



## **Protecting Immigrants who Cooperate with Law Enforcement at Both the Local and Federal Level**

### *A. Background*

The issue of trust between immigrant communities and law enforcement has been important in building cooperative relationships. Police chiefs, sheriffs and other law enforcement officials are well-aware of the damage that can be done to their relationship with immigrant communities if they are perceived to be focused on immigration enforcement responsibilities that traditionally have been the responsibility of the federal government. This fear and hesitation can prevent cooperation with [“If You See Something, Say Something”](#) campaigns and other similar initiatives.

Immigrants are more likely to cooperate when incentivized to do so. This is where positive messaging and immigration policies can both play a role in encouraging cooperation, both at the local and federal levels.

### *B. Local Policies and Practices*

On a local level, many law enforcement agencies have stressed that immigrants who come forward to report crimes need not fear immigration enforcement. In 2006, the New Haven (Connecticut) Police Department [implemented](#) a department-wide policy that prohibited law enforcement officers from inquiring into the immigration status of any victim of a crime or witness to a crime. In addition, the Minneapolis Police Department has [prohibited its officers](#) from asking about immigration status for almost two decades.

The Prince William County (Virginia) Police Department has also [implemented a similar policy](#) that bars police officers from asking about the immigration status of anybody who is not under arrest or placed in police custody. Former Police Chief Charlie Deane [stated](#), “I saw from the beginning that the safest course for this county was to do the screening post-arrest... We are responsible for providing police services to everyone, regardless of their status.”

Similarly, the Montgomery County (Maryland) Police Department’s official policy [forbids any investigations](#) into an individual’s immigration status. Police Chief Marcus Jones [said at the time](#), “We don’t contact ICE nor do we ask any of our residents in Montgomery County about their immigration status in the United States.”

This principle has also been recognized by other jurisdictions which do not have formal prohibitions about inquiring into individuals’ immigration status. For example, in 2018, former Houston police chief and LEITF co-chair Art Acevedo [stated](#), “We’re not interested in somebody’s immigration status. If a person is a victim of a crime or a witness to a crime, we



want them to understand that this department, this D.A., our mayor, our community, stands with victims and witnesses of crime.”

Former Boston Police Commissioner William Evans echoed this sentiment when he [stated](#), “We need to build trust with the immigrant community. The last thing we want is for people to be afraid of us. ... They won’t report crimes or help us in their communities if they are afraid of us.” Chief Roy Bermudez of the Nogales (Arizona) Police Department also recognizes the mistrust that can arise amongst the immigration population when he [asserted](#), “We are one community, but there is so much fear among the immigrant community. They fear harassment, and we’re trying to change that perception.”

Despite messages and policies like these, many immigrants still fear having any interaction with police, with [avoidance reaching new levels](#) in recent years. Many large U.S. cities, such as [Los Angeles](#), [Denver](#), [Philadelphia](#), and [Dallas](#) reported decreases in the reporting of crimes from among their immigrant populations or in immigrant-majority communities following [increasing emphasis on immigration enforcement](#) after the 2016 election.

Sustained fears, like the ones mentioned above, demonstrate that promising local initiatives can be overwhelmed when federal immigration enforcement policies and messaging undercut immigrant cooperation.

### *C. Federal Policies*

A number of noteworthy federal [policies](#) provide immigrant victims and witnesses of crimes with helpful incentives to cooperate with law enforcement, while reinforcing positive messages to the broader immigrant community. The following sections will overview some of these policies and their impact on immigrant cooperation.

#### 1. U visas

One example is the [U visa](#), which is available to individuals who have either been the victim of a qualifying crime,<sup>1</sup> a witness to a crime, or someone who can provide information to help in the solving of a crime. A U visa can provide undocumented immigrants a pathway to eventual lawful permanent resident status.

U visas have proven to be [valuable to law enforcement](#) in the solving of crimes that otherwise would remain unsolved. In most circumstances, [local law enforcement agencies are the ones to certify](#) that the immigrant victim or witness was involved in a qualifying crime and was helpful in the prosecuting of such crime. Without this attestation of local law enforcement, the U visa cannot be issued. Some local law enforcement agencies [decline](#) to certify U visa applications or

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<sup>1</sup> Examples of qualifying crimes include domestic violence, murder, kidnapping, rape, sexual assault, and trafficking. This also involves the attempt to commit any of the listed qualifying crimes.



create rules regarding certification of cooperation that extend beyond the initial concept of the program. If U visas are to be the tool originally envisioned to facilitate immigrant cooperation, law enforcement agencies should certify legitimate claims as much and as quickly as possible.

Another issue with U visas is the [current backlog](#) of over 240,000 immigrants waiting to receive one, causing immigrant crime victims and witnesses to wait years to receive the main benefit that incentivized many of them to participate with law enforcement. Only Congress can solve this issue by passing legislation that would expand the number of U visas and allow the backlog to be cleared. The faster that immigrant victims and witnesses of crimes can receive these visas, the more likely they are to come forward to assist local law enforcement with the related cases.

## 2. T visas

Another significant federal policy encouraging cooperation is the [T Visa](#). The T visa is very similar to the U visa but is available to individuals who have been the victim of sex trafficking or labor trafficking. However, a [major difference](#) between the two visas is that the T visa does not require local law enforcement certification nor the level of cooperation necessary to receive a U visa. Additionally, the 5,000 annual visa cap has never been met so there is no backlog of note.

## 3. VAWA self-petitioning

The [Violence Against Women Act \(VAWA\) of 1994](#) created an additional pathway for immigrants to apply for and receive permanent legal status if they were the victim of domestic violence or other forms of abuse by a U.S. citizen or legal permanent resident family member, such as a spouse, child or parent. Under VAWA, [immigrant victims can self-petition](#) for lawful permanent resident status without having to inform the abuser. The process requires the petitioner to provide necessary documentation to demonstrate the immigration status of the abusive family member, their relationship to the abuser and residence with the abuser, among other requirements

## 4. Immigration enforcement priorities

A final noteworthy federal immigration policy that affects the relationship between immigrants and law enforcement is guidance on [immigration enforcement priorities](#). On September 30, 2021, the Biden administration [released new immigration enforcement priorities](#), which focus civil immigration enforcement on threats to national security, public safety, and border security.

In a departure from previous versions, the new guidance [explicitly states that](#) the “fact that an individual is a removable noncitizen ... should not alone be the basis of an enforcement action against them” and emphasizes the use of prosecutorial discretion to seek targeted enforcement. The guidance explicitly calls on federal decisionmakers to consider an immigrant’s “status as a victim of crime or victim, witness, or party in legal proceedings” as a mitigating factor in determining whether the individual is a proper target for immigration enforcement. This



guidance is intended to foster trust between immigrant communities and federal immigration enforcement – trust likely to filter down to the state and local level.

#### *D. Conclusion*

Cooperation and trust between immigrants and law enforcement is often a reflection of underlying federal and local policies. Local trust policies, including policies that limit the collection of immigration status information, reinforce constructive cooperation between immigrant communities and law enforcement. Similarly, federal policies such as the U visa, T visa, and VAWA self-petitions, along with federal immigration enforcement priorities narrowly focused on threats to the community, provide helpful incentives to cooperation providing protection and benefits to cooperative immigrant victims and witnesses of crimes. The combination of promising local and federal policies provides a hopeful framework to continue developing methods in which local law enforcement agencies and immigrant communities can continue to work together, generate trust, and keep their communities safe.