U VISA
LAW ENFORCEMENT RESOURCE GUIDE

FOR FEDERAL, STATE, LOCAL, TRIBAL AND TERRITORIAL LAW ENFORCEMENT, PROSECUTORS, JUDGES, AND OTHER GOVERNMENT AGENCIES

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The information provided in this Guide is intended for general educational purposes only. It is not intended to provide legal advice. The information in this Guide may or may not apply to individual circumstances. Readers should review local policies and seek legal counsel regarding any specific applications of federal and state laws.

This Guide supersedes all previous versions of the U and U/T Visa Law Enforcement Resource Guides. There is a separate T Visa Law Enforcement Resource Guide.

Promoting a Victim-Centered Approach

DHS strives to use a trauma-informed, victim-centered approach to combat crime. This approach includes practices to minimize victimization and additional trauma, and equally values:

- The identification and stabilization of victims, including providing immigration relief, and
- The investigation and prosecution of perpetrators of serious crimes.

For more information and strategies for implementing a victim-centered approach, go to: https://www.dhs.gov/blue-campaign/victim-centered-approach.

INTRODUCTION

Congress recognized that individuals without lawful immigration status may be particularly vulnerable to victimization and may be reluctant to help in the investigation or prosecution of criminal activity due to fear of removal from the United States.[1]

Through the Victims of Trafficking and Violence Prevention Act of 2000, Congress created specific immigration benefits, including U nonimmigrant status (also known as the "U visa") for victims of certain crimes.

U visas:

- Strengthen law enforcement's ability to detect, investigate, and prosecute serious crimes, such as domestic violence, sexual assault, and human trafficking;
- Encourage victims to report crimes committed against them and participate in the investigation and prosecution of those crimes, even if victims lack lawful immigration status; and
- Offer protections to victims of qualifying crimes in keeping with the humanitarian interests of the United States.

U visas also enable victims of certain crimes to assist investigators or prosecutors by allowing victims to temporarily remain and work in the U.S., generally for 4 years.

U.S. Citizenship and Immigration Services (USCIS) is the federal agency within the Department of Homeland Security (DHS) that adjudicates immigration and citizenship benefits, and has jurisdiction to determine who is eligible for a U visa. Law enforcement agencies assist USCIS by providing certifications on behalf of petitioners seeking U nonimmigrant status. The certification is a tool for law enforcement agencies to use as part of a victim-centered approach.

USCIS provides this guidance to federal, state, local, tribal and territorial law enforcement officers, prosecutors, judges and other government officials who have important roles in identifying and assisting victims, as well as supporting the integrity of the application process for U nonimmigrant status.

This Guide includes information about U visa requirements; the U visa law enforcement certification; best practices for certifying agencies and officials; answers to frequently asked questions from judges, prosecutors, law enforcement agencies, and other officials; additional resources; and contact information for DHS personnel on U visa issues.

IN THIS GUIDE

Brief overview of the U visa program, certifying agencies' roles and responsibilities, and what you need to know before, during, and after certification

Resources to support you, including contact information, best practices, and links to additional information

Answers to frequently asked questions from certifying officials about the discretionary certification process

[1] See VTVPA, Pub. L. No. 106-386, 1502(a)(3), 114 Stat. 1464-1548 (2000).

Law Enforcement Participation

To qualify for the U visa, the victim must provide evidence to USCIS, among other things, establishing that he or she is assisting, has assisted, or will assist law enforcement if assistance is reasonably requested (certain exceptions apply).

One of the required pieces of evidence to establish eligibility for U nonimmigrant status is USCIS Form I-918, Supplement B, "U Nonimmigrant Status Certification" (Form I-918B). While Form I-918B does not confer any immigration benefits or status, it is an essential confirmation that the qualifying crime occurred and that the victim was helpful, is being helpful, or is likely to be helpful in the detection, investigation, or prosecution of the qualifying criminal activity.

Certifying Agencies

The following types of agencies can certify Form I-918B:

- Any federal, state, tribal, territorial, or local law enforcement office or agency, prosecutor, judge, or other authority that has responsibility to detect, investigate, or prosecute the qualifying criminal activity, or convict or sentence the perpetrator.
- Agencies with criminal investigative jurisdiction, such as child and adult protective services, the Equal Employment Opportunity Commission, and federal and state Departments of Labor.

Law enforcement agencies play a key role in the certification process, as they are often in the best position to verify whether the reported crime occurred, and to confirm a victim's helpfulness.

Supporting the Integrity of Our Immigration System

DHS must ensure that the integrity of the U visa program remains strong so that it serves as a valuable tool for law enforcement and continues to provide meaningful protection to victims. DHS takes fraud and abuse of immigration benefits, including U visas, seriously. DHS will refer those who commit U visa fraud for prosecution to the fullest extent of the law.

USCIS works with other DHS components and federal partners to ensure the integrity of our immigration system. USCIS' fraud detection units investigate cases where there is suspicion of fraud and work with other federal, state, and local law enforcement agencies when fraud or abuse of the program is discovered. If USCIS suspects fraud in a U visa petition, USCIS may reach out to the certifying agency and request further information. Furthermore, USCIS may contact certifying agencies to confirm the accuracy and source of the information submitted to USCIS on Form I-918B.

