Requirements of the U Visa

- Victim of a qualifying crime that violates U.S. law or that of U.S. territories/possessions:
  - Rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury; stalking; fraud in foreign labor contracting
  - Attempt, conspiracy, or solicitation to commit any of the above mentioned crimes
  - Any similar activity in violation of federal, state or local criminal law
Requirements of the U Visa (cont’d)

- Suffered substantial physical or mental abuse
- Possesses information about the criminal activity
- Helped, is being helpful, or is likely to be helpful in the investigation or prosecution of the crime
  - Victim has ongoing responsibility to assist in investigation
  - Victim cannot unreasonably refuse to provide assistance
- Admissible
  - Generous waivers of inadmissibility
  - Everything waivable except Nazi persecution, extrajudicial killing, and terrorism
The Benefits of the U Visa

- Four years of legal status in the U.S.
- Employment authorization
- Eligibility for public benefits
- Ability to apply for family members
- Opportunity to apply for legal permanent residency after 3 years in U Visa status
- Generous inadmissibility waivers
OBTAINING LEGAL PERMANENT RESIDENT STATUS

- Requirements
  - Lawfully admitted as U nonimmigrant
  - In U nonimmigrant status when apply
  - 3 years continuous physical presence in the U.S. in U Nonimmigrant Status
  - Not inadmissible under INA § 212(a)(3)(E) (Nazi persecution, genocide, torture/extrajudicial killing)
  - Has not unreasonably refused to provide assistance in investigation/prosecution
  - Justified on humanitarian grounds, to ensure family unity, or in the public interest (discretion)
Continuous Physical Presence

- 90+ days or 180 days in the aggregate will break continuous physical presence
  - Exceptions:
    - If absence is necessary to assist in criminal investigation or prosecution, or
    - An official involved in the investigation and/or prosecution certifies it is otherwise justified
Documenting Continuous Physical Presence

- Client Declaration
- College transcripts
- Rent receipts
- Income tax returns
- Utility bills
- Letters from employers
- Declarations/letters from friends and family
Ongoing Requirement to Assist

- Ongoing requirement to provide assistance in investigation/prosecution, even after granted U nonimmigrant status

- Documentation required:
  - Document signed by law enforcement affirming compliance (can be newly executed I-918 Supp B); **OR**
  - Client declaration describing requests for assistance and cooperation in investigation and/or prosecution (can also include court documents, police reports, news articles, etc.)
Inadmissibility

- The *only* inadmissibility ground that applies is INA § 212(a)(3)(E) - Nazi persecution, genocide, torture, or extrajudicial killing - and there is no waiver for it.

- If these grounds do not exist, no need to deal with inadmissibility at adjustment phase
Adjustment Documents

- G-28 Notice of Entry of Appearance as Attorney
- I-485, Application to Register Permanent Residence or Adjust Status w/ 2 passport-size photos
- G-325 A, Biographic Information
- I-765, Employment Authorization (code C 09) w/ 2 passport-size photos
- I-912, Request for Fee Waiver
- I-693, Medical Exam (in sealed envelope)
- Copy of U Visa approval notice
- I-94 and copy of entire passport (if the client does not have a passport, state why in the declaration)
- Birth Certificate with certified translation
- Client declaration
- Evidence of continuous physical presence
- Evidence related to discretion (family ties, length of residence in U.S., access to social services, hardship, etc.)
Obtaining Status for Family Members

- Derivative U Visa holders adjust pursuant to the same procedure as U Visa principals
- Family members of U Visa principals who have never held U Visa status may also adjust
  - If U principal is under 21 years old:
    - Spouse, parents, and children
  - If U principal is over 21 years old:
    - Spouse and children

*Siblings have to get U status and adjust on their own*
Eligibility to Petition Family Members

- Family member never had U nonimmigrant status
- Family relationship exists at time of U Visa holder’s adjustment adjudication
- Qualifying family member or principal U Visa holder would suffer extreme hardship if family member’s application was denied
- Principal U Visa holder has adjusted, has a pending adjustment application, or is concurrently filing
- If possessed information about crime, cannot unreasonably refuse to cooperate
Petitioning Family Member Documents

- G-28, Notice of Entry of Appearance
- I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant
- I-912, Request for Fee Waiver
- Declaration of U visa holder (discussing extreme hardship if family member were deported)
- Declaration of Family Member
- Birth certificates with certified translations of U visa holder and family member
- Marriage License
- Divorce documents of previous marriages
Extending U Nonimmigrant Status

- All U nonimmigrants must accrue at least three years in U nonimmigrant status before they are eligible to adjust
- Extension of status may be necessary to ensure that a derivative is able to attain the requisite three years
- The extension cannot exceed four years in the aggregate
Extension of Status Documents

- G-28, Notice of Entry of Appearance as Attorney
- I-912, Request for Fee Waiver
- I-539, Application to Extend Nonimmigrant Status
- Statement explaining why client needs an extension
- I-765, Application for Employment Authorization w/ 2 passport-sized photos
- Notice of U visa approvals for principle and derivative
- Evidence of Adjustment of Status of principle, if applicable
- Evidence of relationship with U visa principle
- Current Employment Authorization Document
Clients with Criminal Histories

*U visa holders with no new charges*

- Clients with criminal histories who have approved U visas and who have no new arrests or convictions already had their criminal history waived
- Disclose the previous criminal history in the I-485, but state that it was waived by the immigration service – no further documentation is necessary
Clients with Criminal Histories

U visa holders with new charges or Qualifying Family Members with criminal histories

- U adjustment is a discretionary benefit – applicants must show they merit a favorable exercise of discretion
- There is no waiver form
Documents for Clients with Criminal Histories

- Relevant penal codes
- Court records
- Declaration from the client expressing remorse, responsibility, rehabilitation, family ties, hardship if the client were deported, and length of residence in the U.S.
- Declarations from family members and community members - who are citizens or lawful permanent residents – stating positive attributes of client and underscoring extreme hardship if the client were deported
Adjustment Procedure

- File applications with the Vermont Service Center
- Written approval (no interview required)
- May get RFE or NOID before denial
- Can be appealed to the Administrative Appeals Office (AAO)
- Cannot be reviewed or filed before an IJ in removal proceedings
Vermont Service Center

File ALL petitions with the USCIS Vermont Service Center:
USCIS Vermont Service Center
Attn: VAWA Unit, Box 1000
75 Lower Welden Street
St. Albans, VT 05479-0001

Phone: 802-527-4888
Fax: 802-527-4859