no authority over that, over that officer. If that officer believes that they have found other, you know, other immigration issues, whether it be criminal, immigration violations, whatever it is, they can withhold that person from entering the United States. And that is going to take a lot of legwork and just a lot of behind-the-scenes work to get that person back in. And there are instances where the State Department has said, “No, we are simply not letting that person back in.” For instance, “We know this person is a known gang member and we will not let that person back in.” So, again, we strongly, strongly urge caution when traveling overseas, you know, on a U Visa.

Scott Whelan: Eventually, when they get the Green Card, it is much easier to travel in and out of the United States once you are a permanent resident. But while you have these Visas, again, exercise extreme caution when leaving the United States. It can be a very, very, very difficult task reentering. So, again, that is just one thing I wanted to note there.

Scott Whelan: And then I think that is it. The next slide is the contacts slide.

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**DHS and APILO Contact Information**

Scott Whelan: You will see the Vermont Service Center information is up there. If you have any case-specific questions for Vermont on something that you have filed, you are wondering what, you know, what is happening with the file, or you got a RFE, a request for evidence, that you do not understand, or any other type of question that you have that is case-specific that you filed, you can go ahead and e-mail that e-mail address up there, the Hotline Followup e-mail. That goes
straight to Vermont and one of our officers will jump on that and get back to you. There is also the phone number there. We definitely want you to pick one or the other, either e-mail or call. If you do both, then we are going to have two different officers running around doing the same work, so we definitely do not want that. And you will see the e-mail address up there as well.

Scott Whelan: The DHS Blue Campaign information is up there. I hope some of you have heard of that. But anything trafficking related that the Department is doing, feel free to go to that website and there is a ton of information up there.

Scott Whelan: My contact information is up there, again, name and phone number. I would, again, if you need to get a hold of me, feel free to at any time, but I would certainly recommend e-mail over the phone. I am out of the office quite a bit doing all sorts of different stuff, so e-mail would be the best way to get a hold of me.

Scott Whelan: And then my colleague, Rosemary Hartmann, who is our expert on the T Visas, her information is up there as well. So anything T Visa related that you wanted to go over, of course, you can contact Rose at any time.

Cindy Liou: And e-mail is best to contact me as well. This is Cindy. Thanks.

**Questions?**

Ashley Garrett: So this is Ashley with OVC TTAC. So we are right at time, but we know there are a lot of questions that have come in. So I am hoping Cindy and Scott have a little bit to answer. And so for folks that want to stay on the call, we will go through the questions as they came in and make sure you get answers. You also now know how to reach out to Cindy and Scott and Rose, and also followup. So, Alejandra, do you want to start recapping these questions and we will get some answers?
Alejandra Acevedo: Sure. Everybody, thank you so much again for all of your questions. I have noted them all, so I will go through them one by one and have Scott and Cindy address them. So our first question is: When clients are waiting for their U Visa to be awarded, can you let us know or tell us if that time that they were waiting, can that be retroactive or is it retroactive when filing for permanent residency?

Scott Whelan: Right now, if I had to answer that, I would have to say no. The retroactivity, well, somebody has to be in U nonimmigrant status, meaning they had to have U Visa to count for the 3 years towards...[background noise]. However, that is, it is being discussed within USCIS whether or not the, whether or not if someone is on the U Visa wait list, whether that time will count. It is a discussion that is taking place but, you know, right now I would have to say no but we are discussing it.

Alejandra Acevedo: Thank you, Scott. One of the, the next question is: In your experiences, Scott and Cindy, where have you seen confusion or maybe even conflict between law enforcement and victim service providers on the certification process?

Cindy Liou: This is Cindy. I guess from, from my, from the victim service perspective sometimes our identification of the standard is we are just reading the law and we are looking at the facts and, you know, to us this counts as a case that we believe can be certified, but law enforcement sometimes is looking at it from a case that they can prosecute or charge. The standard there is very, very different, especially in trafficking cases where oftentimes the lack of corroboration is, it is just difficult because there are not a lot of witnesses and that is kind of the function of the trafficking crime itself. So that is something that I look to someone like Scott to really help out on to explain to law enforcement the standards that we are looking at to kind of harmonize their perspective. And they can sign on to certifications for, to support immigration applications, even if they do not choose to prosecute the case.

