

# WORKING FOR SURVIVORS

## Building on the L.A. Model to Universalizing the U-visa

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November 2022



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## 01. Introduction

The U-visa is a non-immigrant visa provided to non-citizens and their families who have been victims to violent and exploitative crimes, such as domestic violence, sexual assault, felonious assault, and other “qualifying crimes” outlined by the United States Citizenship and Immigration Services (USCIS). The U-visa was created by Congress in 2000 as part of the Victims of Trafficking and Violence Protection Act, to assist law-enforcement agencies in prosecuting crimes committed against individuals who might not come forward because of their legal status.<sup>1</sup> The visa allows recipients to apply for a work permit, apply for public benefits, and eventually (after some 10-12 years) even a pathway to citizenship. Further, the U-visa is increasingly becoming an important avenue towards immigration relief, especially for disadvantaged and marginalized immigrants who are more exposed to violence in American society. The annual number of immigrants filing U-visa petitions has quintupled in the last decade, from roughly 11,000 in 2009 to 59,000 in 2018. Despite this increase, approvals are capped at 10,000 visas annually, and by 2019 the wait list for the visa had ballooned to over 239,933 pending applications. Before even filing a petition however, immigrants must first receive a signed certification (I-918B) from a law-enforcement agency attesting that the applicant has been a victim of one of these crimes, were cooperative in the investigation or prosecution of these crimes, and that they are willing to assist law-enforcement in the future.

However, U-visa certification access is especially capricious, and local law-enforcement agencies are endowed with extensive discretionary authority to deny or approve these certifications with almost zero accountability or oversight. Although the U-visa is a federal immigration benefit, policies and ordinances surrounding the certification process are highly varied across the nation and determined by state law and local level law-enforcement. In this patchwork, Los Angeles County is the U-visa capital of the entire United States. No other metropolitan region certifies, sends, or approves as many U-visa applications as do law-enforcement and immigrant advocates in the area. Between 2009-2014, Los Angeles certified nearly 5 times more U-visas than even the city of New York; despite having a significantly smaller total immigrant population, nearly half the total violent crime incidents over that time, and having a smaller per capita violent crime rate. In fact, even within the state of California,<sup>2</sup> largely held as the most progressive state on U-visa accessibility, Los Angeles is a clear frontrunner on these net certifications per year. Between 2016-2017, certifications issued in Los Angeles accounted for more than 45-50% of the entire states net certifications. Ultimately, this report asks two questions: First, how did these patterns come to emerge and how do they influence the experiences of U-visa applicants in the region? Second, and perhaps more fundamentally, this report asks: what can we learn from the L.A. model to advance U-visa access and immigrant rights in other jurisdictions across the country?

<sup>1</sup> H.R.3244 - Victims of Trafficking and Violence Protection Act of 2000

<sup>2</sup> <http://graphics.thomsonreuters.com/14/uvisas/index.html>

<sup>3</sup> ILRC report based on USCIS statistics

This report will highlight the role that local advocacy infrastructure plays in developing these progressive policies statewide, the role this infrastructure makes in shaping U-visa accessibility in the county today, and highlight how local bureaucratic openness to working on the U-visa issue cleared the way for Los Angeles becoming the U-visa capital of the country. In this geographic roulette, Los Angeles is the exception rather than the norm, -therefore, critically examining how this came to be (and the barriers ) could clear a way for other jurisdictions to improve access for immigrant survivors of crime across the country. This report utilizes a mixed-methodological approach, including: 1) a doctrinal analysis of current and past legislation relevant to U-visa processes in the county; 2) semi-structured interviews with Angeleno advocacy organizers and attorneys (n=10) as well local law-enforcement certifier personnel (n=10), ; 3) ethnographic observations at U-visa advocacy events; and 4) a quantitative analysis of U-visa certification access and demand in the region based on State and Federal data.

As this report will illustrate, victim's advocacy infrastructure and local bureaucratic openness to working on the U-visa cleared the way for Los Angeles to becoming the U-visa capital of the country. In their official and unofficial duties, Angeleno advocates and law-enforcement tasked with U-visa obligations must help one another in carrying out their everyday responsibilities working with survivors of crime in an immigrant city. Legal advocacy organizations and law-enforcement agencies in the region have become enmeshed due to California state law which penalizes non-compliance and non-expeditious decision making in these U-visa processes. Lawyers and certifiers in Los Angeles advance accessibility through these responsibilities and everyday courtesies, which in turn produce normative categories and practices on the ground. This has resulted in a system which prioritizes bureaucratic efficiency and processing times, while simultaneously disadvantaging unnetworked applicants and survivors of crime with legally complex cases. Although the institutional landscape of the L.A. model has serious flaws, it also has some incredible benefits for U-visa applicants and immigrant survivors broadly. This report hopes to highlight what works and what does not work in the basin, to export and scale up the relative improvement L.A. has forged, as well as improve the model so it can continue to lead. To make that happen, we need stronger social movements and critical shifts in law-enforcement both in L.A. and across the country.

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<sup>4</sup> All names and organizational affiliations have been pseudonymized

## U-visas in a State of Resistance

Although the U-visa is a federally enforced immigration benefit, scholars and advocates have highlighted the “geographic roulette” that exists in acquiring the I-918B certification which is the foundation of the entire application (NIWAP 2013). The National Survey of Service Providers on Police Response to Immigrant Crime Victims, U-Visa Certification and Language Access study showed extensive geographic disparities in accessing certifications across the country due to variation in certifier policies. This variation was also structured by a patchwork of state-to-state and local level laws that were often serving as barriers to accessing certifications for individuals who were otherwise eligible for relief. At the same time, other legal studies affirm that acquiring a certification from any law-enforcement agency is not, and has never been, an easy task for immigrants or their advocates but it is especially difficult in more anti-immigrant states. That is because acquiring this certification is particularly vulnerable to localized ordinances and practices, meaning it is exceptionally challenging in regions with particularly anti-immigrant fervor (Jensen 2009; Abrams 2009). Most of these studies have critically examined its federal jurisprudence and legal origins, pointing out how municipal law-enforcement have served as a barrier to U-visa access since its foundations (Gill 2012). In the face of these restrictions, the majority of applications reviewed by USCIS come from states with robust non-profit and advocacy infrastructures, illustrating the influence of subnational legal contexts on the experiences of U-visa applicants.

By 2016, California (28,750), Texas (6,092), New York (4,708), Illinois (4,639), and North Carolina (4,339) represented the top 5 states and more than half (54%) of all-time-pending U-visa applications (then 88,661 total). An analysis of searchable USCIS data on U-visa certifications received by USCIS from 2009 to 2014 confirms that certifications that originate from California, from any federal, state, or local certifying entity, represent approximately 33.14% of all certifications received by USCIS during this period.



Figure 1. Source: Reuters Graphics, Victim visa roulette, <https://graphics.thomsonreuters.com/14/uvisas/index.html>



The California Legislature asserts “the actual number of U-visa certifications issued by California local certifying entities during each fiscal year is unknown. While data from the reports filed by certifying entities with the Legislature indicate that 6,456 U-visa certifications were issued by 56 local certifying entities in calendar year 2016 and 6,850 certifications were issued by 52 local certifying entities in calendar year 2017, for a total of 13,306 certifications in calendar years 2016 and 2017 combined.” However, this data is incomplete because some certifying entities did not file reports with the Legislature. In that report, commission staff reviewed the total 173 reimbursement claims submitted by 77 cities and 14 counties between 2016-2019. The unaudited reimbursement claims data for U-visas processes compiled to \$1,144,964 for fiscal year 2016-2017 and \$1,205,521 for fiscal year 2017-2018, totaling \$2,350,485 for the initial reimbursement period. That total cost segregated by activity was \$16,915 for updating policies, \$17,982 for training, \$1,342,696 in logistics costs, and \$402,220 for explicit certifying duties.<sup>5</sup> In other words, California seems to show the highest demand, greatest accessibility, and the most robust U-visa infrastructure in the national geographic roulette.

Today, California proudly leads the nation in U-visa certifications, protecting immigrant rights, and advancing meaningful criminal justice reform that makes justice more accessible to non-citizens as well. However, the story of how these patterns emerged and how this legislative context unfolded begins in the Golden State’s, not-so-golden past. Some readers may not be aware that California was not always a pro-immigrant and progressive leader in these policies, and in fact it was once a Republican-Conservative stronghold where “any mention of California triggered unpleasant reminders of Ronald Reagan and right-wing tax revolts, propositions targeting undocumented immigrants, and racist policing that sparked two of the nation’s most devastating riots” (Pastor 2018). As Manuel Pastor highlights, a dramatic demographic shift in the state between 1980 and 2000 driven by rapid Latino and Asian American Pacific Islander (AAPI) growth, coupled with an extreme process of de-industrialization and middle-class job loss, culminated in Pete Wilson’s racialized gubernatorial rhetoric and the 1994 passing of Proposition 187. Proposition 187 was designed to prohibit undocumented immigrants residing in California from using public healthcare services except in cases of emergency, social services, and public schools. The measure would have also required certain state and local agencies to report suspected undocumented immigrants to the California Attorney General and the United States Immigration and Naturalization Service. Across the country, but especially in California, policy makers and the public were struggling to address crime, immigrant integration, and growing economic precarity.

The same year Proposition 187 passed, Congress also passed the 1994 Crime Bill, which provided the legal framework for mass incarceration as well as the Violence Against Women’s Act. It had become clear to some American legislators that through policy and enforcement, U.S. immigration law had created a social and legal environment that silenced immigrant victims of crime from reporting their abusers to the authorities and exacerbated immigrant victimization in the country. These situations occurred part and parcel to broader legislative efforts that increased the criminalization of immigrant and Latino communities, as well as creating a system of mass deportation. Mistrust of law-enforcement and social services, extensive language barriers, negative experiences with police in their countries of origin, and fear of immigration consequences caused a significant chill factor for immigrants reporting crime (Menjivar and Bejarano 2004). With relentless images and legislation portraying and treating immigrants as undeserving and criminal, these developments ultimately contributed to a dual process of criminalization and victimization for immigrant crime victims (Arnold 1990). The mid-1990’s represented the legislative nadir in the Golden State’s immigrant victims’ rights and protections.