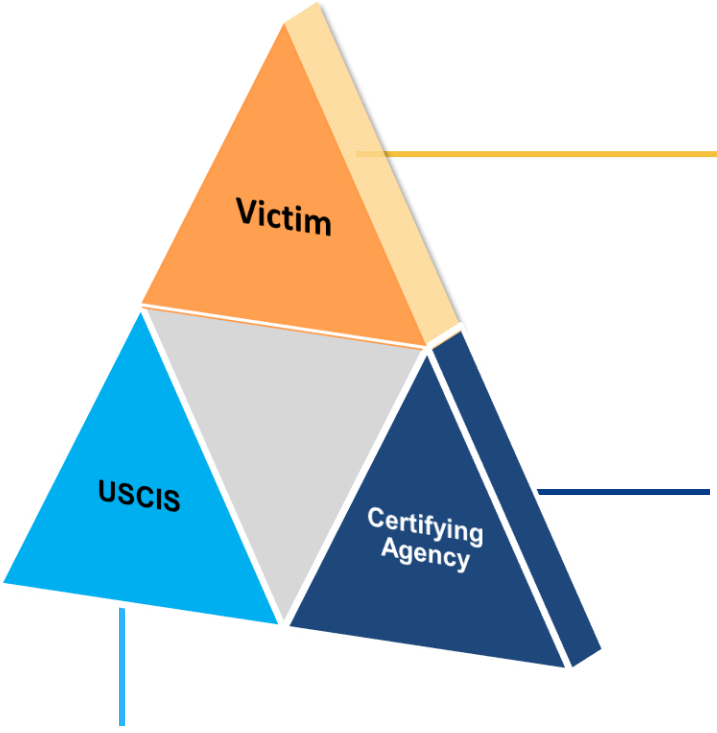
Law enforcement agencies, who opt to certify, are important partners in supporting the integrity of the U visa program in many ways, including (but not limited to):

- Attesting that an individual is a victim of a qualifying crime, and whether that individual was, is, or is likely to be helpful to law enforcement's detection, investigation or prosecution of the crime;
- Notifying USCIS when a victim refuses or fails to provide assistance when reasonably requested;
- Informing USCIS of any known criminal and/or gang-related activity; and
- Alerting USCIS of any suspected fraud.

Note: Please consider USCIS' recommended best practices (outlined on pages 11-12) when developing certification policies and procedures.

Roles and Responsibilities of Certifying Agency, USCIS, and the Victim

The certifying agency, USCIS, and the victim each have different roles and responsibilities related to U visas.



Victim

- Provides information to the certifying agency to assist with the investigation or prosecution of qualifying crime(s)
- Has an ongoing responsibility to provide continuing assistance in the investigation and prosecution of a qualifying crime(s), after initially cooperating with law enforcement, when reasonably requested and there is an ongoing need[2]
- Submits completed Form I-918B (required) with his or her Form I-918 to USCIS

Certifying Agency

- Detects, investigates, and/or prosecutes allegations of qualifying crimes
- Determines, within the certifying agency's discretion, whether to complete and sign Form I-918B, pursuant to the agency's procedures and designated signing authority
- Confirms that the victim is complying with reasonable requests for assistance
- Communicates with USCIS if the victim unreasonably refuses to assist in the investigation or prosecution and the agency needs to withdraw or disavow a previously signed Form I-918B

USCIS

- Receives and adjudicates U visa petitions
- Determines eligibility for U visas based on a complete filing, a criminal history background check, and an immigration status check
- Requests additional information from the victim if necessary to make an eligibility determination
- Coordinates with law enforcement to verify the accuracy of Form I-918B submissions, as well as any other evidence submitted with a U visa petition
- Provides nonimmigrant status to eligible victims

[2] See the discussion regarding helpfulness within Federal Register DHS Docket No. USCIS-2006-0069 (https://www.federalregister.gov/documents/2007/09/17/E7-17807/new-classification-for-victims-of-criminal-activity-eligibility-for-u-nonimmigrant-status).

TOP SIX
THINGS TO KNOW ABOUT
FORM I-918B

1 Completing is Discretionary

Signing may strengthen your certifying agency's ability to detect, investigate, and prosecute serious crimes. Your certifying agency has discretion over whether to complete a form, which should be exercised on a case-by-case basis consistent with U.S. laws and regulations, as well as the internal policies of your certifying agency.

*There is **no obligation under federal law** to complete and sign Form I-918B.*

2 Signing Means Attesting to the Facts

By signing the certification, you are stating:

- The individual is a victim of a qualifying criminal activity;
- The individual has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity (or is exempt), and has complied with all reasonable requests to assist law enforcement;
- The information listed on the form is accurate to the best of your knowledge; and
- You have direct knowledge of the information listed (or have reviewed relevant records).

Note: *Form I-918B must include an **original signature** in a color other than black.*

3 Who Completes the Form Matters

The certifying agency – not the victim, or his or her attorney or representative – should complete Form I-918B. Additionally, only sign Form I-918B if:

I. You are the head of your agency, or in a supervisory role, and your agency has designated you a "certifying official"; *or*

II. You are a federal, state, local, tribal, or territorial judge.

4 A Victim's Ongoing Responsibility to Assist

Victims have an ongoing responsibility to assist the certifying agency while in U nonimmigrant status. If a victim refuses or fails to assist with reasonable requests, you have the ability to withdraw or disavow your certification by contacting USCIS.

