



U Visa Basics for Law Enforcement

An individual may not apply for a U Visa without local law enforcement certification. Certification only makes the person eligible to apply for the visa and does not guarantee that legal status will be granted. The role of local law enforcement is to help identify and assist individuals who may qualify by providing certification so that they can comply with federal immigration laws.

What is the U Visa?

The Victims of Trafficking and Violence Prevention Act (VTVPA) passed with bipartisan support in 2000. The VTVPA created the U Visa, a nonimmigrant visa for victims of certain crimes who have been, or are likely to be, helpful to law enforcement in the investigation or prosecution of a crime. The purpose of this is two-fold. First, it enhances law enforcement's ability to investigate and prosecute crimes. Second, it furthers humanitarian interests by protecting victims of serious crimes.¹

As part of the U Visa application, Congress designated certifying government agencies, including any local authority charged with investigating or prosecuting criminal activity, to complete and sign the Certification, known as the **Form I-918B** or Supp B.²

What does a U Visa provide?

The U Visa is a temporary form of immigration status that allows a person to lawfully live and work in the United States. It does not automatically guarantee a "green card" or U.S. Citizenship. The person may apply for a green card, also known as lawful permanent residence, after three years of U Visa status. However, the person is still subject to rules and regulations of applying for a green card.

Can an applicant apply for a U Visa without a law enforcement certification?

No. Without the certification the applicant may not even apply for a U Visa. Ultimately, the federal government decides whether someone is eligible for the U visa by looking at the validity of the certification, person's conduct including criminal and immigration history, and deciding as a matter of discretion whether the person is deserving of the relief.

THE BASICS OF CERTIFICATION:

What are the roles and responsibilities of law enforcement officials?

The official considers a certification request and signs the certification if the following elements are met: **1)** the individual is a victim of a qualifying crime and **2)** the individual "has been helpful, is being helpful, or is likely to be helpful" in the investigation/prosecution of that crime.

Who decides if the individual suffered harm?

The U.S. Citizenship and Immigration Services (USCIS) has jurisdiction to determine substantial harm and to grant or deny the U Visa petition. Harm includes physical and emotional harm, and the applicant submits proof for USCIS to make this determination. Law enforcement does not need to consider and therefore, certify if the individual has suffered harm.

Does the case have to be open for law enforcement to certify the crime?

No, the case can be open or closed to sign the certification.

Does it matter how much time has passed since the crime occurred?

No, there is no statute of limitations for the crime or the victim's cooperation.

Does a completed certification mean that the individual will get a U Visa?

No, the certification does not provide nor promise a U Visa. A completed certification only allows an individual to apply for the U visa in order to take steps to comply with federal immigration laws. There are additional eligibility requirements that the applicant must fulfill, including a full review of the applicant's immigration and criminal background. USCIS ultimately determines whether the U Visa will be granted.

¹Department of Homeland Security: U.S. Citizenship and Immigration Services, *USCIS Publishes New Rule for Nonimmigrant Victims of Human Trafficking and Specified Criminal Activity*, USCIS News Release (Dec. 8, 2008).

² 8 U.S.C. § 1184 (p)(1) (2014); See link to Form I-918 Supplement B, U Nonimmigrant Status Certification at <http://www.uscis.gov/sites/default/files/files/form/i-918supb.pdf>



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What constitutes a qualifying crime?

- Abduction
- Abusive Sexual Contact
- Blackmail
- Domestic Violence
- Extortion
- False Imprisonment
- Female Genital Mutilation
- Felonious Assault
- Fraud in Foreign Labor Contracting
- Hostage
- Incest
- Involuntary Servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of Justice
- Peonage
- Perjury
- Prostitution
- Rape
- Sexual Assault
- Sexual Exploitation
- Slave Trade
- Stalking
- Torture
- Trafficking
- Witness Tampering
- Unlawful Criminal Restraint
- Other Related Crimes.³ This includes attempt, conspiracy, or solicitation to commit any of the above.

What does it mean to be “helpful” in an investigation?

Helpfulness means the victim was, is, or is likely to be assisting law enforcement in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim. This includes being helpful and providing assistance when reasonably requested. This does not include specific requirements, such as a requirement to testify.

What if the perpetrator was not convicted, prosecuted, or arrested?

A law enforcement official can still complete the certification. It does not matter whether the perpetrator was convicted, prosecuted, or even arrested for the crime. It also does not matter whether the perpetrator was lawfully present.

Can a U Visa certification be completed for someone no longer in the U.S.?

Yes. The victim does not need to be present in the U.S. and may apply from outside of the U.S.

What if the victim or witness has been detained by immigration authorities or ordered deported?

Individuals currently in deportation proceedings or with final orders of deportation may still apply for a U Visa.

Does the USCIS limit the number of U Visas?

Yes, the USCIS may grant no more than 10,000 U Visas in a fiscal year.⁴ Local law enforcement should not deny the U Visa certification based on the cap being filled since individuals are put on a waiting list to apply for the subsequent cycle.

How does a U Visa benefit the applicant and the City/County?

This helps the applicant live and work lawfully in the United States, which in turn benefits the government and the community. This provides resources for parents to care for their children, many of whom are U.S. Citizens. It increases public safety by enhancing law enforcement’s ability to investigate and prosecute crimes. It also bolsters community trust in law enforcement.

For more information, see *U Visa Law Enforcement Certification Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement*, Department of Homeland Security, available at

http://www.dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf

³ § 1101(a)(15)(U)(iii). Other related crimes include similar activity where the elements of the crime are substantially similar.

⁴ § 1184 (o)(7)(C)(2)(A).