STALKING: A Qualifying Crime for a U Visa
The Stalking Resource Center is a program of the National Center for Victims of Crime. The mission of the Stalking Resource Center is to enhance the ability of professionals, organizations, and systems to effectively respond to stalking.

The Stalking Resource Center provides training, technical assistance, and resource materials for professionals working with and responding to stalking victims and offenders.
Keep in touch!

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CasadeEsperanzaMN

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http://www.victimsofcrime.org/our-programs/stalking-resource-center
Presenters

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  Program Attorney with the Stalking Resource Center

• Andrea Carcamo, J.D.
  Assistant Policy Director for the National Latin@ Network
Goals

1. **U Visa Overview:** We will make sure you know the key components of the U Visa.

2. **Stalking:** From blurry to clear, and how to prove Substantial Physical and/or emotional abuse.

3. You will understand **why** this webinar will help you be a great advocate for immigrants who have been victims of stalking.
Stalking and U Visas: How are they related?

U Visa requirements – Overview:

- Victim of Qualifying Crime (direct or indirect)

- Have knowledge of the crime

- U Visa Certification
  - Helpfulness
  - Qualifying Crime

- Substantial Physical and Emotional Abuse
Qualifying Crimes

- What are some of the qualifying crimes? If you know some, type them.

- Resource to know whether a qualifying crime.

- STALKING
  - NEW Kid in town. Get to know him!
U Visa Certification

Without oxygen there is no fire, but the fact that there is oxygen does not mean that there is fire.

Why am I telling you this? 2 reasons
U Visa Certification:

Certification Shows the elements of:
- Helpfulness
- Qualifying crime
# U Visa Certification:

## Qualifying Crimes:

<table>
<thead>
<tr>
<th>Part 3. Criminal Acts</th>
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<tbody>
<tr>
<td>1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State, or local criminal offenses. <em>(Check all that apply.)</em></td>
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<tr>
<td>Abduction</td>
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<td>Abusive Sexual Contact</td>
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<tr>
<td>Blackmail</td>
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<tr>
<td>Domestic Violence</td>
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<tr>
<td>Extortion</td>
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<tr>
<td>False Imprisonment</td>
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<tr>
<td>Felonious Assault</td>
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</tbody>
</table>
| Attempt to commit any of the named crimes | Conspiracy to commit any of the named crimes | Solicitation to commit any of the named crimes | }
Law Enforcement Participation

Law Enforcement Officers: Include all officers who ensure the law is enforced beyond just apprehension of a suspect (aka beyond arrest).

Be creative:
Besides the police, who are other law enforcement officers?

Hint: Who enforces the law beyond apprehension/arrest?

Ask me about DOL and how the agency can certify after the President’s Executive Action of November 2014.
Helpfulness

• Not about giving a hand. It’s about having a hand and being willing to give it if needed.
• Can the survivor refuse to give a hand and still get a certification?
Certification: How to Prove Helpfulness

- Form I-918 B: U Visa certification

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<table>
<thead>
<tr>
<th>Part 4. Helpfulness of the Victim</th>
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</thead>
<tbody>
<tr>
<td>The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated):</td>
</tr>
<tr>
<td>1. Possesses information concerning the criminal activity listed in <strong>Part 3</strong>.</td>
</tr>
<tr>
<td>2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. <em>(Attach an explanation briefly detailing the assistance the victim has provided.)</em></td>
</tr>
<tr>
<td>3. Has not been requested to provide further assistance in the investigation and/or prosecution. <em>(Example: prosecution is barred by the statute of limitation.)</em> <em>(Attach an explanation.)</em></td>
</tr>
<tr>
<td>4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. <em>(Attach an explanation.)</em></td>
</tr>
</tbody>
</table>
Victim of the Qualifying Crime

- Victim:
  - Direct
  - Indirect

- Qualified Crime:
  - STALKING! Since new in town, we have to get to know him.
U Visa Roulette: What Law Enforcement May Say

- Some agencies will only certify for open cases, others only certify for closed cases
- Some agencies rule out victims whose injuries are not deemed serious enough
- In some jurisdictions, law enforcement is split: police refuse to certify crime victims, while prosecutors will.

“Special Report: U.S. Visa Program for Crime Victims is a Hit-or-Miss Prospect” (Reuters) October 21, 2014
Myth Buster on U-Visa Certification

• What the Department of Homeland Security States:
  • What happens if the case is closed?
  • If the survivor is no longer in the U.S?
  • Who determined whether the victim has met the “substantial physical or mental” standard?
  • If there was no arrest, prosecution or conviction?

U Visa Certification Guide- Great Resource!
Defining Stalking

Behavioral

Stalking Statutes
Stalking

A pattern of behavior directed at a specific person that would cause a reasonable person to feel fear.