There are some exceptions and special rules for minor (under age 16 for U visas) and disabled victims. Review the Form I-918B instructions for more information.

5 Background Checks and Criminal History

USCIS will consider any information you provide in its analysis of eligibility and admissibility. A criminal history does not automatically render a victim ineligible. Also, your agency is not responsible for determining whether an individual is eligible for an immigration benefit.

Certifying agencies with legal authority may choose to run background checks on individuals prior to signing a certification. Provide USCIS with information in the designated section on the form.

6 You Can Withdraw At Any Time

You can withdraw any time after signing, including if you later discover information regarding the victim, crime, or certification that your agency believes USCIS should be aware of. If you wish to withdraw the certification, email: **LawEnforcement_UTVAWA.VSC@uscis.dhs.gov**.

U VISA CERTIFICATION

- For up-to-date USCIS U visa policies, forms, and instructions, see the U Nonimmigrant Status[3] page.
- The Information for Law Enforcement Agencies and Judges[4] page is another helpful resource.

Information provided by law enforcement helps USCIS decide whether a victim is eligible for a U visa. This Guide will discuss the eligibility requirements *italicized and highlighted in blue* more thoroughly, as the law enforcement certification focuses on these areas. An individual is eligible for a U visa if he or she:[5]

- *Is the victim of a qualifying criminal activity (page 8)*
- *Possesses credible and reliable information about the criminal activity (page 9)*
- Suffered substantial physical or mental abuse as a result of the criminal activity
- *The crime occurred in the U.S. or violated U.S. law (page 6)*
- *Was helpful, is being helpful, or is likely to be helpful to law enforcement, prosecutors, judges, or other officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity (page 9)*
- Is admissible to the United States based on a review of his or her criminal history, immigration violations, and other factors

Completing Form I-918B does not automatically confer eligibility for a U visa. USCIS will carefully examine all the evidence provided in a U visa petition, including Form I-918B and any attached records.

Answer Questions Completely: USCIS encourages you to answer all form questions as fully as possible. If there is missing information, the victim may ask that you complete Form I-918B a second time with more information due to a request from USCIS for additional information.

Signing Authority: The head of the agency has the authority to sign certifications or to delegate authority to other agency officials in a supervisory role to sign certifications. Federal, state, local, tribal, or territorial judges have direct authority to sign and may not delegate that authority.

Timing: USCIS must receive the U visa petition **within six months** of the date the certifying agency signed Form I-918B. If USCIS receives the U visa petition from the petitioner or his/her attorney more than six months after the form was signed, the Form I-918B has expired and will not be accepted. In these situations, the victim must request a newly executed Form I-918B to support their petition.

[3] https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status.
[4] https://www.uscis.gov/tools/resources/information-law-enforcement-agencies-and-judges.
[5] See Immigration and Nationality Act (INA) 101(a)(15)(U); 8 U.S. Code (U.S.C.) 1101(a)(15)(U).

Determining Qualifying Criminal Activities

Congress established the qualifying criminal activities[6] (listed below) in relation to the U visa. These are categories of crime and are not specific crimes or citations to a criminal code; various federal, state, and local statutes could fall into these general categories of crime.[7] The one exception is "Fraud in Foreign Labor Contracting," which is a specifically cited federal offense.[8]

Abduction	Female Genital Mutilation	Murder	Sexual Exploitation
Abusive Sexual Contact	Fraud in Foreign Labor Contracting	Obstruction of Justice	Slave Trade
Blackmail	Hostage	Peonage	Stalking
Domestic Violence	Incest	Perjury	Torture
Extortion	Involuntary Servitude	Prostitution	Trafficking
False Imprisonment	Kidnapping	Rape	Witness Tampering
Felonious Assault	Manslaughter	Sexual Assault	Unlawful Criminal Restraint

The criminal activity must have occurred in the U.S., its territories, or possessions, or have violated U.S. law. It may be relevant to your analysis if the statute of limitations has passed; however, U visa regulations do not set a specific statute of limitations for signing the Form I-918B.

A judge may sign the certification based on having conducted the sentencing in a criminal case. A judge may also sign based on having detected a qualifying crime during a proceeding (criminal or civil) over which he or she presided.

Child abuse and elder abuse could be considered forms of domestic violence if the perpetrator/victim relationship and the abuse experienced by the child, disabled adult, or senior meets the statutory elements of domestic violence under relevant statutes.

In the case of witness tampering, obstruction of justice, or perjury, a person may be considered a victim of these crimes if he or she can reasonably demonstrate that the perpetrator principally committed the offense as a means to avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring him or her to justice, or to further his or her abuse, exploitation of, or control over the immigrant through manipulation of the legal system.