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<sup>5</sup> U Visa 918 Form, Victims of Crime: Nonimmigrant Status, 17-TC-01, CA Statewide Cost Estimate, Commission on State Mandates Report

However, alongside these legal conflicts, emerged intersectional social movement organizing and coalition building which would transform California and the United States forever. In addition to galvanizing the Latino vote and ushering in a slew of naturalization efforts across the state, more pro-immigrant state policies evolved from these legal threats, which would go on to be known as the “California Package” (Colbern and Ramakrishnan 2015). Further, some of these same organizers would continue on into California politics and transform U-visa implementation itself, especially with the appointment of Kevin De Leon to president pro temp of the CA Senate. After nearly two decades of immigrant victims advocacy organizing and in partnership with a broader statewide coalition, California advocacy groups succeeded in passing CA SB 674 in 2015. In the writing of the bill, De Leon argued law-enforcement, “systematically deny certifications on the basis of political views on immigration matters...They are making the determination of whether one belongs in this country or not, irrespective of the crime that has been committed against an immigrant and irrespective of whether that victim was helpful to law enforcement.” In the same vein, Atkins argued that SB 674 would rectify the geographic roulette in the region, “It should not matter where you became the victim of domestic violence to qualify for a U visa... his bill makes it clear that all entities that can certify that a victim was helpful must do so if the victim has suffered due to one of the qualifying crimes and was helpful or is expected to be helpful to the prosecution during the investigation.”<sup>6</sup>



2. Calif. Gov. Jerry Brown, Assembly Speaker Toni Atkins, D-San Diego, left, and Senate President Pro Tem Kevin de Leon, D-Los Angeles signing SB 674 into law. Atkins and de Leon co-authored CA SB 674. (AP Photo/Rich Pedroncelli)

<sup>6</sup> <https://www.sandiegouniontribune.com/news/immigration/sdut-uvisa-bill-protects-immigrants-2015sep11-story.html>

In other words, California law created complaint mechanisms which attempted to remedy the regional disparities in acquiring U-visa certifications that existed in the state. On October 2, 2015, Governor Edmund G. Brown, Jr. signed Senate Bill 674 (SB 674) which imposed additional requirements on law enforcement agencies responding to U-visa certification requests that are not included in the Battered Women Protection Act (BIWPA). First, the bill requires a certifying official from a law enforcement agency to certify victim helpfulness upon request when the requester was the victim of a qualifying crime and has been helpful to the investigation or prosecution of that crime. Second, the bill establishes a rebuttable presumption that a victim has been helpful to the detection, investigation, or prosecution of a qualifying crime “if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.” Third, the bill requires the certifying entity to process a certification request within 90 days of the request or within 14 days of the request if the applicant is in removal proceedings. Although these policies may sound sensible to most, immigration attorneys in other parts of the country can attest that these policies represent the most progressive practices in the nation. Through these laws, criminal justice authorities and social movement actors became enmeshed in how the state implements U-visa policies. However, findings in this report will show the promise of this legislation is yet to be fulfilled, due to lack of accountability on state actors who are endowed with extensive discretionary authority under federal law and due to organizational limitations that advocates continue to face in this institutional landscape.

### **Policing and Immigrant Home-Making in Los Angeles**

As much as this report is a California story, further inspection of this aforementioned data also illustrates how Los Angeles is the driver of these numbers. In fact, between 2016-2018 Los Angeles accounted for roughly 45-51% of all statewide requests within the entire state of California. Further, interviews with legal directors and social movement organizers in the county also highlight the role local advocacy played in creating these statewide policies. However, like California broadly, the organizing and resurgence of immigrant rights and criminal justice reform emerged from a darker history of xenophobia and incarceration in the basin. In fact, some scholars argue Los Angeles is also the carceral capital of the world. Los Angeles is the number one jailing city, in the number one jailing state, in the number one jailing country in the entire world. Los Angeles county is home to over a billion dollars in investment in jails, detention centers, and even one penal farm. Further, the County is also home to eighty-eight additional municipal jails, more than twenty juvenile detention halls and camps, two federal facilities, and even one private prison which operates largely as an immigrant detention center. In “The City of Inmates,” Kelly Lytle-Hernandez highlights how the creation of this carceral capital of the world has been intimately linked with the settler-colonial origins of the city of Los Angeles, what was once dreamed up to be an up and coming “Aryan city under the sun.” To create this utopia, early and latter Angeleno settlers created and continually invested in a massive and efficient system of policing, prosecuting, and caging to create a racially pure and productive city in the Old West. The development of this history is marked by the elimination and incarceration of Indigenous, impoverished, Latino, Asian, and Black Angelenos since its origins (Lytle-Hernandez 2017).

Nevertheless, there has always existed a group of rebels and advocates in the LA basin struggling and organizing against this carceral growth machine as well. In the face of these carceral developments, much like broader California, Los Angeles was quickly becoming much more racially and ethnically diverse. The region would also become home to the second largest undocumented population in the nation, and has continued to be recognized as a popular immigrant destination even into modernity. This is striking, given only 20 metro areas are home to six-in-ten undocumented people in the country and further supports analyzing the experiences of immigrants in this major urban center.<sup>7</sup>

<sup>7</sup> <https://www.pewresearch.org/fact-tank/2019/03/11/us-metro-areas-unauthorized-immigrants/>



Together, these demographic changes have developed into strong and broad coalitions in social movement groups, such as labor unions, civic advocacy organizations, and other political groups. These factors of Los Angeles have resulted in crucial reforms and protections for low-income communities and immigrants in the city. There has been a plethora of other studies affirming this notion that the concentration of undocumented folks in Los Angeles have contributed to low-wage worker organizing, legal advocacy, and other immigrant rights movements (Ochoa and Ochoa 2005; Milkman et al. 2010; Hondagneu-Sotelo and Pastor 2021). This thick infrastructure of community organizing, advocacy, and social justice has resulted in some exemplary benefits and protections for migrants who become justice-involved as well. As this report will highlight in the next section, conflict in the city related to the Victims Against Women Act (VAWA) policies in the basin created an impetus to form a coalition of immigrant and victims advocacy organizations that shaped policies in the region. What would become known as the LA VAWA Network.

Los Angeles was an early front runner in sanctuary city laws, particularly criminal justice initiatives that limited deportability such as Special Order 40 as far back as 1979. Special Order 40 is a police mandate implemented in 1979 by the Los Angeles Police Department (LAPD), its then Police Chief Daryl Gates and the Los Angeles City Council, preventing LAPD officers from questioning people for the sole purpose of determining their immigration status. Much like VAWA and the U-visa attempted to do federally more than a decade later, Special Order 40 was passed in an effort to encourage undocumented Angelenos to report crimes without intimidation. Today, law enforcement in the basin at all levels of the criminal justice system have given way to immigrant organizers and have created extraordinary access to justice for non-citizens. Los Angeles County Superior Court, which is also the largest trial court in the country employs 388 certified interpreters and contracts with about 290 more to serve about 86 languages.<sup>8</sup> Some states such as Indiana, do not provide even emergency protective orders in any language other than English to immediate victims of domestic violence. That being said, the U.S. Department of Justice reported in 2013 that L.A. County and the state's Judicial Council were in violation of the landmark 1964 Civil Rights Act for failing to provide language services for those who need them in civil cases. This is because more than half of the residents in Los Angeles County speak a language other than English at home, and there are about 225 identified languages in the county.

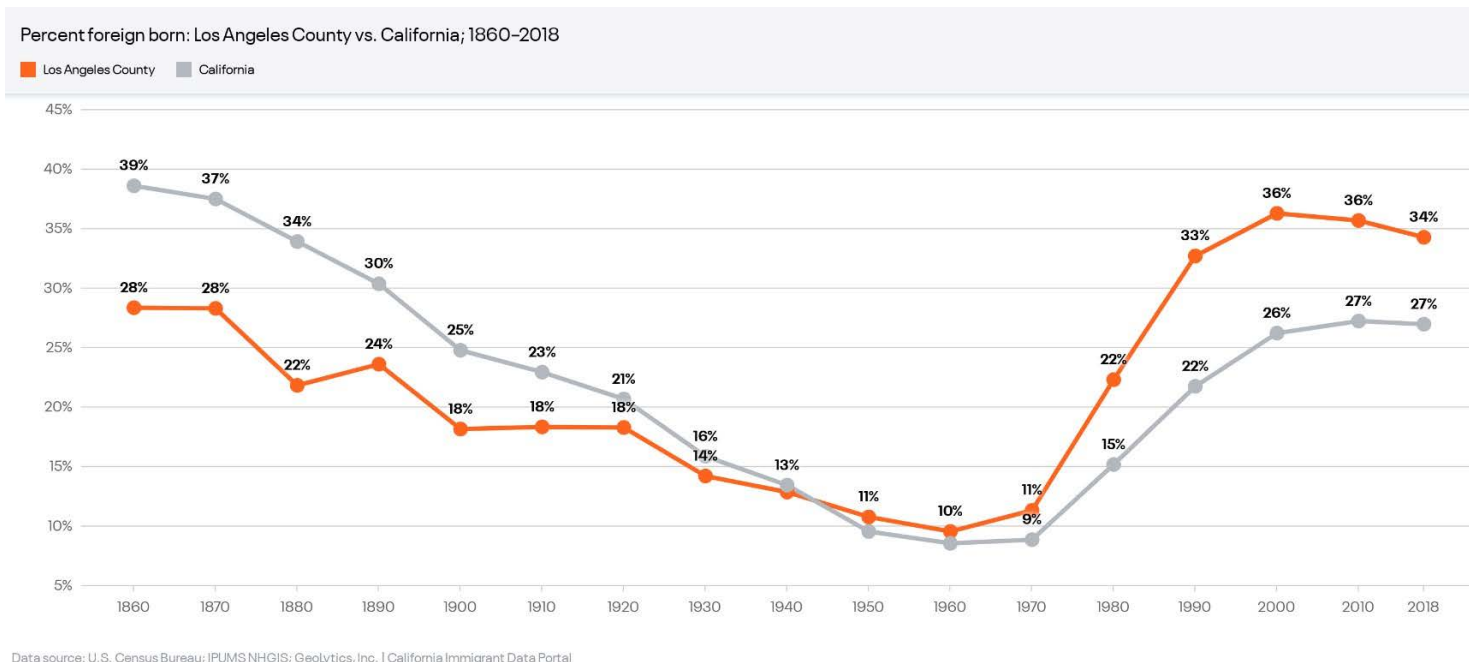


Figure 3. Source: USC Equity Research Institute, California Immigrant Data Portal

<sup>8</sup> <https://www.latimes.com/local/california/la-me-court-interpreter-20150221-story.html>

In the L.A. model, immigrant victims of crime have the right to be reasonably protected by the law and have a right to restitution. With regards to domestic violence survivors specifically, Angeleno protective orders are far broader than those provided in other jurisdictions and can be requested in languages other than English. Domestic violence is also more broadly defined in the Angeleno family code and penal code, and because of this, protective orders apply to many different domestic violence crimes as well. Eligible victims include people who are “married, cohabiting, engaged, party to a dating relationship,” but also include “children or any other person related by consanguinity or affinity with the second degree.” That means grandparents, aunts, uncles, nieces, and nephews are eligible for these protective orders as well.<sup>9</sup> Relative to other cities, immigrant Angelenos have much better access to protective orders in cases involving child abuse, elder abuse, or other forms of violence in the home due to practices such as these which ultimately address accessibility. All protective orders have some limits in terms of restraining peoples behaviors, but the typical protective order forbids contact with the protected person, forbids entering a certain proximity of the person (i.e., 150 yards), and may even limit contact with children or family.