Context is critical!
Understanding Stalking – Fear

- Something may be frightening for the victim but not to you

- Stalking behaviors often have specific meaning that is only understood between offender & victim

- Context is critical!
Criminal Charging

- Federal
- State, U.S. Territories, D.C.
- Tribal Codes
- UCMJ
- Creative charging
Victim & Offender Relationship

- The National Intimate Partner and Sexual Violence Survey (NISVS): 2011

<table>
<thead>
<tr>
<th>Relationship Type</th>
<th>Male Victims</th>
<th>Female Victims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current/former intimate partner</td>
<td>44%</td>
<td>61%</td>
</tr>
<tr>
<td>Acquaintance</td>
<td>32%</td>
<td>25%</td>
</tr>
<tr>
<td>Stranger</td>
<td>20%</td>
<td>16%</td>
</tr>
<tr>
<td>Family member</td>
<td>10%</td>
<td>6%</td>
</tr>
</tbody>
</table>

- Male victims
- Female victims
Stalking Tactics

- Approached victim or showed up in places when victim did not want them to: 62% for female victims, 48% for male victims.
- Made unwanted telephone calls to victim, including hangups: 55% for female victims, 58% for male victims.
- Left victim unwanted messages, including text or voice: 55% for female victims, 57% for male victims.
- Left strange or threatening items for victim to find: 15% for female victims, 15% for male victims.

- The National Intimate Partner and Sexual Violence Survey (NISVS): 2011
Stalking Tactics

- Sent victim unwanted emails, IMs, or messages through social media sites
  - Male victims: 14%
  - Female victims: 9%

- Left victim unwanted cards, letters, flowers or presents when victim did not want them to do so
  - Male victims: 25%
  - Female victims: 27%

- Sneaked into victim's car or home and did things to let them know they had been there
  - Male victims: 32%
  - Female victims: 50%

- Watched or followed victim form a distance, or spied on using a listening devices, camera or GPS
  - Male victims: 9%
  - Female victims: 10%

- The National Intimate Partner and Sexual Violence Survey (NISVS): 2011
Stalking Behaviors

- Using kids
- Legal system harassment
- Proxy stalking
- Other crimes
- OP violations
Pattern of Behavior

2/3 of stalkers pursue their victim at least once per week

78% of stalkers use more than one means of approach

Weapons used to harm or threaten victims in about 20% of cases

- The RECON Typology of Stalking (2006)
Duration of Stalking

- 6 months or less: 40%
- 7-11 months: 15%
- 1 year: 15%
- 2 years: 10%
- 3 years: 5%
- 4 years: 5%
- 5 years or more: 10%
- Don't know: 10%

-- Stalking Victimization in the United States, BJS (2009)
Use of Technology to Stalk

- Phones – calls, messages, texts, pics, video
- Cameras
- Global Positioning Systems (GPS)
- Computers
- Social networking sites
- Email & IM
- Spyware
  - Computer
  - Cell phone
- Assistive technologies
Criminals exploit the technology to create an advantage for themselves

Most of the technologies used by stalkers have legitimate and legal functions

We must keep up with the criminals and work to enact progressive, inclusive stalking legislation
Did You Know That it is Possible to:

Call someone using a disguised voice and have any phone number you want show up in caller ID?

Create and send text messages that appear to be from someone else?

Receive instantaneous reports when someone leaves a designated area?

Make a computer “wake up” and speak in the middle of the night?

Listen to someone’s cell phone conversations and see all their text messages?
Stalking and Other Crimes
Among stalking cases...

- 24% involve property damage
- 21% involve a direct attack on the victim
- 15% involve an attack on another person or pet

Identity theft

- Opened/closed accounts: 54%
- Took money from accounts: 52%
- Charged items to credit card: 30%

--- Stalking Victimization in the United States, BJS (2009)
Stalking & Domestic Violence
Stalking and Other Violence

81% of stalking victims who were stalked by an intimate partner reported that they had also been physically assaulted by that partner.

- National Violence Against Women Survey (1998)

3/4 of women who experienced stalking-related behaviors experienced other forms of victimization (sexual, physical, or both)

- Stalking acknowledgement and reporting among college women experiencing intrusive behaviors (2007)
Intimate Partner Stalkers: Increased Risk for Victims

More likely to physically approach victim
More insulting, interfering and threatening
More likely to use weapons
Behaviors more likely to escalate quickly
More likely to re-offend

The RECON Typology of Stalking, Mohandie et al (2006)
Lethality Risks

- Femicide by intimate partner
- At LEAST 1 episode of stalking within year prior to murder

76%

- Attempted femicide by intimate partner
- At LEAST 1 episode of stalking within year prior to murder

85%

- Stalking and Intimate Partner Femicide, McFarlane et al. (1999)
Lethality Risks

Almost 70% of femicide victims experienced physical abuse

Almost 90% of those victims had also been stalked

- Stalking and Intimate Partner Femicide, McFarlane et al. (1999)
Physical Abuse + Stalking → Greater indicator of potential lethality than either behavior alone
Impact on Victims
Impact of Stalking