When Similar Criminal Activities May Qualify

There are a wide variety of state criminal statutes in which criminal activity may be named differently than criminal activity found on the statutory list of qualifying criminal activities for the U visa, but the nature and elements of those activities are comparable. As such, a victim may also qualify if the crime detected, investigated or prosecuted by a certifying agency involves activity where the nature and elements of the crime are substantially similar to a listed crime.

To determine whether the crime qualifies, USCIS considers information and other documentation provided by law enforcement, such as police reports, charging documents, etc. (if available) regarding the criminal activity that occurred and the statutory violation that it detected, investigated, or prosecuted. USCIS determines whether the crime is substantially similar to a qualifying criminal activity based on the totality of the evidence.

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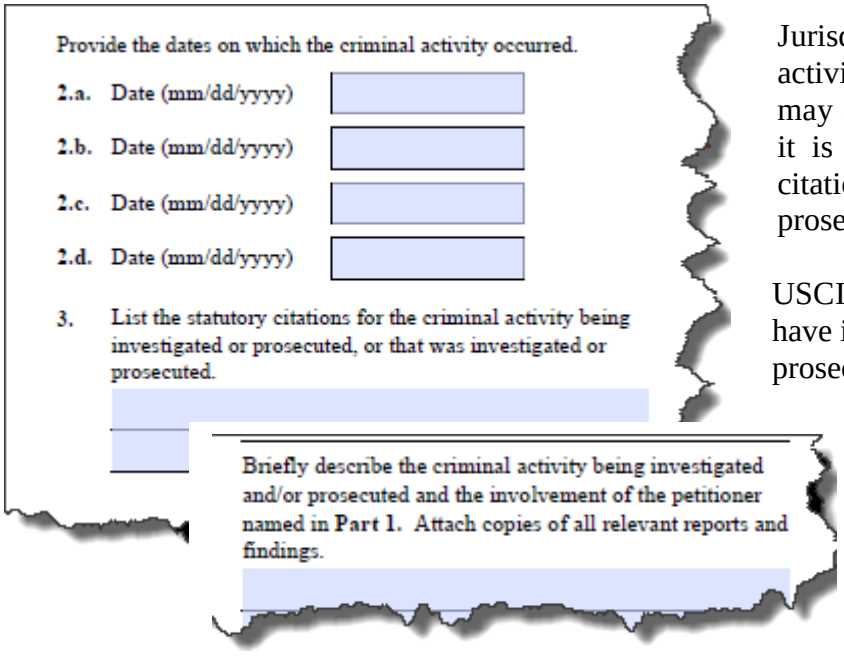
[6] See INA 101(a)(15)(U)(iii), 8 U.S.C. 1101(a)(15)(U)(iii).
[7] In addition, a victim may qualify based on an attempt, conspiracy, or solicitation to commit any of the above and other related crimes.
[8] See 18 U.S.C. 1351.

For example, aggravated robbery and robbery, which are not specifically listed as qualifying criminal activities, could nevertheless be considered a qualifying criminal activity of *felonious assault*, depending on state robbery statutes and evidence of the crime that law enforcement detected, investigated, or prosecuted. For instance, where the state aggravated robbery statute includes assault with a deadly weapon, assault with a threat to cause serious bodily injury, or otherwise includes what could be considered a felonious assault and law enforcement records of the offense show that such an assault actually occurred, USCIS may determine that aggravated robbery is substantially similar to the qualifying criminal activity of felonious assault.[9]

Documenting Crimes Investigated and/or Prosecuted[10]


Provide the dates on which the criminal activity occurred.

2.a. Date (mm/dd/yyyy)

2.b. Date (mm/dd/yyyy)

2.c. Date (mm/dd/yyyy)

2.d. Date (mm/dd/yyyy)

3. List the statutory citations for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the petitioner named in **Part 1**. Attach copies of all relevant reports and findings.

Jurisdictions use different terms for criminal activity. Also, each jurisdiction's crime definitions may include slightly different elements. As such, it is important that you provide accurate, precise citations for any crimes you detected, investigated, or prosecuted.

USCIS will examine which qualifying crime(s) you have indicated were detected, investigated, or prosecuted on Form I-918B (more than one qualifying crime may apply) and analyze whether the nature and elements of the crime(s) listed in the statutory citations section are substantially similar to those crimes.

Culpable Individuals Are Not Eligible

An individual is not eligible for a U visa if he or she is culpable for the qualifying criminal activity(ies) being investigated or prosecuted. If you decide to complete a certification for a victim, but you suspect the individual is or may be culpable, you may note your concerns about culpability on the form.

Note: Victims of domestic violence are occasionally accused of committing domestic violence themselves by their abusers as part of the abuser's attempts to assert power and control over the victim. When evidence suggests these allegations were fabricated by the victim's abuser, they do not preclude the victim from qualifying for U nonimmigrant status.

[9] If the state felony assault statute requires an aggravating factor (e.g., presence/use of a weapon, victim's age or disability, etc.) and no such factor is present, then the crime would generally not be considered substantially similar to felonious assault.

[10] The Form I-918B screenshots depicted in this Guide are from Version 02/07/2017. **Note:** USCIS forms are periodically revised. Check the USCIS website (www.uscis.gov) to ensure that you are certifying the current version of the form.

Victim of a Qualifying Criminal Activity

Various individuals may request certification as a victim, including direct victims and indirect victims.