Ashley Garrett: This is Ashley Garrett as well with OVC TTAC. I think just to add to that, one of the other things that we have seen folks get, have some challenges around coordination is what it means to have a filed T or U Visa. Both of them, since they require personal statements, and particularly if you are working with a federal prosecutor or the case is being looked at federally, and most state prosecutors as well consider that the statement and the application to be discoverable. And so, what it means is whatever is stated in that personal statement is turned over to the defense, and it could be used against the victim during the court to try and challenge their statements. So there is great ways to address that, it does not have to be an issue at all, as long as you all are working together and kind of talking through some of those challenges and issues, and understanding the timing of these submissions. So that is something else just to flag that we hear a lot in terms of what can create some conflict.

Alejandra Acevedo: Thank you, Cindy and Ashley.

Scott Whelan: The main thing that I see is law enforcement bristles when, when the immigration attorney or representative or anybody who is helping out the victim, when they actually fill out the certification form, whether it be the T or the U law enforcement certification form. What a lot of attorneys have done in the past is they will fill out the certification form, they will take it to law enforcement, really without any warning, and just say, “Hey, we filled this out for you, it is an immigration form. All you have to do is sign.” Law enforcement really, particularly, does not like that too much. And just as a practice, USCIS really does not like that too much either. Those law enforcement certification forms are the chance for law enforcement to talk to USCIS, so we really, really want those forms filled out by law enforcement and law enforcement only. Of
course, if law enforcement has questions and they are talking to you about it, obviously that is fine. But it is definitely a form that we want filled out by them and not really, you know, filled out by the attorney or the victim. So that is a major one that we hear a lot about.

Alejandra Acevedo: All right, thank you, Scott. So our next question is: Can a state or local law enforcement official sign the certification based on having investigated a federal crime that the state or local did not prosecute?

Scott Whelan: They cannot.

Alejandra Acevedo: All right, great. So this question is for you, Scott. At the Freedom Network conference earlier this year, it was mentioned that it is no longer necessary for victims to include three passport photos with their I-914 application for T status. They just wanted to make sure and confirm that is correct.

Scott Whelan: What you want to do if you are filing and, for whatever reason, you cannot obtain passport photos, whether it be in the T or the U, the T or the U world, when you file, just put, you know, have documentation in there as to why you cannot get passport photos. We have seen instances where folks are in detention and, you know, they just, they do not have the ability to get passport photos. Whether that is the case or, for whatever reason, you cannot get those, just have a note in there with the file and the VSC (Vermont Service Center) officer will work directly with you on that issue.

Alejandra Acevedo: Okay, thank you, Scott. There was an additional question that was an add-on to that one, and it essentially was: Does this same rule apply to not including passport photos with applications if it is for T Visa derivative applicants that are outside the U.S.?

Scott Whelan: It would be the same, yes. Just add a note in there as to why that, why that person cannot get passport photos, and, again, the VSC officer will work with you on a one-on-one basis with that.

Alejandra Acevedo: Okay, great. Thank you. Now, someone mentioned that one of the challenges they are facing or the organization is facing is that housing for male victims who have received a T and/or U Visa. Can, can they utilize the DVD shelter, or excuse me, DV (domestic violence) shelter for female, excuse me, hold on, let me just reread this. Okay, they have, they have and they can, been utilizing the DV shelter for females. Yet, male victims have been neglected despite of their legal status. This has created more vulnerability for exploitation. Do you guys have any thoughts on how they should proceed forward?

Cindy Liou: I think this requires some creativity with services. I mean, I think this has long been a problem that we have seen in the anti-trafficking work. It is definitely a cause for concern, and it is even hard because sometimes housing female trafficking survivors in DV shelters may not always be the best fit. There are recent requirements that mandate that DV shelters are not allowed to force everyone there to, to participate in certain services. So that is helpful to address the issue, but not the broader [unclear] issue. And I will look into kind of working with law enforcement and other people if there is an open case to see if you can get funding for hotels or to kind of work with your local homeless shelters, which is not a great option, but something to consider. I do not, I am not sure that any of us have like a perfect solution for this, but definitely we recognize the problem and you are not alone in it, and keep brainstorming.
Alejandra Acevedo: Thank you, Cindy. This next question is for Scott. Can applying for both a T and U Visa delay the processing and/or adjudication of the T application?