With regards to financial assistance, immigrant victims of crime in California are eligible for the California Witness Relocation Assistance Program (Cal WRAP) and the California Victim Compensation Program (Cal VCP). Both programs are administered through the District Attorney’s own Bureau of Investigation.<sup>10</sup> Immigrant victims of crime are eligible for these benefits regardless of their own legal status, and even if the defendant has no assets in the country or will be sent to prison. Considering that California law does allow migrants to access these benefits, Los Angeles represents a particularly visible setting to see how accessible these benefits are to migrants who become eligible through criminal victimization. Recent studies show those rates are pitifully low across the board, however. In fact, only three out of ten survivors access any benefits at all in the county, regardless of nativity group. That same survey discovered two-thirds of all respondents would have wanted benefits but were unaware they were eligible for any assistance.<sup>11</sup>

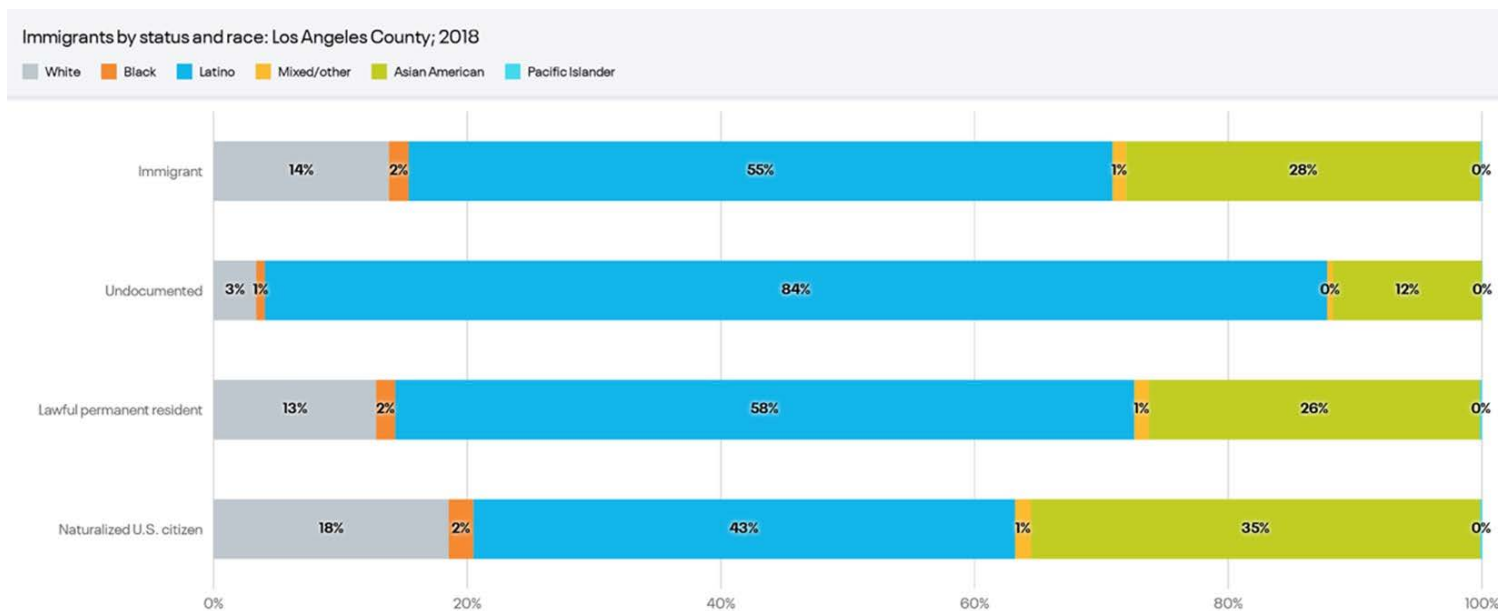
What has transpired in the L.A. model is not a case of forbearing and accessible criminal justice authorities, but more importantly a story of hard-won immigrant home-making. Pierrette Hondagneu-Sotelo writes, “The home-making paradigm moves us beyond the limitations of assimilation-oriented research...prompting us to consider how immigrants practice place-making and invest meaning and effort into the project of making claims to a new home. Assimilation researchers gauge indicators of how immigrants become like members of the host society, while trans-nationalists emphasize cross-border social circuits, but both ignore place” (Hondagneu-Sotelo 2017). Home-making pushes us to critically examine the agency and organizing of migrants in creating a more equitable Angeleno justice system that has translated to U-visa gains across the state. At the same time, although many protections and reforms for accessibility have been made in the basin to create a more immigrant friendly environment, they are still enshrined within a carceral orientated framework which has allowed for gross injustices to continue to transpire. As illustrated above, U-visa applicants are situated within a complex web of social institutions, who are often at odds or contradictory to one-another. Law enforcement certifiers, as law-enforcement authorities, require extensive cooperation from these populations in order to carry out their duties and responsibilities in their everyday work. In this policy paradox, immigrants and defendants are broadly seen as criminal “others,” and must be excluded or controlled, whereas victims and the public are seen as vulnerable subjects, and must be protected in the name of “law and order.” As the proceeding sections will illustrate how managing these labels becomes especially complex in an immigrant city like Los Angeles, and it is up to everyday Angelenos to shape how these state and federal policies play out on the frontline.

<sup>9</sup> Family Code § 6211

<sup>10</sup> California Penal Code § 14020 et seq. (see also LPM 24.10)

<sup>11</sup> <https://safeandjust.org/wp-content/uploads/February-2021-LA-Survivor-Survey.pdf>

Recent articles published by the conservative think-tank Center for Immigration Studies,<sup>12</sup> Fox News,<sup>13</sup> and anti-immigrant officials have conceptualized the above-mentioned trends as some conspiratorial cabal of Latino immigrant criminals, corrupt law enforcement, and Mafioso non-profits working in tandem to abuse the U-visa program in Democratic sanctuaries. As this report illustrates however, these trends more so illustrate the rampant racism and violence migrants face in other parts of the nation today. Far from illustrating extensive fraud on the part of immigrants and their advocates, or an improvement in judicial outcomes by USCIS officials for these vulnerable populations, these trends may illustrate the extreme ineptitude of criminal justice officials to assist immigrant survivors of crime in the vast majority of the country and the general hostility immigrant survivors face when attempting to procure services and benefits throughout the American interior. The number of eligible applicants should be far-higher, if not for the xenophobia amongst law-enforcement agencies across the U.S. There is much to be learned from the actors who are involved with this everyday work in the L.A. model, though not perfect, the frontrunner in this alleged cabal of U-visa sanctuaries.



Data source: IPUMS USA | California Immigrant Data Portal

Figure 4. Source: USC Equity Research Institute, California Immigrant Data Portal

<sup>12</sup> <https://cis.org/North/Missed-Opportunities-U-Visa-Demographics-Report>

<sup>13</sup> <https://cis.org/North/Number-Extraneous-U-Visas-May-Be-About-be-Tripled-Biden-Administration>

<sup>14</sup> <https://cis.org/Report/Visas-Victims-Look-U-Visa-Program>

<sup>15</sup> <https://www.foxnews.com/us/immigrants-preying-on-americans-with-false-claims-of-abuse-to-stay-in-us-experts-say>

## **Mapping Access and Demand in the Region**

As was introduced earlier in this report, Los Angeles is the U-visa capital of the entire United States, yet little research has gone into disaggregating this data by neighborhood or subregion and we know very little about the on the ground experiences of Angelenos seeking U-visa relief. In doing so, activists and scholars have little understanding of how these processes and access unfold at a more granular and locally scaled level. A major reason for this lack of analysis stems from the fact that there is almost no publicly available data on U-visa processes and the data that does exist is predominantly the result of Freedom of Information Act requests made by journalists. This report makes use of some of this data, specifically all certification requests received by USCIS between 2009-2014 that appear from LA county zip codes. Although this data is limited, findings in this report affirm the extensive volume of U-visa petitions coming out of Angeleno law-enforcement agencies (almost double that of previous estimates) and also illustrates a curious spatial arrangement in U-visa access that does not have significant explanatory power from traditional criminal justice scholarship. Further, a spatial analysis of this certifier data also illustrates a growth in access to I-918B certification within the region in a relatively short period of time and before the emergence of CA SB-674 (which sought to expand this access at the state level). Between 2009-2014, there was a nearly 400% increase in certifier agencies in the region, during a time where the entire county was experiencing historical downward trends in violent crime, homicides, and other qualifying criminal activity.

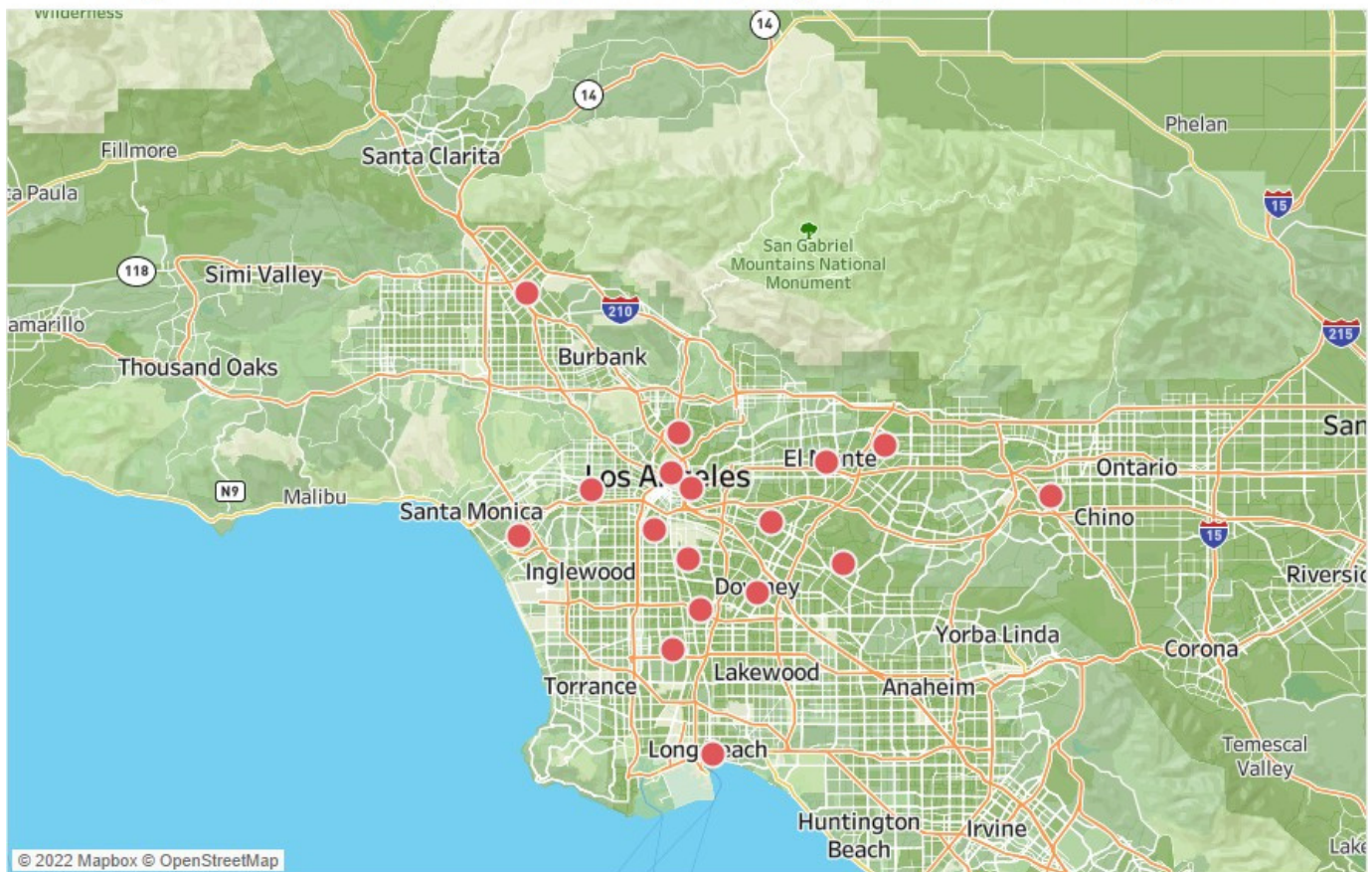
As illustrated in the previous section, this report takes seriously the organizers and city workers that make this regional exceptionalism possible. In fact, this section was informed by requests directly made by Angeleno advocates on what they would like to see in a report on Angeleno accessibility and demand. In those conversations, advocates wanted to show a complete story of who their clients were, the challenges they faced in their day-to-day lives, as well as aspects of those identities that impacted legal trajectories. Advocates also wanted a report that illustrated the quasi-spatial disparities that continue to exist in U-visa access in the region. This section aims to illustrate that L.A. is a special place, where access and demand come together due to the demographic shifts that have happened in the years leading up to VAWA organizing and resulting in structural conditions that allowed SB-674 to happen. However, it is also a place where U-visa access is still unequal, and where the underlying crime happened still has some decisive effect on one's legal trajectory. The paradox here seems to be that the most problematic stations or "rogue certifiers," are also the ones with the greatest demand and often within immigrant neighborhoods.