Direct Victims

The person against whom the crime was perpetrated and who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity. Bystanders who suffer an unusually direct injury as a result of a qualifying crime may also qualify.

Indirect Victims

For a family member to be eligible for a U visa as an indirect victim, all of the following requirements must be met:

1) The individual must have a *qualifying family relationship* to the direct victim:
   a. If the direct victim is age 21 or older at time of crime**,** his or her spouse and unmarried children under age 21 may qualify
   b. If the direct victim is under age 21 at the time of the qualifying crime(s), his or her spouse, unmarried children under age 21, parents, and unmarried siblings under age 18 may qualify[11];

2) The direct victim is unable to assist law enforcement because he or she is:
   a. *Deceased* due to murder or manslaughter, or
   b. *Incompetent or incapacitated,* including due to injury, trauma, or age.[12]

3) The indirect victim must *meet all other eligibility requirements* for U nonimmigrant status.

Note: You may sign Form I-918B for a non-citizen family member regardless of whether the direct victim is a U.S. citizen or a non-citizen (such as a non-citizen parent of a U.S. citizen child who is the direct victim).

Victim Must Have Suffered Substantial Physical or Mental Abuse

Report information about any known or observed physical or mental harm or abuse sustained by the victim. Indicate whether the victim received any medical care to treat his or her injuries.

Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

USCIS encourages you to attach supplemental documentation related to any injuries sustained (e.g., police reports).

USCIS is responsible for determining whether an individual meets this eligibility requirement. USCIS will consider all supporting evidence you provide when determining whether an individual is eligible for U nonimmigrant status, and may request additional information before adjudicating the petition.

[11] USCIS considers the age of direct victim at the time the qualifying crime(s) occurred.
[12] For example, USCIS may consider a 13 year old U.S. citizen direct victim to be incompetent or incapacitated due to age, and therefore the parent may assist on the victim's behalf, and may be eligible for a U visa as an indirect victim, if the parent meets all other requirements.

Victim Must Possess Credible and Reliable Information

A victim must possess credible and reliable information, including specific facts about the criminal activity(ies) or events leading up to the victimization. However, when a victim is under 16 years of age on the date the qualifying criminal activity occurred, or a victim is incapacitated or incompetent, a parent, guardian, or next friend[13] may provide information for them.

A Victim's Responsibility to Assist

A victim seeking a U visa must provide ongoing assistance with the investigation or prosecution related to his or her qualifying crime(s) when reasonably requested, including after reporting a crime and after law enforcement signs Form I-918B. This responsibility continues even if U nonimmigrant status is granted - a victim who does not continue to comply with reasonable requests for assistance will not be eligible for lawful permanent residence based on a U visa.

If your agency chooses to sign Form I-918B for a victim who did not provide ongoing assistance that your agency requested, provide detailed information on Form I-918B. USCIS will decide whether the request was reasonable. Your agency may withdraw or disavow the Form I-918B at any time (including after approval).

Victim Was "Helpful" In the Investigation or Prosecution

Your agency can certify a Form I-918B based on past, present, or the likelihood of a victim's future helpfulness. By signing the form, you are certifying that the victim *has been*, *is being*, or *is likely to be* helpful to law enforcement, prosecutors, judges, or other government officials in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim.

Similar to the requirement to possess information, when a victim is under 16 years of age, or incapacitated or incompetent and therefore unable to be helpful in the investigation, a parent, guardian, or next friend may also provide the required assistance in place of the victim.

Certifying agencies generally should not sign Form I-918B when the victim has not been helpful or is not likely to be helpful.

You may also decline to certify, for example, if you believe the case will not require assistance from the victim, if the victim has not clearly demonstrated his or her intent to assist as needed, or if the victim's case does not meet your local certifying agency's requirements for signing the form.

[13] A "next friend" is defined as a person who appears in a lawsuit to act for the benefit of a victim who is under the age of 16, or is incapacitated or incompetent, who has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity. The next friend is not a party to a legal proceeding and is not appointed as a guardian. A next friend does not qualify for a U visa or any immigration benefit, but may provide helpful information about the criminal activity(ies).

In determining whether the victim is, has been, or will be helpful, USCIS considers the facts of each case, including:

- The level of assistance that law enforcement requests of the victim;
- The victim's responsiveness to requests from law enforcement for assistance;
- Law enforcement's ability to proceed with an investigation and/or prosecution based on a victim's helpfulness, or lack thereof, when reasonably requested; and
- The victim's individual circumstances (such as age/maturity, trauma, etc.).

It may also be relevant to the analysis if the statute of limitations has passed. U visa regulations do not set a specific statute of limitations for signing the Form I-918B, or require that a case must have progressed to a certain stage (e.g., prosecution or conviction).

Future Requests

If your agency signed a U visa certification, the victim may request your support in the future for an application to become a lawful permanent resident (i.e., "green card" application). To be eligible for a green card, the victim must demonstrate that he or she did not unreasonably refuse to comply with requests for assistance in the investigation or prosecution since getting a U visa. While re-certification or similar documentation from your agency is not required, it can help the victim meet his or her evidentiary burden. There is no federal requirement that a case must have progressed to a certain stage (e.g., prosecution or conviction) prior to re-certification. Support for a victim's adjustment of status application may be provided even if the case never resulted in a criminal prosecution.