- Minimization; Self-blame
- Guilt, shame or embarrassment
- Frustration, Irritability, Anger
- Shock and confusion
- Fear and anxiety
- Depression
- Emotional numbness
- Flashbacks
- Isolation/disconnection from other people
- Difficulties with concentration or attention
- Feeling suicidal
- Decreased ability to perform at work or school, or accomplish daily tasks
- Post-traumatic stress disorder (PTSD)
- Sleep disturbances, nightmares
- Sexual dysfunction
- Fatigue
- Fluctuations in weight
- Self-medication with alcohol/drugs
- Feeling on guard most of the time - hypervigilance
Impact on Victims

Afraid of:

- 46% not knowing what would happen next
- 30% bodily harm
- 29% behavior would never stop
- 13% harm or kidnap a child
- 10% loss of freedom
- 9% death
- 4% losing one’s mind

- Stalking Victimization in the United States, BJS (2009)
## Impact on Victims

1 in 8 of employed victims lost time from work

- More than half lost 5 days or more

<table>
<thead>
<tr>
<th>Activity</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Changing phone number/moving/fixing damaged property</td>
<td>7%</td>
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<td>Getting a restraining/protection order or testifying in court</td>
<td>12%</td>
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<tr>
<td>Fear or concern for safety</td>
<td>13%</td>
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</table>

- *Stalking Victimization in the United States, BJS (2009)*
“It’s not easy to describe the fear you have when you see the stalker, or signs of the stalker, everywhere you go. I have given up all hopes of ever having a safe life. For the rest of my life, I will be looking over my shoulder, expecting to see him there.”
Reporting to Law Enforcement

37% of male stalking victims

41% of female stalking victims

-- Stalking Victimization in the United States, BJS (2009)
Reasons For Not Reporting

- Thought it a minor incident (minimization): 27%
- Private or personal matter: 27%
- Reported to another official: 14%
- Not clear a crime occurred: 11%
- Thought police wouldn't think it was important or would be ineffective: 11%
- Couldn't identify offender/lacked evidence: 10%
- Feared the perpetrator/afraid of reprisals: 6%

- Stalking Victimization in the United States, BJS (2009)
Challenges with reporting stalking

- May not recognize the activity as stalking
  - Stalking criminalizes otherwise non-criminal behavior
- May dismiss the seriousness of the crime
By the time victims report to police, the stalking behavior has been well established and... victim-initiated countermeasures have failed.

Tips for Advocates

- Violations of Orders of Protection (OP) may be stalking
  - In some jurisdictions, a violation of an OP by stalking makes the crime a felony
- Documentation is critical
  - Know your state statute
  - Educate victims on the law
- Incident reports to record each activity
Responding to Victims

Advise disengagement

- Challenges
- Contact as a safety strategy

Documentation

Advocacy & Support Services
Documentation is Critical

- Victim Logs
- Police Reports
- Evidence Preservation
## Documentation

### STALKING INCIDENT LOG

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Description of Incident</th>
<th>Location of Incident</th>
<th>Witness Name(s) (Attach Address and Phone #)</th>
<th>Police Called (Report #)</th>
<th>Officer Name (Badge #)</th>
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Technology Documentation

Encourage victims to preserve all evidence

- Audio
- SMS (text) & MMS (photo, video)
- Emails
  - Electronic & print
- Social networking posts
- Victims can get detailed copies of their own cellphone bills
Advocacy & Support

- Prediction & Preparation
  - Victims need information
    - Reporting
    - Justice process
      - Criminal
      - Civil
      - Military
    - Can help the victim regain control
- Assistance with Safety Planning
Getting back to the U Visa...
How do you Prove Substantial Physical and Emotional abuse?

As Previously mentioned...

• Affidavits
• Protection Orders
• Photos from the police
• Text Messages
• E-mail
• Letters
• Phone bills (with bills of text messages included)
Affidavits – A powerful tool
Why is the U visa helpful to the victim?

- Financial Independence through Work Permit
- No fear from Deportation
- Puts him/her on the path to citizenship
Resources for Victims

- Are You Being Stalked? (Brochure for Victims)
- Stalking Questions and Answers
- Stalking Incident Behavior Log
- Safety Plan Guidelines
- Cyberstalking: Dangers on the Information Superhighway
- Ten Things You Should Know About Stalking

www.victimsofcrime.org/src
MES NACIONAL
DE CONCIENTIZACIÓN SOBRE EL ACECHO
ENERO 2015
STALKING AWARENESS MONTH.ORG
THE NATIONAL CENTER FOR VICTIMS OF CRIME
Training

- In person training
- Webinars

Technical Assistance

- Individual & organizational assistance
- Fact sheets, brochures, manuals, guides
- Policy/protocol development & consultation
- Videos

Resources

- Online resources
- Stalking Awareness Month materials

www.victimsofcrime.org/src
Contact Information:

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sryan@ncvc.org

Web page for the National Latin@ Network:
www.nationallatinonetwork.org