## Mapping Angeleno Certifiers

LA experienced a rapid increase in certifying agencies in a relatively short period of time. However, what is also notable from this data is that the agencies that were consistently certifying U-visas as early as 2009 were traditionally in low-income immigrant neighborhoods. However, by 2014, certifiers in whiter and more affluent parts of the county began to certify at rates that matched law-enforcement agencies in these immigrant ethnoburbs. In terms of regional demand and density, Central LA was the hot spot of certifications during this time frame, but by the end of 2014, police agencies in neighborhoods of Beverly Hills and Santa Monica were signing as many U-visa certifications per year as stations in communities of color like Pacoima or Compton.

### Map of LA County U-visa Certifying Agencies January 2009



Map based on Longitude (generated) and Latitude (generated). Details are shown for Zip and Law enforcement agency. Map coloring shows 2018 Hispanic or Latino Ancestry Population by Census Tract. The data is filtered on Application Received Date (MY), which keeps January 2009.

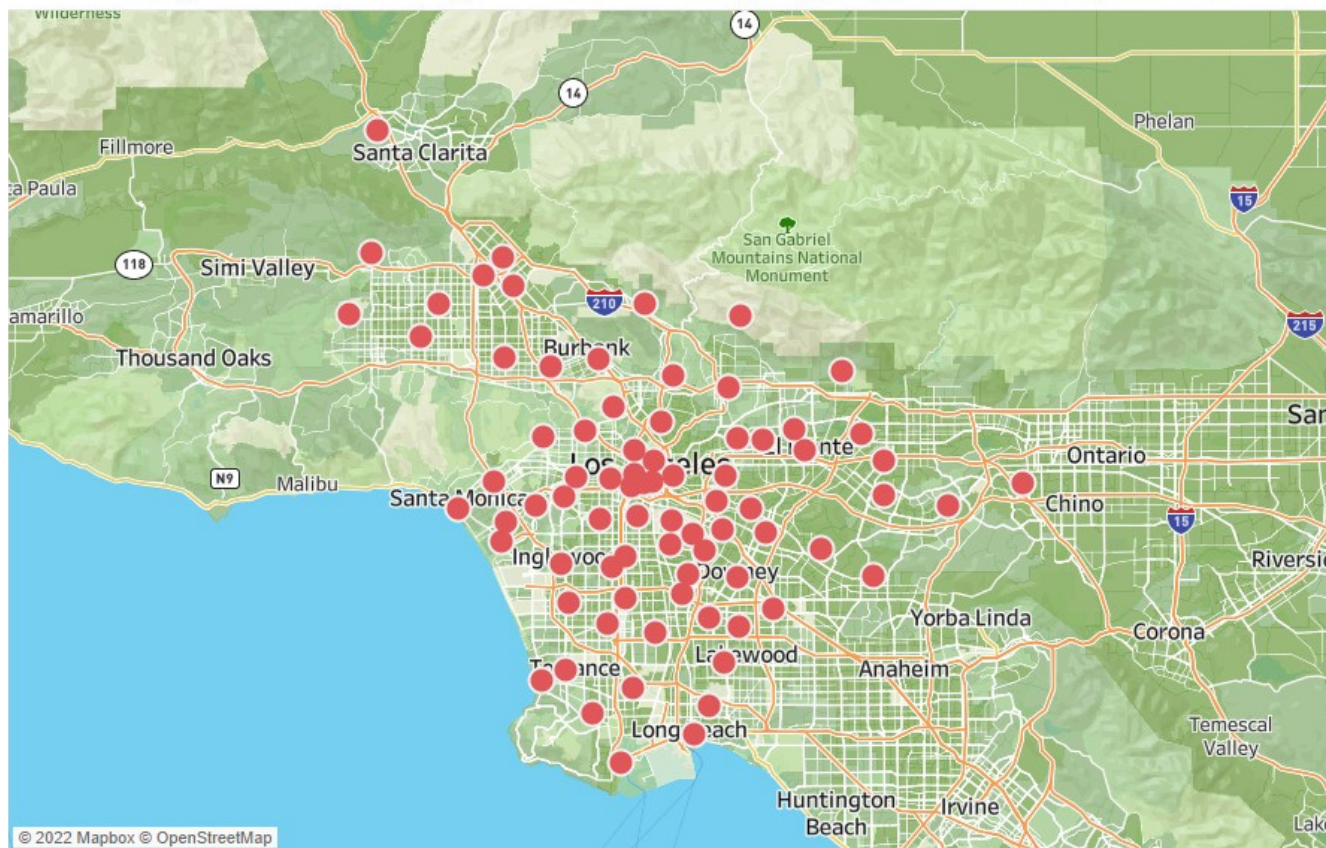
#### 2018 Hispanic or Latino Ancestry Population

- 0 to 69
- 69 to 195
- 195 to 463
- 463 to 1,240
- 1,240 to 31,500

Figure 5. Source: Reuters, U.S. Citizenship and Immigration Services U-visa FOIA Data Request



## Map of LA County U-visa Certifying Agencies May 2014



Map based on Longitude (generated) and Latitude (generated). Details are shown for Zip and Law enforcement agency. Map coloring shows 2018 Hispanic or Latino Ancestry Population by Census Tract. The data is filtered on Application Received Date (MY), which keeps 69 of 69 members.

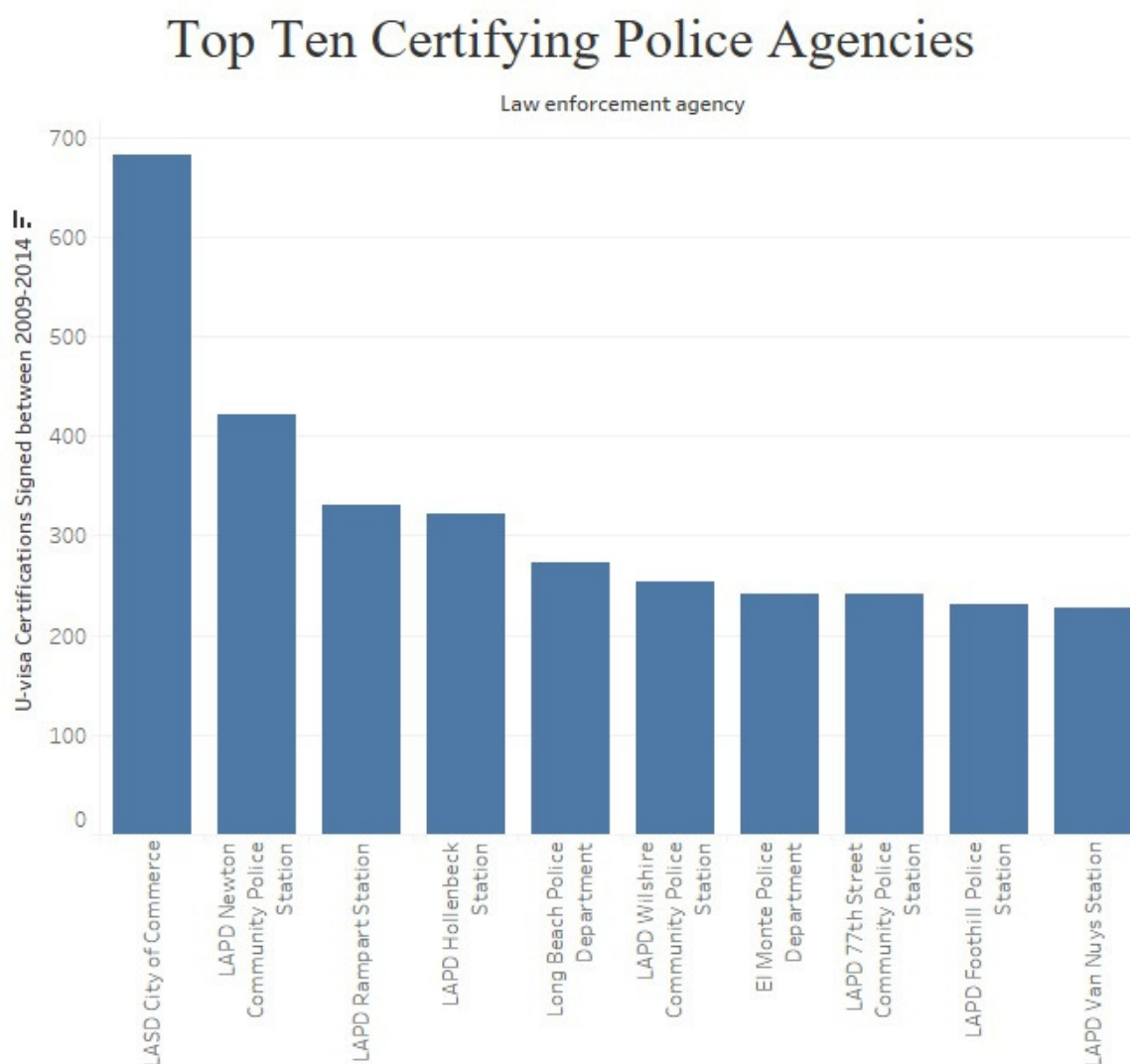
### 2018 Hispanic or Latino Ancestry Population

- 0 to 69
- 69 to 195
- 195 to 463
- 463 to 1,240
- 1,240 to 31,500

Figure 6. Source: Reuters, U.S. Citizenship and Immigration Services U-visa FOIA Data Request

Central LA represents a hot spot due to population density, concentration of certifying agencies in a small geographic locale, and also due to the broader Angeleno criminal justice infrastructure. Zip codes appearing near Central LA, including the areas surrounding downtown and city hall include offices from the District Attorney's office and the LAPD. This makes disaggregating these specific agencies difficult with the available data. However, state expenditure data tells us that the vast majority of these requests are coming from policing agencies rather than prosecutorial or children service agencies. Further, downtown patrolling of criminal activity is handled by police agencies with zip code data that could be located.

According to state data, LAPD also has an approval rate of around 80-84% on certifications between 2016-2017, however, this data is not spatially disaggregated to the different stations. Within LA county, this study found certain police agencies such as the sheriff stations in the Southeast of the basin were consistently signing more certifications than any other police stations in the county as well. However, due to being “unincorporated” from the county agencies, much of these neighborhoods need to contract for policing and patrol services with the Los Angeles Sheriff’s department, especially the East LA station. This perhaps explains some exceptionally high concentration in the region, with the LASD City of Commerce zip codes representing the greatest count of certifications within this time period. Further analysis of the neighborhood police stations (excluding unincorporated regions that were difficult to disaggregate) shows that the top ten neighborhood certifying agencies in the county are LAPD stations. Ranking from first place down: Newton Community Police Station, Rampart, Hollenbeck, Wilshire, El Monte, 77th Street, Foothill, Whittier, Van Nuys, and the Southeast Community Police Station.