You can choose whether to sign this second certification, but you are not obligated to sign under federal law, regardless of whether your agency certified the victim's helpfulness in the past.

To certify the victim's helpfulness at this stage, you have three options:

- Complete a new Form I-918B;
- Provide a signed letter of support (preferably on agency letterhead), including your badge/identification number, if applicable; or
- Re-sign and newly date a copy of the previously certified Form I-918B.

BEST PRACTICES

FOR CERTIFYING AGENCIES AND OFFICIALS

Establish and Periodically Update Local Procedures and/or Policies

Certifying agencies are not required to have an internal policy or procedure before they can sign a U visa certification. However, USCIS encourages you to develop a policy and train relevant personnel in your agency on that policy to promote consistency and transparency and improve the quality of certifications. Some examples of topics to cover in a certifying agency's internal policy could include:

- Whether the agency will complete discretionary background/criminal checks on a victim before completing a certification (Criminal history does not automatically render a victim ineligible; criminal history is relevant to USCIS' analysis of eligibility and admissibility);
- Whether the agency will establish specific parameters related to certifying cases where a significant amount of time has passed since commission of the crimes (U visa regulations do not set a specific statute of limitations for signing the Form I-918B);
- Expectations regarding attaching relevant police reports and other documentation regarding the victimization and the victim to Form I-918B;
- Procedures regarding the agency's verification of the criminal activity, victimization, and the victim's participation in the investigation or prosecution;
- Procedures to safeguard against fraud, such as requiring that the person who completes and signs the certification is/was not also the investigating officer, and/or in agencies where there are multiple certifying officials, centralizing final review of certifications before they are returned to the victim;
- Procedures for handling future requests for a new or re-signed Form I-918B;
- Establishing general expectations around anticipated response timeframes; and
- Processes for increasing transparency of the agency's certification policies (if any) to the public.

Keep Records of Signed Forms

USCIS may reach out to you or your certifying agency to verify information on a signed Form I-918B. To increase the ease of responding and to provide your own internal data analytics, your agency may find it useful to create and maintain a searchable database or other mechanism to track certification requests and create a historical record of certifications. Some agencies find it useful to include a specific identifier on each page of the form that corresponds to information in the database. For example, a certifying agency could use a meaningful combination of numbers and letters to easily track the signed forms.

Note: Any database should comply with applicable state and federal privacy and confidentiality requirements. DHS, Department of State, and Department of Justice databases should ensure compliance with privacy and confidentiality protections provided by 8 U.S.C. 1367.

USCIS Verifies Proper Signing Authority - Update USCIS When Signing Authority Changes

For U visas, you can assist with this effort by updating USCIS when your certifying agency adds or removes a certifying official by emailing a copy of a signed letter from the head of your agency delegating certifying authority to **LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov**.

Provide Specific Details

USCIS carefully considers the information you provide on Form I-918B. Be as specific and detailed as possible when answering the form questions.

Note: Completing the form does not automatically confer eligibility. USCIS will assess eligibility by examining all of the evidence provided by the victim in his or her complete U visa petition, including the information you provide on the form as well as supplemental evidence provided by the victim.

Include Any Background Checks Run By Your Certifying Agency on the Form

If your agency chooses to perform any searches on a victim, please note any names and dates of birth (including aliases) run during the certification process, as well as any criminality or national security concerns identified.

Attach Additional Relevant Documents – and Note This on Form I-918B

If available, provide additional relevant documents (e.g., a copy of the police report or court order, or judicial findings, additional statements, photos, etc.) along with the signed form. Note on the form itself that your agency has attached documents, in case the documents and the form are accidentally separated in transit to USCIS.

Verify All Information on the Form Prior to Signing

Your agency should fully complete the certification form. Prior to signing Form I-918B, ensure that all information is complete and accurate.

Provide an Original Ink Signature in a Color Other Than Black

You must provide an original signature on Form I-918B. Also, you should sign in a color of ink other than black (such as blue ink) for verification purposes. USCIS cannot accept photocopies, faxes, or scans of the forms as "official" evidence.

Return the Form to the Victim

Return the signed Form I-918B to the victim. You should not send the signed form separately to USCIS. If the victim is including a certification, the victim is required to send USCIS the original signed certification along with his or her complete U visa petition.

Email USCIS if a Victim Refuses Help DHS and USCIS Safeguard against Fraud and Misuse

If your agency suspects fraud or misuse of the U visa program, you may report these concerns to USCIS by emailing **LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov**. Examples of concerns that should be reported include:

- Individuals reporting qualifying crimes that did not take place;
- Individuals staging qualifying crimes in order to appear eligible;
- Individuals incentivizing others to commit a qualifying crime against them;
- Attorneys, victim advocates, or victims intentionally providing erroneous or misleading information on the forms, or significantly altering the forms after they are signed.

Also, please email USCIS if an individual reporting a qualifying crime refuses or fails to provide information and assistance reasonably requested during the investigation or prosecution.

