SCENARIO # 1

* Maria entered the US two years ago by sneaking across the border from Mexico. She has been living in the United States since that time. One night she went to a nightclub with her friends. After dancing the night away she walked home with her female friend whom she dropped off at her apartment building before continuing the few blocks to her apartment. As Maria was unlocking her apartment door a man pushed her into her apartment and raped her. Maria reported the sexual assault to the police. She has been cooperating police during the investigation and prosecution of her assailant.
  + What is her status?
  + Is she eligible for a U visa?
  + If so, why?

Answers:

1. Maria is undocumented or without legal status since she entered the USA without immigration inspection at the border from Mexico. She is not married to a US citizen or Permanent Resident person.
2. Yes, Maria is eligible for a U Visa
3. Why?

* She is a victim of qualifying criminal activity (**rape**) and have suffered substantial physical and mental abuse as a result of the crime
* The victim possesses credible and reliable information about the qualifying criminal activity (**rape**).
* She has been cooperating with the police during the investigation and prosecution of her assailant. (The U Visa requires that the victim be, have been, or are likely to be helpful to the investigation and/or prosecution of that qualifying criminal activity (**rape**).
* The criminal activity (**rape**) violated a U.S. law.

SCENARIO # 2

Julie asks for your help. She tells you that she is afraid of her husband, Steve. She met Steve over the internet and fell in love with his kindness and caring. However, after she came to America on a fiancé visa and married Steve, he changed. She says that Steve has a good job and makes good money, but will not give her money for her expenses. She wants to visit her family back in her home country, but she cannot because Steve holds her passport in his safe and will not let her have it. Steve says that if Julie does not do as he says, he will have her deported. Whenever Julie asks Steve when he will file the rest of her papers so that Julie can get a job, Steve yells at her and threatens to hit her. Steve will not let Julie take English classes, so she tries to learn English by watching American television.

* + Did she enter legally?
  + What application might Julie want to file with USCIS?
  + What must she prove?
  + How would she prove it?

Answers:

1. Yes, she enter legally (Fiancé visa (K visa) with the intention to marry Steve, which she complied when she married him.
2. Julie might want to file the “VAWA Visa Self Petition” with the USCIS.
3. Julie must prove that she is married to a US citizen and also that she is a victim of domestic violence. ( the VAWA requirement states that they must be a victim of qualifying criminal activity and have suffered substantial physical or mental abuse (**emotional, verbal, financial abuse)** as a result of the crime (**domestic violence**).
4. Julie would prove it showing the following:

* Marriage to a US citizen (Birth certificate or passport of the abuser.
* Resided or resided with the abuser (bills with both names, joint tax returns or bank account statements)
* Have good moral character (marriage certificate, photographs (wedding pictures, trips, etc), letters, cards an emails, copies of any immigration petitions/applications filed on her behalf.
* Have been victim of battery or extreme cruelty (supporting letters, affidavits or declarations from witnesses, counselors, therapists, shelter workers, counselors, social workers, friends, relatives, clergy, etc)
* Also, any police records or reports indicating she called the police.

SCENARIO # 3

Kara came to the US in 1995. She snuck across the border from Mexico with the help of a coyote. She has been working hard at a restaurant and sends money home to her family every week. She does not have papers, so she tries to avoid the police. Last week Kara was assaulted by her boyfriend. She ended up in the hospital, but refused to talk to the police when they came. She said that she does not want anyone to get in trouble.

* + What is her status?
  + Is she eligible for a U visa?
  + Why or why not?

Answers:

1. Kara entered the USA without immigration inspection and she is undocumented or without legal status in the USA.
2. Yes, she is eligible for U Visa
3. Why?

* She is undocumented
* She was assaulted by boyfriend and ended at the hospital (have suffered substantial physical abuse as a result of the crime)
* Posses credible information of her assailant
* She was a victim of a crime that violated a US law

Why not?

One of the elements of the U Visa is the victim “be, have been, or are likely to be helpful to the investigation and/or prosecution of the criminal activity (assault). Kara refused to talk or cooperate with the police.

SCENARIO # 4

Roberta came to the US in September 2004 from Guatemala. She entered the US using a tourist visa. However, Roberta came to the US because she felt it was her only choice. For twenty years Roberta had been married to a man who physically, sexually, and emotionally abused her daily. Her husband had been a local governmental official who had friends all over the country. When Roberta threatened to leave her husband, he stated that it did not matter where she went that he would find her and have her killed. Roberta sought help from the local authorities, but to no avail. In desperation, she decided to leave her children and her belongings behind and seek refuge in the US.

* + Did she enter legally?
  + What application might Roberta want to file with USCIS?
  + Are there any deadlines to file an application?
  + What must she prove?

How would she prove it?

Answers:

1. Yes, Roberta entered the USA with a tourist visa (with immigration inspection)
2. Roberta might want to file for an Asylum.

Domestic Violence based Asylum: Historically not recognized as a basis for asylum, but DV asylum cases can be filed based on a number of grounds, including:

* The applicant’s actual and imputed political opinion that she is a woman who believes that wives should be able to lead their lives without being dominated by their husbands;
* The applicant’s membership in a particular social group of women who challenge their husband’s domination and
* The applicant’s religious beliefs that differ from her husband’s religious beliefs concerning the proper role of women in society.

1. You must apply for asylum within one year of your last arrival in the United States, unless you can demonstrate that there are changed circumstances that materially affect your eligibility for asylum or extraordinary circumstances directly related to your failure to file within one year.
2. Roberta must prove that she fears “persecution” by her husband who had been a local government oficial and has friends all over the country. She must to prove that she fears for her life because her husband stated “it did not matter where she went that **he would find her and have her killed”.**

Note: Domestic violence historically not recognized as a basis for asylum, but DV asylum cases can be filed based on a number of grounds, including:

* **The applicant’s actual and imputed political opinion that she is a woman who believes that wives should be able to lead their lives without being dominated by their husbands;**
* The applicant’s membership in a particular social group of women who challenge their husband’s domination and
* The applicant’s religious beliefs that differ from her husband’s religious beliefs concerning the proper role of women in society.