Count of CA Only Data\_LA Only for each Law enforcement agency. The view is filtered on Law enforcement agency, which keeps 10 of 74 members.

Figure 7. Source: Reuters, U.S. Citizenship and Immigration Services U-visa FOIA Data Request

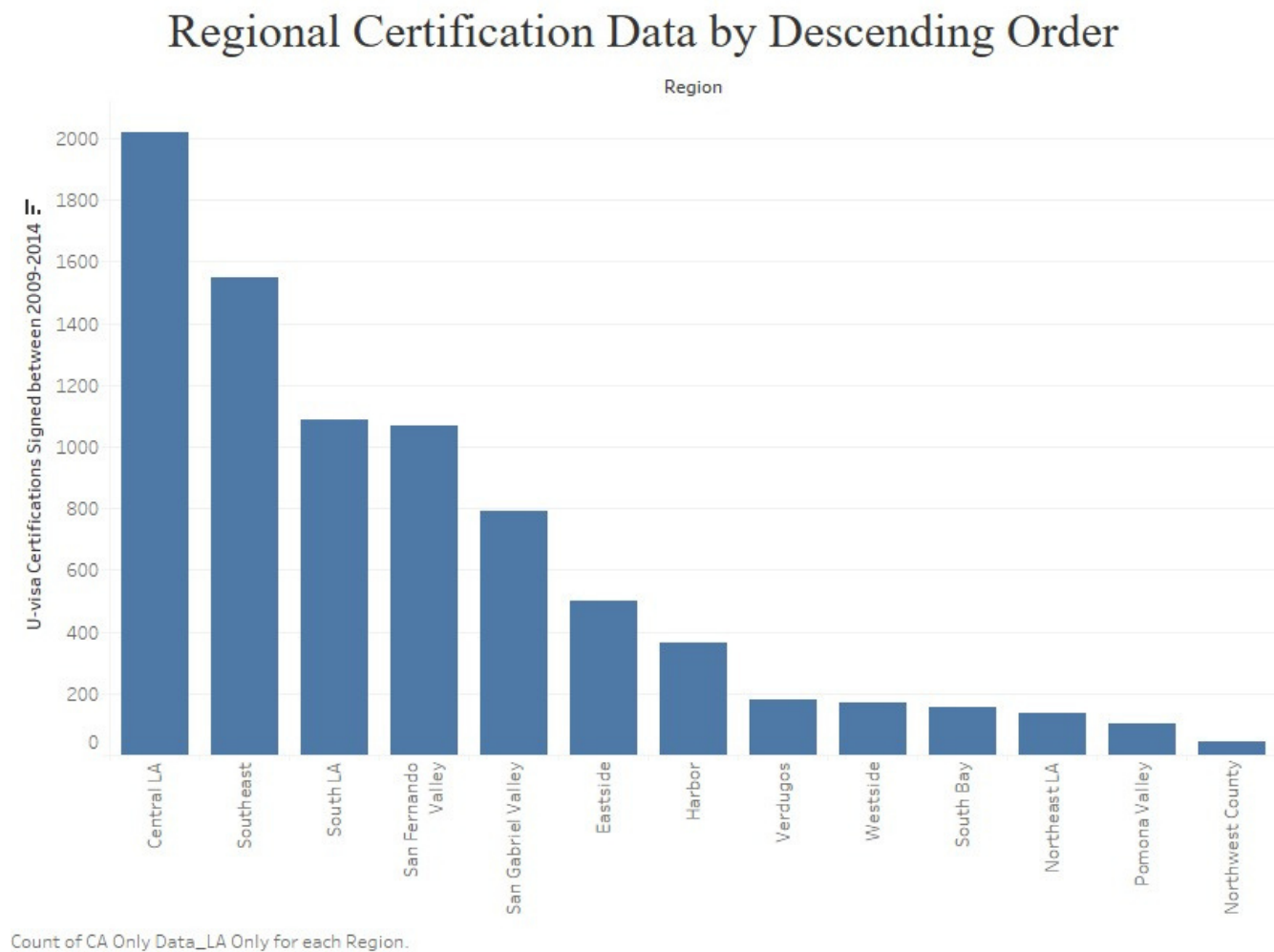


Figure 8. Source: Reuters, U.S. Citizenship and Immigration Services U-visa FOIA Data Request

This report also made use of the LA Times mapping project to develop distinct Angeleno regions from the available government file. From this data, we can see a more complicated story in demand and access that can be seen from a federal scale. By assessing this data on a year-to-year basis, we can also visualize how these trends changed over time, and across these different regions. As can be seen in these charts, some regions experienced significant increases in U-visa certifications while other regions did not. Further, by returning to the neighborhood level, we can actually see that individual police agencies experienced significant changes in a short period of time. Some stations went from signing next to zero certifications a year, to upwards of 200 by the end of the 5-year period. This may be evidence to gains by local advocates, increased awareness of the U-visa by more agencies, or other changes within these specific neighborhood agencies.

## **Client Level Data**

Unfortunately, data that was accessed for this report did not have information on individual applicants, dates following the passing of SB-674, nor did it have the names of the specific law-enforcement agencies that were signing the relevant forms. Studying the U-visa comes with exceptional ethical and methodological challenges due to the violent and exploitative nature of the crimes that make someone eligible for the U-visa in the first place. This presented some serious limitations in the analysis, as well as a promise for future research.

According to USCIS, there has been an interesting shift in gender, marital status, age, and other characteristics of applicants between these years. USCIS researchers analyzed data housed in the CLAIMS 3 electronic database for all U-visa petitioners (including both principals and derivatives) who filed petitions from 2012 through 2018. Additionally, USCIS drew a statistically valid and representative sample of U-visa principal petitions submitted between FY 2012 and 2018. USCIS conducted a manual file review and collected data from the U-visa petition, the law enforcement certification, and the supplemental evidence submitted by the petitioner. Using these data, USCIS was able to estimate the occurrence of specific petition or petitioner characteristics among all U-visa petitioners who filed between FY 2012 and 2018. According to that report, more married people are applying, applicants are typically older than they have been historically, but applicants continue to be overwhelmingly Mexican (69%) or Central-American (18.6%). About 78% had no lawful status at the time of filing and the percent of principal petitioners previously in removal, exclusion, or deportation proceedings has increased to 33% in 2018 (byproducts of the increasingly hostile legal environment for immigrants in America).

Los Angeles is without a doubt an immigrant city, and much of the unique demographics of this city certainly play a role in shaping the demand and challenges to access for its immigrant population. Major challenges brought up by legal advocates later in this report, spoke to the economic precarity their clients faced and the social disadvantages they had which translated to barriers in accessing U-visa protections. According to these legal advocates, and affirmed by other studies, some applicants often faced cultural challenges when reporting or discussing their victimhood to law-enforcement agencies in their neighborhoods. These challenges are often associated with social or gender norms, and vary with country of origin, race and ethnicity, and socioeconomic status (Villalon 2010; Menjivar and Salcido 2002). Ultimately, the interview data in the following sections help shed light on these questions from the mapping data, and seem to be the byproducts of the legal, economic, cultural, and political barriers that have barred immigrants from accessing other services in the country. Legal professionals and advocates who represent immigrant victims of crime alike, also face challenges making their clients cases and rights legible to even social workers and policing personnel.

The long-settled nature of undocumented Angelenos is also influential to the demand, as well as their rampant marginalization in society. As discussed in the introduction, the number of people filing U-visa petitions has quintupled in the last decade and it is increasingly becoming one of the most important immigration benefits in the country. Often, it is the only pathway to citizenship and protection from removal for immigrants who have resided in the U.S. for extended periods of time, but have not married a citizen or lawful-permanent resident during that time or have not secured employment that may provide some legal protections. As the U.S. further restricts protections and pathways for immigrants in the country, and if we seriously consider time as a variable in potentiality to becoming a victim to crime for individuals restricted to the bottom of the social hierarchy, it is only a matter of when, not if, a non-citizen will become a victim of crime during their daily life in the U.S.



## 02. Non-traditional Lawyering and the “U-visa Roundtable”

This section looks at the victims advocacy infrastructure which plays a major role in shaping U-visa access in the region. This infrastructure is predominantly made up of immigrant rights and victims services organizations, and refer to themselves as the “LA VAWA Network.” According to internal documents, the LA VAWA Network is a coalition of immigrant right’s advocates “who provide free or low-cost legal services to survivors of domestic violence and other crimes.” Member organizations include institutional giants like CARECEN, CHIRLA, the Immigration Center for Women and Children, and the Los Angeles Legal Aid Foundation. Further, legal service groups like the Southwestern Law School Immigration Law Clinic and the Neighborhood Legal Services of LA County also fill the ranks of the network. However, victims services groups also participate, such as the Jenesse Center, Peace over Violence, and the Los Angeles LGBT Center. Although this list is not comprehensive of all the participating members, this list does illustrate the unique breadth in advocacy groups which make up the LA VAWA Network. As discussed in the opening section of this report, the LA VAWA Network emerged during the 1990’s, with some sister chapters formed as early as the 1970’s in response to the increasing precariousness for immigrant women and crime victims in the country.

This is not the first research paper to study members of the LA VAWA Network. In this Network, non-profit based advocates face unique constraints in their day-to-day work, that has been highlighted in previous U-visa scholarship and affirmed in the findings here. As noted by previous scholars, these sorts of legal advocates are unable to provide legal redress for more complex cases or for individuals with criminal records due to case complexity which interferes in volume-based advocacy (Lakhani 2019; Ghalli 2020). Case complexity impacts advocates ability to provide volume-based advocacy for low-income Angelenos, which is incentivized by grants and philanthropy groups who also influence what types of cases these organizations can take on. Applicants with criminal histories, “unclean cases” or complex legal issues typically fall outside of the purview for these non-profits (Lakhani 2013, 2014). Much of this literature, however, is centered on the attorney-client relationship, rather than the social movement organizing that also shapes U-visa processes and accessibility. In doing so, we as scholars and advocates fail to understand how these advocacy strategies and side-to-side relationships are structured by immigration law and shaped by organizing. Further, we also ignore the importance of place. In other words, this is the first report that has taken the Angeleno context into account, as well as studied the organizing activities of the LA VAWA Network, rather than solely their internal advocacy processes.

Shortly after the U-visa was created, law-enforcement agencies in the region did not have a standardized approach to U-visa certifications. Carla, a VAWA Network legal director offered that acquiring a U-visa certification in LA county once “felt like the Wild West. Like some places could flat out deny certifications because that wasn’t their thing. Now imagine, if I had a client who got raped in Huntington Park and all because that station didn’t believe in providing immigration benefits, my client wouldn’t have a shot, but things would be different for that same client if the rape happened up the street in South Gate?” As highlighted here, there existed widespread disparities and uncertainty in administrative processes in the county, and advocates could not so easily rely on law-enforcement to assist their clients. This incentivized advocates to critically engage with law-enforcement agencies in the region to standardize the law and to push agencies to create consistency. However, changes in the early 2000’s were still lack luster. In 2008, the Los Angeles Police Department was pushed to ascertain how to best implement the U-visa program within established departmental policies and procedures. That internal research was carried out by detectives of the Robbery-Homicide division, and resulted in Special Order 42, dated November 6, 2008.