ANSWERS

TO QUESTIONS FREQUENTLY ASKED

BY CERTIFYING OFFICIALS

Who decides whether a victim should apply for a U visa?

A victim makes this decision. Neither USCIS nor law enforcement determines whether a victim should apply for a U visa.

How may signing a U visa certification benefit my agency?

Signing may strengthen your agency's ability to investigate and prosecute serious crimes, and may encourage victims to report crimes committed against them and to participate in the investigation and prosecution of those crimes.

How does USCIS determine whether an individual is eligible?

Based on a review of the complete petition, USCIS examines the totality of the evidence and circumstances of each individual case. USCIS considers many factors when determining eligibility, including the signed Form I-918B and a full background check, which includes an FBI fingerprint check, a Name/Date of Birth search in federal databases, and immigration status checks.

Can I certify a form for a victim who is no longer in the U.S.?

For U visa eligibility, the criminal activity must have occurred in the U.S., its territories, or possessions, or have violated U.S. law. Victims do not need to be present in the U.S. in order to be eligible for a U visa and may apply when outside of the country.

Why is a victim requesting another certification when my agency previously provided one?

This may occur for primarily three reasons. Victims applying for a U visa must submit Form I-918B within six months after it is signed by a certifying agency. If the Form I-918B expired before the victim was able to file a petition or application with USCIS, he or she would require a new form. Victims may also request another Form I-918B if the original form was incomplete or when significant additional information regarding the investigation or prosecution, the victimization, and/or the victim's helpfulness becomes available.

Additionally, if a victim applies for lawful permanent resident status (i.e. a green card), he or she must demonstrate continued helpfulness as reasonably requested by law enforcement. As evidence of this, a victim may request a newly signed Form I-918B, or other signed document from a law enforcement agency. There is no federal requirement that a case must have progressed to a certain stage (e.g., prosecution or conviction) prior to re-certification.

Can I say "no" to requests?

There are no federal requirements to certify.

Can agencies working with DHS under the 287(g) program certify?

Law enforcement agencies may sign Form I-918B regardless of whether they have a Memorandum of Understanding with DHS under the 287(g) program.

When certifying for an indirect U visa victim, whose name should I list on the form – the direct victim or the indirect victim (family member)?

Always list the name of the person for whom you are certifying in Part 1 ("Victim Information") of Form I-918B. When certifying Form I-918B for an *indirect victim*, include that individual's name and other details in Part 1 of the form. Do not put the direct victim's name in Part 1 when certifying for an indirect victim. Record the direct victim's name elsewhere in the document. (See form instructions.)

How do I terminate, withdraw, or revoke a certification?

To terminate, withdraw, or revoke a certification, the certifying official should contact USCIS by emailing **LawEnforcement_UTVAWA.VSC@uscis.dhs.gov**. This request should include:

- The certifying agency's name and contact information;
- Victim's name and date of birth;
- Victim's alien registration number (A-number), if known;
- Name of person who signed certification and the date it was signed;
- The reason the agency is withdrawing/disavowing the certification;
- Signature and title of official withdrawing/disavowing; and
- A copy of original certification attached, if available.

Can I run checks (i.e., National Crime Information Center (NCIC)) on those asking for a certification?

Prior to signing Form I-918B, certifying agencies may choose to run background and criminal history checks on individuals asking for a certification, consistent with their legal authority under federal, state, and local law. The fact that a victim has a criminal history does not automatically preclude approval of U nonimmigrant status.

How does USCIS consider criminal history when determining eligibility for a U visa?

Prior to approving or denying a U visa petition, USCIS evaluates each petition on a case-by-case basis. USCIS reviews all available information concerning arrests, immigration violations, gang membership, and security issues before making a final decision. USCIS takes into account whether there is a nexus between a petitioner's criminal behavior and his or her victimization. USCIS also carefully considers any evidence of rehabilitation that the petitioner provides with his or her U visa petition.

If a certifying official believes USCIS should know something particular about a victim's criminal history, this information can be included on the certification or with an attached report or statement.

The fact that a victim has a criminal history does not automatically preclude approval of U nonimmigrant status. However, in most cases, an individual will not be able to meet the statutory requirements for approval of a U visa if he or she has a serious or violent criminal record. USCIS also generally will not approve a petition if the victim was complicit or culpable in the qualifying criminal activity of which he or she claims to be a victim.

May I type my responses to Form I-918B?

You may either type or write your response to Form I-918B, except for the signature, **which must be an original and signed by hand in pen in a color other than black.** Please ensure answers are legible.

Does USCIS run background or criminal checks on family members seeking derivative status?

Yes. An individual seeking derivative status as a qualifying family member is subject to the same criminal background review, fingerprint checks, Name/Date of Birth search in federal databases, and immigration status checks as the principal petitioner. USCIS considers the facts of each case separately when determining whether an individual is eligible for a visa. Therefore, USCIS may deny a derivative's case based on his or her adverse criminal or immigration background, even when the principal's petition has been approved.

Which officials meet the definition of a judge for U visa certification purposes?

Any official with delegated authority from a federal, state, local, tribal or territorial court to decide cases including but not limited to: administrative law judges, commissioners, magistrates, aldermen, judicial referees, surrogates, masters, and chancellors.

