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U visas for Victims of Crimes.

In the last several months, we have covered the ways in which a woman victim of violence can obtain status in this country. Here, in the last segment of the series, we cover the U visa for crime victims, which can be used by any victim of a crime to apply for status with the Immigration Service if they can show they were harmed by a crime occurring in the United States and cooperate with the U.S. authorities in trying to apprehend or prosecute the perpetrator.

In 2000, the Congress authorized the U nonimmigrant status in the Victims of Trafficking and Violence Protection Act of 2000. The law's purpose is to further law enforcement goals and objectives against crime in immigrant communities. The visa was created in order "to strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes...while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens."

The usual U visa crime victim case will involve a female domestic or sexual violence victim who will be hesitant in coming forward to report her abuser for fear of contact with law enforcement agencies. U visa was created partly to protect victims who are traditionally vulnerable immigrant communities.

To qualify for a U visa, a person must show that:

- the person has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity in the United States;
- the person ... possesses information concerning criminal activity;

- the person has been helpful to a Federal, State, or local law enforcement official, including police and/or a prosecutor investigating the crime.

The applicant must have suffered “substantial” harm as a result of the crime, although the crime can be emotional or physical.

To apply for a U Visa, a person must obtain the certification that they have been a crime and that they have cooperated with the police or prosecutor in the investigation of the crime.

A person can qualify for a U visa even if they are undocumented. Congress enacted the law to allow for a waiver to grounds of inadmissibility for nonimmigrants applying for a U visa status.

After three years, a U-visa holder is eligible to apply for AOS if they have been physically present in the United States for a continuous period of at least three years since attaining the U-visa and their continued presence is justified on humanitarian grounds to ensure continuation of a cohesive family, or is otherwise in the best interest of the public. There is no numerical cap on U-visa adjustments. USCIS has sole jurisdiction, meaning decisions cannot be reviewed by an IJ.

The U visa is a useful tool for any woman or man, who can document that they were a victim of a crime here, to legalize their status.

CHRISTOPHER A. KEROSKY of the law firm of KEROSKY & ASSOCIATES has practiced law since 1984 and has been recognized as one of the top immigration lawyers in Northern California for the last five years by San Francisco Magazine “Super Lawyers” edition (2006-2010). He graduated from University of California, Berkeley Law School and was a former counsel for the U.S. Department of Justice in Washington D.C. He has had an office in San Francisco for 20 years, but recently opened a Santa Rosa office and lives in West Sonoma County.

WARNING: The foregoing is an article discussing legal issues. It is not intended to be a substitute for legal advice. We recommend that you get competent legal advice specific to your case. If you would like such advice from our office, call (415) 777-4445 (San Francisco); (916) 349-2900 (Sacramento) or (707) 433-2060.