Far from advancing accessibility, this order limited certifications to “open and ongoing” cases only, which is a far stricter requirement than federal jurisprudence which outlines that the U-visa can apply to criminal activity with no applicable statute of limitations.

Such lack luster reforms ultimately prompted the LA VAWA Network to continue to meet, continue to strategize, and continue to create avenues to improve accessibility for their communities and their clients. In addition to creating the LA VAWA Network, advocacy organizers in the L.A. model also pioneered the creation of the “U-visa Roundtable” around 2009, shortly after the passing of Special Order 42. The U-visa roundtable was composed of members from the LA VAWA Network, plus the five major certifying agencies in Los Angeles, and other organizations such as the Mexican Consulate. The five major certifying agencies in the county are the Los Angeles Police Department, the Los Angeles Sheriff’s Department, the Los Angeles City and District Attorney’s office, as well as the Department of Children and Family Services. In this institutional landscape, relationships with the Mexican consulate and other non-law-enforcement agencies also serve as important resources for immigrant applicants and their representatives, and these organizations have also participated at the roundtable. Ultimately, the roundtable serves as a non-traditional and cross-sectoral venue for these organizations to discuss and deliberate U-visa policies in the county.

Much of the existing literature on U-visa certifications and the LA VAWA Network was also done prior to the creation of state laws such as CA SB 674. As discussed earlier, CA SB 674 gave some teeth to the LA VAWA Network and the U-visa Roundtable by providing a framework for advocates to sue Angeleno certifiers for violating U-visa policies, so law-enforcement agencies are incentivized to work with advocates to abide by the law. Thereby limiting their organizations exposure to civil lawsuits and increasing their organizations efficiency in processing U-visa requests.

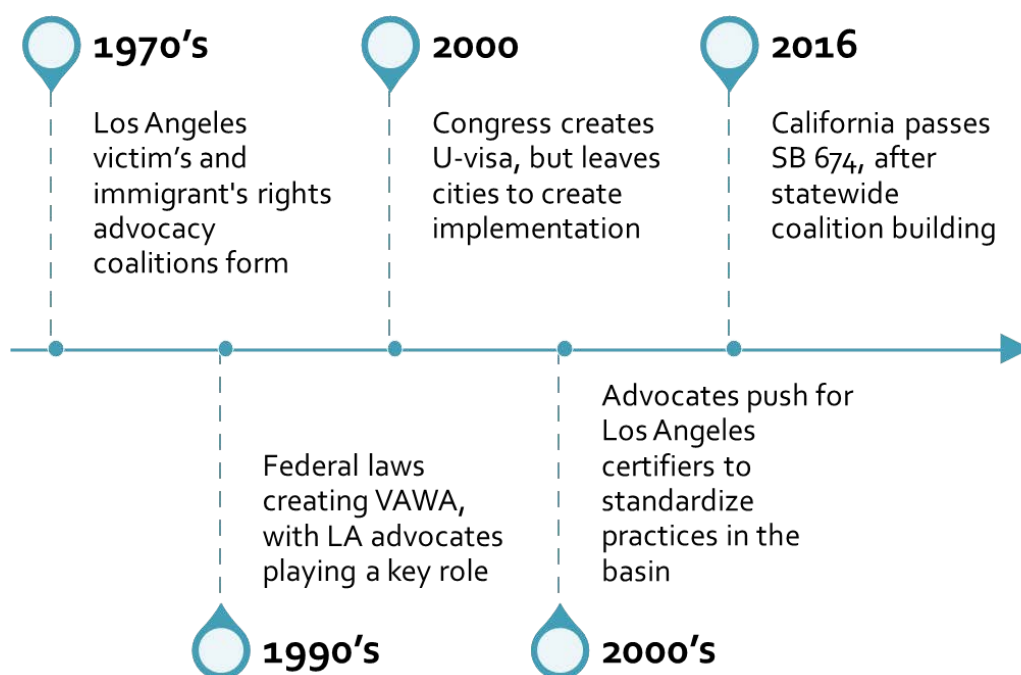


Figure 9. Key U-visa Legislation Timeline

CA SB 674 mandates LEA's certify or deny applications within 90 days if the applicant is outside of detention and 14 days if they are in detention. At the same time, "keeping things moving" and "not spinning your wheels" are a priority for both parties, so advocates and law-enforcement lean on other non-traditional avenues to keep the U-visa bureaucracy moving along. With the opportunity to litigate on behalf of individual cases through CA SB 674, legal advocates are in a position to push law-enforcement agencies to comply with the law through the CA Department of Justice. At the roundtable, advocates described the DOJ representative positively noting, they are "glad the CA DOJ sends someone down because they are there to remind the LEA's of the law, so they almost serve as this neutral arbiter in some of these situations regarding compliance on the part of LEA's." At the roundtable, law-enforcement and local advocates work together (and sometimes against one another) to advance distinct goals related to the U-visa. Law-enforcement ultimately participate at the roundtable and hope to 1) serve their organizations first and foremost, 2) advance efficiency in these legal matters, and 3) process these requests on a "case-by-case" basis. Distinct from these patterns, VAWA Network members 1) serve "victims and their communities", 2) advance accessibility to U-visas, and 3) advocate for cases as "classes" rather than as individuals.

***"You probably hear that a lot you know, like we as attorneys spend a lot of time spinning our wheels trying to get a certification from a particular place...and I have to ask myself when is it not worth it anymore?" - Alyssa, LA VAWA Network, Legal Director***

However, this system does not operate seamlessly, and significant challenges remain for advocates and their clients. Jessica, a staff attorney at a VAWA Network organization said, "The thing is, even with the law on the books, even with the network and the roundtable, some LEA's still do unlawful things every day. Like some places try to charge our clients for requesting certification, upwards of \$500, even if the California legislature compensates these agencies for this U-visa work. Or like other places require some form of State ID. In the case of our clients, who are seriously materially and economically deprived, these things become huge barriers to access that are also potentially illegal under state law but it's so hard to change or make movement on those things." Here, Jessica highlights the organizational disparities that still

exist in Los Angeles despite "the law on the books," also noting how individual stations are still given outsized authority in major and minutiae U-visa dealings.

***"Don't get me wrong, things really have changed here because of SB 674, but I'd say SB 674 just made the bigger problems smaller, it didn't necessarily make them all go away here. For example, before the law passed things really felt like the Wild West. Like some places could flat out deny certifications because that wasn't their thing. Now imagine, if I had a client who got raped in Huntington Park and all because that station didn't believe in providing immigration benefits, my client wouldn't have a shot, but things would be different for that same client if the rape happened up the street in South Gate?" - Carla, LA VAWA Network, Legal Director***

Daisy, a VAWA network staff attorney described other challenges of her work, “my biggest priority as an advocate is to get the certification as quickly as possible you know. So sometimes, you just go along with these arbitrary requests because it’s not worth the fight and because you just want to get your clients case expedited in any way possible.” According to Daisy, she has encountered “both very helpful and very stubborn certifiers” who sometimes “are really courteous you know, will maybe make a correction on a mistake or fill in something I missed.” but has also encountered certifiers “who claim my client didn’t suffer substantially you know, like that’s not your place to determine that as a certifier here, that’s my job as the advocate, and up to USCIS.” Legal advocates, according to those interviewed, frequently showed frustrations with “rogue certifiers” who seemed to make up their own rules, and struggled to find ways to bring them into compliance or tried to work around those problematic stations. Alyssa a legal director in the network explained, “you probably hear that a lot you know, like we as attorneys spend a lot of time spinning our wheels trying to get a certification from a particular place...and I have to ask myself when is it not worth it anymore?”

Alyssa later explained, “and that’s the problem, so let’s say you know you have a friendly deputy or detective at one station who you work really well with, and gets you certifications done fairly efficiently and without any problems. Well that doesn’t really carry over to the next station and he can’t do anything to help you there, so that’s why we have to go to folks who are really high up, because they have oversight over more people you know what I mean?” Here, Alyssa describes the administrative uncertainties that structure the Angeleno U-visa landscape, and how this informs strategies and motivations advocates have to seek out relationships with state actors; especially those perceived to have authoritative power within LEA’s but not necessarily certifying authority. This means advocates often employ more trickledown-reform strategies with certifying agencies as well as relationship building with higher ups. However, administrative turnover and electoral cycles in law-enforcement agencies also emerged as serious challenges to these forms of organizing.

An intersectional and abolitionist framework also underpins the legal advocates conceptualization of their U-visa advocacy strategies, and it is clear that law-enforcement are perceived as antagonistic to the holistic well-being of their clients. Carla, a legal director told me some advocates are “tired of having to deal with law-enforcement in this way, and it’s only on these cases that we have to. So since we are forced to have to deal with this certification process, and Congress definitely isn’t going to budge on that, then the least we can do is expand the list of eligible certifiers to include people who aren’t so explicitly xenophobic and racist. Why not have shelter staff, or other folks like that be able to advocate for victims right?”

Jessica, one of the staff attorneys introduced above further explained the tensions of having to work so closely with LEA’s on these cases, saying “sometimes I do think, like perhaps we are in some ways contributing to the very criminalization that harms our communities and our clients. But that’s the world we live in as U-visa advocates if we want to help our clients. I also think by inviting them to the table, things can’t get any worse right?” Martha, another VAWA Network legal director explained her thoughts on this tension and frustrations with having to work with LEA’s. “And you know what, who cares right? Like what if my client doesn’t want her abuser deported? I know it might sound shocking, but what if she still wants him involved in the lives of her children? I’m just saying that what we really need is a system of restorative justice, one that helps people and families, and doesn’t simply punish them. And I know as a U-visa advocate this is hard to think about, because so much of our work is embedded in this criminal justice infrastructure, like explicitly funded partnerships across LEA’s and sister organizations. But that means we need to think harder and imagine a system that really works for our clients, and that involves thinking outside of that box.”

In summation, four key strategies emerged for advancing U-visa access in the L.A. model from the interviews with legal advocates which will be summarized below: 1. Individual advocacy, 2. Organizing, 3. Legislation, and 4. Litigation. Although legal advocates have the option to litigate these sorts of issues through CA SB 674, this strategy is perceived as much too costly and time consuming. Given the legal and organizational constraints described above, LA VAWA Network attorney's instead turn to strategies of non-traditional lawyering to expand access to U-visas in the county and to bring "rogue certifiers" into compliance. As seen in other lawyer-based advocacy organizations, "the traditional legal approach has also been criticized for its regressive nature: lawsuits are filed to remedy past wrongs, not prevent future wrongdoing. A victory in a lawsuit is at best a short-term solution to a systemic problem" (Cummins and Eagly 2001). Sometimes, this means seeking alternative venues for advocacy as well as strategies for trickle-down-reform with higher-ups in law-enforcement agencies. Although SB 674 in theory would improve access to U-visas for any survivor of crime in the state through litigation, extensive challenges remain. What the law does provide however is some leverage for organizing through the VAWA Network and the U-visa roundtable, as well as some standardization in bureaucratic processes.