What training opportunities are available for certifying officials?

USCIS provides webinar trainings for law enforcement officials. Contact T_U_VAWATraining@uscis.dhs.gov to find out information on the next webinar for law enforcement officials. Live, on-site trainings may also be available upon request.

How does USCIS determine if the "substantial physical or mental abuse" requirement has been met?

USCIS will make the determination as to whether the victim has met the "substantial physical or mental abuse" standard on a case-by-case basis during its adjudication of the U visa petition. Certifying agencies and officials may provide any information they deem relevant regarding injuries or abuse on the Form I-918B. If the certifying official has documentary evidence of injuries to the victim, the severity of the perpetrator's conduct, or the emotional impact on the victim's mental health as affected by the criminal activity, it is helpful to attach any relevant evidence of these facts, such as, photographs, police reports, findings, or court orders. While USCIS will consider any evidence of substantial physical or mental abuse provided by the certifying agency, the U visa petitioner has the burden of establishing that they meet the substantial physical or mental abuse requirement.

Some factors that USCIS uses to make this determination are:

- The nature of the injury inflicted;
- The severity of the perpetrator's conduct;
- The severity of the harm suffered;
- The duration of the infliction of the harm; and
- The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

The existence of one or more of these factors does not automatically signify that the abuse suffered was substantial.

MORE RESOURCES
FOR CERTIFYING AGENCIES AND OFFICIALS

ICE Homeland Security Investigations (HSI)

This investigative branch of DHS participates in over 120 human trafficking taskforces across the country.

www.ice.gov/contact/hsi/
(866) 872-4973 *or*
victimassistance.ice@ice.dhs.gov

For human trafficking investigations with a transnational nexus, contact HSI by calling your local HSI office or the HSI tip line at 1-866-347-2423 (1-866-DHS-2-ICE).

Office for Civil Rights and Civil Liberties (CRCL):

Toll Free: (866) 644-8360

crcl@dhs.gov *or* VAWA@hq.dhs.gov

Contact CRCL to:

- Refer individuals who would like to file a complaint concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by DHS employees and officials
- Report a violation of U visa, T visa, or VAWA relief confidentiality protections by a federal employee. See 8 U.S.C. 1367(a)(2).

Office for State and Local Law Enforcement (OSLLE):

(202) 282-9545 *or* OSLLE@hq.dhs.gov

OSLLE serves as the liaison between DHS and non-federal law enforcement agencies across the country. OSLLE leads the coordination of DHS-wide policies related to state, local, tribal, and territorial law enforcement's role in preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disaster within the United States.

Request Technical Assistance via the U and T Visa Hotline for Certifying Agency Inquiries:

(202) 272-8178
This line is for certifying agencies only.

Request Training:

T_U_VAWATraining@uscis.dhs.gov

DHS Federal Law Enforcement Training Center
https://www.fletc.gov/human-trafficking-training-program

Ask a Question about a Specific Case, Withdraw/Disavow a Signed Form, or Report Concerns about Fraud in or Misuse of U Visas:

LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov
This e-mail is for law enforcement personnel only.

Immigration and Customs Enforcement (ICE) Resources:

ICE Tool Kit for Prosecutors
https://www.ice.gov/doclib/about/offices/osltc/pdf/tool-kit-for-prosecutors.pdf

ICE Law Enforcement Support Center
(802) 872-6050
www.ice.gov/contact/lesc

Local ICE Offices
Enforcement and Removal Operations
www.ice.gov/contact/ero/

Office of the Principal Legal Advisor
www.ice.gov/contact/opla/

For Additional Anti-Trafficking Resources, go to the DHS Blue Campaign page:

https://www.dhs.gov/blue-campaign

APPENDIX: U VISA PROCESS

This is the general process to seek a U visa, from the victim's initial encounter with law enforcement to USCIS' final eligibility determination. A victim must show that he or she has not refused to comply with reasonable requests for assistance during all stages of the petition process.

The time between initial filing, review for waiting list placement, and the final adjudication of a case (approval or denial) can vary significantly due to several factors, including USCIS staffing levels and resource availability, U visa availability, and number and complexity of petitions and applications.

By law, USCIS cannot provide U nonimmigrant status to more than **10,000** principal victims (i.e., not including derivative family members) per year. This cap has been reached every year since 2010.

Information about U visa petitioners is protected by specific privacy and confidentiality laws.[14]

Cooperation
Step 1

Victim assists law enforcement in the detection, investigation, and/or prosecution of qualifying crime

Victim requests law enforcement certification and law enforcement decides whether to sign Form I-918, Supplement B

Filing
Step 2

Victim applies for U visa with USCIS, including valid law enforcement certification

Waiting List
Step 3

USCIS reviews the petition for eligibility and requests more evidence if needed

If determined eligible but the statutory cap for the fiscal year has been met, USCIS places petitioner on a waiting list (and grants deferred action and work authorization if petitioner is in the U.S.)

Approval
Step 4

Once a visa is available, USCIS reviews the file to verify eligibility

If determined eligible, USCIS approves the victim's petition for U nonimmigrant status

[14] See 8 U.S.C. 1367.

U.S. DEPARTMENT OF
HOMELAND SECURITY