Scott Whelan: If you are going to do that, what I would recommend, if you believe that someone, that your client is eligible for a T but you want to apply for both T and U, you are allowed to do that, there is nothing prohibiting you from doing that. But definitely have, you know, have a note in there and make it very, make it very visible, if you have to put it on the top to do that. Just make sure that you outline for our officers that you, indeed, have applied for both and that you would want, and note which one that you would want adjudicated first. In terms of just timelines, it would make more sense to have the T adjudicated first, the T, we do not see the amount of T Visas, T Visa applications as we do the U. So if you are just looking for a quicker turnaround and if you believe that your client is eligible, I would certainly recommend going the T route before the U route. But, again, just make it very, very visible and very plain what your intentions are and that you would like, you would like whatever visa to be adjudicated first. And, of course…

Cindy Liou: And do not forget… Oh, sorry, go ahead.

Scott Whelan: Oh, I was going to say, of course, you know, once one is approved, you know, that would be that. You cannot hold T and U at the same time. So just a little note on that.

Cindy Liou: Do not forget, you can get more, oftentimes, state and there is federal benefits with T Visas that are not available with U Visas.

Alejandra Acevedo: Thank you to both. And there was a question just in regards to the tables that are in the presentation. Are these available online for organizations to keep and use as a resource?

Scott Whelan: The poll questions, you mean?

Alejandra Acevedo: No. The tables that you have. U Visa qualifying criminal activity in the International Travel slide, those tables.

Scott Whelan: Oh, if they want, yes, part of the presentation, yes. Give it away, yes.

Alejandra Acevedo: Okay.

Ashley Garrett: And this is Ashley with OVC TTAC. So these slides will be posted both in our Learning Community, and actually we are going to start also sharing some of these presentations like this one into the public, onto the OVC TTAC public website in the next month or two. So you can not only use them for yourselves, but you can also share with your partners.

Alejandra Acevedo: Thank you. And this is a question, next question is: Do you guys have any suggestions for derivative T holders who left the USA or the states without obtaining an advance parole?

Scott Whelan: You will want to contact the Vermont Service Center on that, to give them a heads up that that derivative did leave. Again, it is a requirement. It has happened before, it is rare but it has happened before. But you will definitely want to contact Vermont so we can start looking at that.
Alejandra Acevedo: Great. So this is our last question, and the question is: If a client is on the U Visa waiting list, will they automatically be notified that they are eligible to apply for deferred action?

Scott Whelan: They will. The, the wait list, so they will get a wait list notice once they are placed on it from the Vermont Service Center, and that notice will tell them that they have been placed on the wait list, and that they are in line for a visa. The notice will also state that they are eligible for deferred action and work authorization, and it will tell them to go ahead and file the I-765, which is the Work Authorization application, and it will tell them what, what code to use. Because you will be filing for work authorization under the Deferred Action code, which I believe is C14. But that will all be on the notice that is sent to you. So all that will definitely do there is it will walk you through the steps on what to do.

Scott Whelan: And, of course, one more thing to note with that. Everything that is T or U related in terms of filings with USCIS, including the Work Authorization application, or any other form that you need to file with USCIS in conjunction with a T or U, are either free or fee waivable. So these forms, they do have costs to them and you will see, like, for instance, I think the 765 is $365. All you want to do with that is just request a fee waiver and, again, federal legislation allows us to waive those fees because these are humanitarian programs.

Cindy Liou: I also have never had a fee waiver denied by Vermont Service Center. They are just really great and really compassionate about that.

Scott Whelan: Yes, we are – these programs are not looking for money. So yes, if you ask for a fee waiver, you are going to get it.

Alejandra Acevedo: All right. Well, thank you, guys, so much for being our speakers this month and for staying on the call to answer all these questions. It was really useful information. There were a couple of questions that were more related to the OVC TTAC and OVC, and so we are just going to go ahead and follow up with those questions offline. But for anyone else, if you have any questions on the presentation, please feel free to reach out to Cindy and Scott. Once again, thank you both, and thank you also to Aashika for presenting our Tip of the Month this week or this month. When you end today’s session you are going to see a pop-up box that will lead you to the evaluation form. Please go ahead and take the time to fill that out so we can learn to improve our monthly TA Webinars. Our next conference call is scheduled for Thursday, August 14, and we will be sending you an update next week. Thanks so much, everybody.

[End.]