**1. Individual advocacy:** Most of the work advocates do in the LA basin revolves around "volume-based advocacy." The large share of U-visa requests in the county comes from "low-bono" non-profits who are funded by philanthropy, state grants, and support from other agencies as well. Most of these organizations provide free services if the applicant qualifies as low-income and meets other grant requirements or covered through CDSS grants. Some organizations also use sliding scales based on income and household size. In addition to U-visa processes, some organizations in the network also provide emergency shelter services, transitional living programs, mental health counseling, case management, vocational education programs, and direct legal services in family law. Through this work, advocates in the region directly help U-visa applicants and other immigrant victims of crime access crucial resources and services.

**2. Organizing:** Angeleno advocates formed coalitions with institutional allies while also using their leverage to bring certifiers to the table. Through the LA VAWA Network, members meet bimonthly to strategize best practices, challenges they are facing with certifiers, and other key issues regarding U-visas in the LA basin. Through the U-visa roundtable, advocates bring certifiers to the table to chat about problems they are facing with the hopes that helpful higher-ups can create change within their organizations. Often times, this means using personal networks with city

*"And you know what, who cares right? Like what if my client doesn't want her abuser deported? I know it might sound shocking, but what if she still wants him involved in the lives of her children? I'm just saying that what we really need is a system of restorative justice, one that helps people and families, and doesn't simply punish them. And I know as a U-visa advocate this is hard to think about, because so much of our work is embedded in this criminal justice infrastructure, like explicitly funded partnerships across LEA's and sister chapters. But that means we need to think harder and imagine a system that really works for our clients, and that involves thinking outside that box." - Martha, LA VAWA Network, Legal Director*

officials and authorities to find who the right person to talk to is, and other times it means serving as an outside counsel to these agencies on U-visa matters. Organizing is an ongoing process for these advocates, despite not being compensated for this work, nor explicitly directed to their work in providing individual advocacy.

**3. Legislation:** Challenges and opportunities presented from organizing led to concerted lobbying by advocates to produce legislation that would remedy the issues they were seeing across their organizations. First, local Angeleno policies were a target for reforms, but even this strategy did not seem enough for advocates. Organizing and legislative change at the local level, combined with coalition building at the state level, prompted advocates to lobby for statewide change to remedy geographic disparities within the state of California. However, challenges still remain despite the passing of these laws, illustrating the exorbitant power and discretionary authority provided to “rogue certifiers” under federal law.

**4. Litigation:** With the opportunity to litigate on behalf of individual cases through CA SB 674, legal advocates are in a position to push law-enforcement agencies to comply with the law through the CA Department of Justice. This is contrary to the jurisprudence of the U-visa legislation established by congress, which sought to improve cooperation between immigrant communities and law-enforcement officials in the prosecution or investigation of criminal activity. Instead, legal advocates and law-enforcement agencies in the region have become enmeshed due to California state law which penalized non-compliance and non-expeditious decision making in these U-visa processes. However, this strategy is seen as a last resort, rather than as a tool for widespread or structural change. This speaks to the limits of the state law, and could be a possible avenue for U-visa reforms at the state level.



### 03. Angeleno Law-Enforcement and I-918B Certifications

Observing how law-enforcement interact with U-visa applicants and how they carry out their quotidian labor responsibilities as certifiers are matters protected by law. In other words, it is impossible to partake in participant-observation of these events specifically because of the bureaucratic veil which shroud these decisions from the public-eye. Therefore, in an effort to discover both the logistical and conceptual frameworks which govern these legal processes for these Angeleno certifiers, this report made use of both in-depth and informational interviews. Preliminary interviews served more of an informational purpose, illuminating the procedural and organizational realities of processing U-visa requests with Angeleno law-enforcement agencies. Prior to those interviews, a doctrinal approach was used to analyze internal policies and legal codes which described what these things ought to look like, but informational interviews illustrated a stark divergence from these descriptions. They also confirmed the importance of in-depth interviews to understand the distinct categorization systems these actors utilize in their U-visa decision-making processes.

In these transcripts, a general presumption of helpfulness emerged among interviews with certifiers, indicating a support of CA SB 674's "rebuttable presumption." Relative to other certifying agencies across the United States, Angeleno certifiers argue they have a "low-bar" for approving a U-visa certification. In the L.A. model, immigrants who were cooperative with the police are seen as helpful towards the goals of law-enforcement. Among the law-enforcement interviews, there is a general presumption of helpfulness from applicants requesting the certification, but this is constructed against "un-cooperative" behaviors. There is also a presumption of unhelpfulness if an applicant or their advocate is unresponsive, hard-to-reach, or if they fail to cooperate with any court procedures. Helpfulness is also about "keeping things efficient" for those making and distributing decisions on certifications. Prosecutorial informants discussed "basic things" like cooperating with interviews or



#### *Bureaucratic Cooperation*

LEA's face distinct challenges in meeting compliance with CA SB 674 and are often at odds with legal advocates.



Debating cooperation



Discovery issues



Legally complex cases



Potentially unlawful requests



Non-certifier duties



Administrative uncertainty

even just calling the police as making individuals eligible for certification with their office. At the same time, there seems to be a reliance on “relevant facts,” so interactions with the police and moralizing assessments of these encounters are part and parcel to these decisions. Often times, certifiers may simply “differ to what was written on the police report” or “go off of what the police report said.” Based on existing studies, these accounts are the exception rather than the norm across the country, and as was discussed above, receiving an approved certification is often illustrated as the most difficult part of the entire U-visa process.

That being said, this report also found examples of certifiers using certifying processes as a means to coerce applicants towards cooperating with their office. This occurs whenever certifiers use their authority or positioning to elicit desired behaviors or outcomes from the applicant. Sometimes, this may be through expectations, such as expecting that “victims” do not interact with “defendants” (despite the heavy associations of family units and households being involved in these cases). Certifiers also expect immigrants to cooperate with the police, with no regard to the migratory impacts of these encounters for kin or associates, and they expect that victims process their cases either alone or through a recognized LA VAWA Network organization. The certification here seems to be a carrot, but certifiers also have a stick to achieve desired behavior from applicants and their representatives. Prosecutors know “...down the road we can basically pull our certification if that victim becomes uncooperative with our office. I can actually notify immigration, or our office can notify them to tell them that the victim has stopped cooperating and that we are pulling our certification.” Lastly, law-enforcement interviewees explicitly detailed how “each office and agency deals with these things in their own way,” illustrating the flexibility and lack of standardization that exists for different certifying agencies in the county. Even among law-enforcement interviews, serious flaws emerged in how state policies were being implemented at the local level which frustrated these actors and U-visa advocates.

There were distinct experiences among the five certifying agencies listed in the previous section. Overall, legal advocates found the Department of Children and Family Services (DCFS) and the Los Angeles City Attorney’s office to be the most cooperative agencies. As mentioned in the previous section, there were some “rogue certifiers” in the Los Angeles Police Department and the Los Angeles Sheriff’s Department who advocates perceived as outright hostile to their clients. In fact, legal advocates often reprimanded these problematic stations, both in private interviews as well as at the U-visa roundtable where the higherups from those organizations were present.

***“That’s the whole thing, I mean, we want to help. We want to help victims get any services that are out there and available you know. So, you know, if this is out there and available to them you know...I think great. I don’t see the problem, and you know, it’s almost like a win-win for both the prosecution and the victim in this matter...For us, you know it’s very simple. We just look at, does it qualify, number one, and then pretty much was the victim cooperative. And like I said, by cooperative I mean as long as she’s not uncooperative. ”- Morgan, Certifier, Los Angeles Prosecutor***

Although both prosecutors and detectives are eligible and tasked with signing off on U-visa requests, and although they are both law-enforcement officers, they are positionally distinct from one another in the criminal justice system and these distinctions also gave rise to disparate relations with advocates. For example, a crime victim may call a police station to report a crime, and a detective may be tasked with the investigation of that incident, but their interactions with the victim may be limited to these initial events. Outside of the writing and filing of the report, or perhaps an appearance in court, officers on the beat or detectives seemed to have fairly limited interactions with applicants. Detectives also seemed to consider U-visas as desk work, and their primary job to be “fighting crime” as an officer on the beat. Prosecutors, however, have a much more lingering authority in these legal trajectories due to the longevity of prosecuting an open case in court, and the varying opportunities they have in influencing these legal processes. Some prosecutors in the county do not prosecute cases either, and instead serve as a community contact, liaison, or have duties strictly pertaining to U-visa responsibilities (i.e. issues of evidence discovery, logistical challenges of tracking down stations). With regards to DCFS, there were also challenges with acquiring a certification from their agency that was unique from the other agencies. Due to the sensitive nature of cases involving children, advocates highlighted significant bureaucratic barriers that made requesting a DCFS I-918B supplement as a course of last resorts and only for special circumstances.

Legal advocates also showed frustration arguing on behalf of cases which they understood as “unresponsive” rather than un-cooperative. Due to the nature of domestic violence cases making up a large share of their caseloads, legal advocates articulated that “LEA’s often aren’t sensitive to the complex nature of these cases. So often I’ll have a client who had to flee her home because she lived with the abuser you know, so of course she’s not going to be able to pick up her only phone here in the country.” This struggle over advocating for “unresponsive” clients, and other clients who had complex cooperation issues were also affirmed in my observations. At the roundtable however, participating LEA’s affirmed that these considerations are thought through in their written policies. However, legal advocates consistently noted how this fuzzy cooperation issue could even be “used by law-enforcement to outright deny certifications they don’t want to do,” illustrating the tension and perceived antagonism from LEA’s. Further, legal advocates often stated that LEA’s were uncooperative in aiding them and their clients in the pursuit of supplementary materials to the U-visa application, which includes copies of police reports, court records, and evidence of harm.

Juxtaposed to these descriptions, LEA interviews with prosecutorial and policing agencies seemed to conceptualize and codify “cooperation” from a distinct position from legal advocates.

***“The thing is, even with the law on the books, even with the network and the roundtable, some LEA’s still do unlawful things every day. Like some places want to charge our clients for requesting certification, upwards of \$500, even if the California legislature compensates these agencies for this U-visa work. Or like other places illegally request some form of State ID. In the case of our clients, who are seriously materially and economically deprived, these things become huge barriers to access that are also potentially illegal under state law but it’s so hard to change or make movement on those things.” -Jessica, LA VAWA Network, Staff Attorney***

Cooperation for LEA's means cooperating with their office, as well as other agencies and is framed against "uncooperative" behaviors. Morgan, a certifying prosecutor in the county explained their philosophy on certifications noting, "For us, you know it's very simple. We just look at, does it qualify, number one, and then pretty much was the victim cooperative. And like I said, by cooperative I mean as long as she's not uncooperative. And the couple that I have done, have been open cases, and we pretty much don't even have much contact with the victim you know, except when we reached out for an interview you know, and the victim was cooperative in the interview. And based it mostly off the police report really, like was she cooperative with the police or you know, like I said our contact with the victim is very limited until we go to trial."

Similar to advocates, "keeping things efficient" and ensuring compliance with the process were quintessential to LEA's. Kim, another certifying prosecutor explained "we go through the forms and evidence...In some cases, I just defer to what was written or I will send back our own version if there needs to be corrections made, and we also check for helpfulness, like did they cooperate with police, were they the ones who reported the crime, did they show up for our interviews, basic things like that. Once we approve and sign, it gets sent back to the records department who works on mailing things back. We try to get things back to people within two weeks." LEA's were also tasked with duties that went beyond certifying, such as processing discovery requests, on the beat police detective work, or other administrative duties that extended well beyond certifying requests. Compared to legal advocates, work on certifications seems to form but a small part of their respective day to day duties.

Acquiring a certification can be seen as a promise to be a cooperative victim during court procedures and can be wielded as a tool to ensure and incentivize that cooperation. Prosecutors also face complex "discovery obligations" which may further limit certification opportunities. *Brady v. Maryland* mandates that potentially exculpatory evidence be provided to the defense, and a request for a visa certification has been traditionally treated as such evidence.<sup>16</sup> These discovery obligations means prosecutors must provide all material evidence which may be helpful for the defendants, as typically pertaining to guilt, witness impeachment, or punishment issues. A request for U-visa certification by a victim or the victim's representative during the pendency of a case is considered discoverable pursuant to the district attorney's constitutional obligations and the penal code.<sup>17</sup> That means if a request for certification is made during the pendency of the case to the prosecuting agency, this information must be disclosed to the defense. Any decision regarding the request for certification must also be disclosed to the court. Together, these processes create a dramatic disincentive for advocates to petition prosecutors for certifications in the first-place.

***"We go through the forms and evidence...In some cases, I just defer to what was written or I will send back our own version if there needs to be corrections made, and we also check for helpfulness, like did they cooperate with police, were they the ones who reported the crime, did they show up for our interviews, basic things like that. Once we approve and sign, it gets sent back to the records department who works on mailing things back. We try to get things back to people within two weeks." – Kim, U-visa Coordinator, Los Angeles Police Department***

<sup>16</sup> *Brady v. Maryland* (1963), 373 U.S. 83, 87 [ 83 S.Ct. 1194, 10 L.Ed.2d 215].

<sup>17</sup> California Penal Code section 1054.1(e).

Further, LEA informants categorize their work as serving their respective agencies, and think about the certification process as a means to an end rather than an end in itself. Morgan went on to explain, “that’s the whole thing, I mean, we want to help. We want to help victims get any services that are out there and available you know. So, you know, if this is out there and available to them you know...I think great. I don’t see the problem, and you know, it’s almost like a win-win for both the prosecution and the victim in this matter.” LEA informants however, also understood that the certification was a carrot, and retracting that certification served as a stick to coerce applicants into desired behaviors. The above-mentioned prosecutor later explained, “you know, I’m just gonna look at our records, you know was our coordinator able to get a hold of the victim, you know did the victim hang up on them, like was she cooperative with the police. You know, like if I got a request but the police report says the victim did not want to cooperate with the investigation, in that instance I would probably or possibly deny it and try to follow up...Because you know, we just want to get it moving along, so there’s nothing for me to do but certify, and I know down the road we can basically pull our certification if that victim becomes uncooperative with our office.” Much of this discourse is in direct opposition to legal advocates descriptions of responsiveness rather than cooperation.

Lastly, the L.A. model is also home to the largest prosecutorial district in the entire United States, representing a jurisdiction of some ten million people. In 2020, after reckoning with its punitive legal history, Angelenos moved to unseat District Attorney Jackie Lacey, the first Black woman to ever hold this position, for former Chief of LAPD and District Attorney of San Francisco George Gascon, in one of the most highly contested local prosecutor elections of all time. Millions of everyday Angelenos participated in this unprecedented change online and in person, despite occurring during a global health crisis. George Gascon ultimately won on what was presented as a reformist ticket, to “right the wrongs” committed by the criminal justice system in Los Angeles. However, interviews with advocates show that dramatic shifts in criminal justice power structures significantly disrupt long-settled relationship building efforts. This was also consistent with a recent change in the Los Angeles Sheriff’s department. One advocate explained to me, “the biggest problem is when there’s a change in administration, like you spend all of this time building this relationship with people at the very top, only to have those people change when there’s an election or something, like was the case with Villanueva. So we kind of had to start completely over when the new Sheriff arrived, with a new team, and all of that. And that all takes a lot of work, because when they leave the department you are kind of back to square one.”

In summation, some serious flaws exist in this legal framework regarding certifying agencies in the county. Although organizing and legislation, coupled with accessible criminal justice authorities, have resulted in a favorable environment for U-visa applicants, the system clearly does not work for some survivors. Ultimately, this report found 5 major issues impeding U-visa certification equity in the region related to: 1. Debating cooperation, 2. Legally complex cases, 3. Unlawful requests, 4. Non-certifier duties, and 5. Administrative uncertainty.



**1. Debating Cooperation:** Responsiveness, helpfulness, and cooperation are quintessential to U-visa implementation in this institutional landscape, but are seemingly under debate in this regime. Meaning they are both legally and socially fuzzy concepts that can be wielded disparately across contexts. There existed rampant tension between legal advocates and LEA's on what counted as cooperative and uncooperative behaviors.

**2. Legally Complex Cases:** Due to processing times and logistical challenges, legal advocates in the region struggled to acquire certifications with legally complex cases. Often times, these complexities were related to cooperation issues, cases with criminal histories, and cases involving derivative applicants. Legal advocates also voiced challenges on cases where substantial harm was under debate.

**3. Unlawful Requests:** According to legal advocates, some certifiers in the region create policies in their stations that serve as barriers to U-visas and may even be illegal under California law. However, due to the challenges of litigation and due to the discretionary authority provided to these authorities under federal law, there is little advocates or concerned law-enforcement can do without organizational support from the relevant agency. These unlawful requests come up as requests for payment, identification documents, or even logistics requests (such as having applicants pick up and drop off documents in person, despite risks to Covid-19).

**4. Non-Certifier Duties:** LEA's were also tasked with duties that went beyond certifying, such as processing discovery requests, on the beat police detective work, or other administrative duties that extended well beyond certifying requests. Compared to legal advocates, work on certifications forms but a small part of their respective duties. Discovery requests also emerged as a prosecutor specific challenge, and created distinct challenges for working on U-visa requests.

**5. Administrative Uncertainty:** This highlights how electoral shifts at the top could have serious ramifications on advocates who use organizing as a significant pillar in advancing accessibility in the region. Often turn-over from these elections but also internal movement shifts the bureaucratic structures in the county that makes seeking U-visas difficult.

## 04. Improving the L.A. Model

One of the principal goals of this report was to critically assess U-visa policies and implementation in the basin. As was illustrated in the body of this report, to continue being the U-visa capital of the country, what Los Angeles county needs most is stronger social movements and critical shifts in law-enforcement. But how do we make those things happen?

In the section on “Non-Traditional Lawyering and the U-visa Roundtable,” legal advocates discussed the significant challenges U-visa organizations face in providing services and accessing certifications for clients. Although philanthropy groups and grants provide significant funding for direct legal services, which certainly are an extremely valuable focus of funds, this funding is rarely provided for organizing purposes. Much of the relationship-building and social movement networking that goes on in the basin happens without compensation, despite this work being extremely critical to structural change in the region. Organizing serves as a means for advocates to collaborate on case referrals, share resources and strategies, connect to certifiers, and even opens opportunities for legislative lobbying. Additional funding must also be allocated towards “legally complex cases,” and towards the most disadvantaged applicants in the entire system; those with criminal histories. Advocates generally want to take these cases on, but extra-organizational constraints limit their opportunities to do so. Further, by representing these cases, advocates also expand legal pathways for these applicants as a class due to increased experiences on these cases and extended discussions with certifiers on their eligibility and needs.

Next, we must continue to hold law-enforcement accountable to California law, as well as to their commitments to public safety. As was discussed in the section on “Angeleno law-enforcement I-918B Certifications,” rogue certifiers and agencies in the region continue to bolster xenophobic practices despite the law on the books. Further, law-enforcement in the region do not seem to view the certification process as critical to their “crime-fighting responsibilities.” In a moment where the Angeleno criminal justice system is facing a modern moral and political crisis, there is perhaps no greater duty for law-enforcement than to provide these much-needed services to some of the most vulnerable Angelenos. In doing so, law-enforcement would be directly contributing to improving trust and cooperation with immigrant communities in the region, and would contribute more towards public safety than other law-enforcement duties in the long-term. Advocates and organizers in the region must also do more to hold law-enforcement accountable by using their leverage during electoral cycles, particularly against those who garner electoral support through campaigns of “supporting victims first.” Through the Office of Immigrant Affairs and the mayor, the Los Angeles Police Department and the Los Angeles City Attorney’s office can be pushed into serious change, whereas the Los Angeles Sheriff’s Department and the Los Angeles District Attorney’s office answer to the voice of voters directly.

Lastly, one major limitation of this report (and studying the full extent of the problems in the region) stemmed from lack of transparency in certification data due to lack of compliance with State law on the part of certifiers. This lack of reporting is consistent with other law-enforcement agencies state-wide, and this lack of transparency makes it difficult for advocates and academics to analyze these trends and patterns, making the issues less visible and less likely to solve.

## 05. Thinking Beyond the City of Angels

The L.A. model, although more efficient and accessible than any other jurisdiction, continues to be plagued by some of the same serious challenges that are found in even the most-anti-immigrant states. Due to federal law, U-visa certifiers are provided an exorbitant amount of resources and authority in these certification matters. To a large extent, they hold all of the cards in this legal process, and many of these certifiers know that. What that information tells us is that findings from previous sociolegal scholarship on the U-visa certifications are absolutely correct: local law-enforcement continue to operate as a barrier to the jurisprudence of this benefit, even in the most progressive areas of the country. As was discussed in the introduction of this report, the U-visa is the only form of humanitarian relief that requires this process of certification; not even the T-visa or VAWA self-petitions (two other crime-based humanitarian benefits) require this signatory process. Congress and states across the country need to reflect on the purpose of this certification process, or at the very least expand the list of eligible certifiers to include non-law-enforcement personnel who are also critical to crime survivor services.

Similar to the L.A. model, what other locales across the country ultimately need is stronger social movements and changes within law-enforcement policies. In other states, the U-visa roundtable strategy could be an exemplary model in bringing LEA's to the table, creating a sort of localized U-visa network, however the long-term immigrant-home-making that has occurred in Los Angeles has also contributed to the success of this roundtable in the county. Although this emerged organically in Los Angeles, state policy makers could play a role in structuring these meetings, as well as passing laws such as SB 674 that provide incentives for LEA's to attend and take them seriously. Legal advocates also have an incentive for different states to standardize policy, due to the increasing nature of immigrants settling in these regions where immigrants did not traditionally settle. This happens when legal advocates in one state must engage with certifiers from other states where their clients may have been victimized. For immigrants who work in seasonal jobs and have families in multiple locales, this is increasingly becoming the norm rather than the exception.

Further, all levels of the American government need to play a role in rectifying the geographic roulette that determines access to this federal benefit. But to do this, there needs to be a motivation to even study the problem from the very top. Despite the decades that have passed since the initial drafting of VAWA, no presidential administration has moved on U-visa access or processes, despite having a critical role in its passing and implementation. At the federal level, this could look like a U-visa task force, aimed at standardizing policies across the country and critically assessing how exclusionary state policies are exacerbating immigrant victimization. Much of this work has been carried out by concerned advocates, particularly those working in journalism, academia, and the law, rather than from capitol hill. Much like in Los Angeles, policing and prosecuting agencies across the country are being seriously critiqued in their role of public safety, particularly in communities of color. Law-enforcement needs to understand the critical role they play in providing protection and services to immigrant Americans, and they need to understand how the U-visa is a key mechanism in achieving these goals to create greater trust and safety within immigrant communities.

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