



# 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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**U.S. Citizenship  
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## PROMOTING A VICTIM-CENTERED APPROACH

DHS strives to use a trauma-informed, victim-centered approach to combat serious 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 detection, investigation, and prosecution of perpetrators of serious crimes.

Noncitizens who have been victimized often:

- Distrust law enforcement, and fear arrest and deportation;
- Fear for themselves and family members;
- Worry about immediate needs (food, shelter, family);
- Have medical needs, including psychological support;
- Are confused about the U visa process; and
- May face language and cultural barriers.

When encountering a noncitizen victim, it is critical to develop rapport and establish trust by:

- Connecting the victim to a victim assistance specialist who can connect the victim to support services;
- Explaining your role, answering their questions, and addressing their fears and urgent needs;
- Being sensitive to cultural differences and language barriers and using a competent interpreter when needed;
- Conducting interviews in a neutral location, only after the victim's urgent needs have been met; and
- Being patient and giving the victim time to stabilize.

For more information and strategies for implementing a victim-centered approach, go to:

<https://www.dhs.gov/blue-campaign/victim-centered-approach>.

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# QUICK REFERENCE GUIDE FOR CERTIFYING AGENCIES

## Why is the U Visa Important?

- Strengthens law enforcement's ability to detect, investigate, and prosecute crimes
- Offers protections to noncitizen victims of qualifying crimes in keeping with U.S. humanitarian interests

## What does a U visa provide?

- Lawful status for up to 4 years
- Employment authorization (Work permit)
- May provide lawful status to qualifying family members

## What are the requirements for a U visa?

- » The petitioner:
  - Was a victim of a qualifying criminal activity, that occurred in the U.S. or violated U.S. law;
  - Has specific, credible, and reliable information about the qualifying crime;
  - Was, is being, or is likely to be helpful to the certifying agency in the detection, investigation, prosecution, conviction, or sentencing of the qualifying crime;
  - Suffered substantial physical or mental abuse as a result of the qualifying crime; and
  - Is admissible to the United States.

## What are the benefits of completing the Form I-918B?

- Part of a victim-centered approach
- Creates trust within your community
- Encourages others to report serious crimes

## What is the certifying agency's role in the U visa process?

- Detects, investigates, and/or prosecutes qualifying crime(s), or convicts or sentences the perpetrator of the qualifying crime(s)
- Completes and signs Form I-918B
- Confirms victim is complying with reasonable requests for assistance

## What does "helpful to law enforcement or a certifying agency" mean?

- 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 they were a victim.
- Includes detection, conviction, or sentencing of the qualifying criminal activity they were a victim of.
- A current investigation, the filing of charges, a prosecution, or a conviction are not required to sign the law enforcement certification.

## Who can complete the Form I-918B?

- Any federal, state, tribal, territorial, or local law enforcement 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.

## WHAT ARE THE GENERAL CRIME CATEGORIES THAT QUALIFY THE VICTIM FOR A U VISA?

- Abduction
- Abusive Sexual Contact
- Blackmail
- Domestic Violence
- Extortion
- False Imprisonment
- Felonious Assault
- Female Genital Mutilation
- 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

*Any similar activity in which the nature and elements of the criminal offenses are substantially similar to the list above. **Includes:** Attempt, conspiracy, or solicitation to commit these crimes.*

» Have Questions?

» Need help with the Supplement B?

**Call the U and T Visa Hotline for Certifying Agency Inquiries:**

**(240) 721-3333** *This line is for certifying agencies only*



**U.S. Citizenship  
and Immigration  
Services**

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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 [U Visa Law Enforcement Resource Guide](#).*

# INTRODUCTION

As part of 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 noncitizen victims of certain crimes. In creating the U visa, Congress recognized that people without lawful immigration status can be vulnerable to victimization, and may be reluctant to help in the detection, investigation, or prosecution of criminal activity due to:

- » fear of removal from the United States,<sup>1</sup>
- » trauma suffered as a result of the crime they experienced, and
- » general mistrust of law enforcement.

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.

The U visa was designed with **the dual purpose of protecting noncitizen victims of serious crimes and promoting cooperation between law enforcement and victims by:**

- Strengthening law enforcement’s ability to detect, investigate, and prosecute serious crimes, such as domestic violence, sexual assault, and human trafficking;
- Encouraging victims to report crimes committed against them and participate in the investigation and prosecution of those crimes, even if victims lack lawful immigration status;
- Bolstering relationships between law enforcement and noncitizens, which leads to safer communities as a whole; and
- Offering protections to victims of certain crimes by allowing them to temporarily remain and work in the U.S., generally for 4 years.

## Purpose of this Guide:

USCIS has developed this Guide as a resource for certifying agencies, including federal, state, local, tribal and territorial law enforcement agencies, prosecutors, judges, and other government officials who have important roles in identifying and assisting victims, and stakeholders. This Guide makes references to law enforcement agencies throughout when describing the roles of certifying officials in the U visa process. These references to law enforcement agencies include all potential certifying agencies.

This Guide provides information about the U visa, including:

- The U visa law enforcement certification;
- Best practices for certifying agencies and officials;
- Answers to frequently asked questions; and
- Contact information for DHS personnel on U visa issues.

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

## ROLES AND RESPONSIBILITIES

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

### VICTIM

- Provides information to the certifying agency to assist with the detection, investigation, or prosecution of qualifying crime(s), or the conviction, or sentencing of the perpetrator.
- Is available to be helpful in the detection, investigation and/or prosecution of a qualifying crime(s), when reasonably requested and there is an ongoing need.<sup>2</sup>
- Submits the Petition for U Visa (Form I-918) with the required Form I-918 Supplement B, U Visa Certification (Form I-918B), to USCIS.

### CERTIFYING AGENCY

- Detects, investigates, and/or prosecutes allegations of qualifying crimes, including the conviction, or sentencing of the perpetrator.
- Determines, within the certifying agency's discretion, whether to complete and sign Form I-918B, in accordance with the agency's procedures and designated signing authority.
- Confirms to USCIS that the victim is complying with reasonable requests for assistance.

### USCIS

- Determines eligibility for U visas.
- Communicates, as needed, with law enforcement to confirm information provided on Form I-918B, and any other evidence submitted with a U visa petition.
- Provides U nonimmigrant status to eligible victims.

2. See the discussion regarding helpfulness on page 8 of this Guide as well as 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>).

# FORM I-918B CERTIFICATION BASICS

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

## PARTICIPATION BY CERTIFYING AGENCIES

Certifying agencies play a key role in the U visa program. They are often in the best position to provide information about the reported qualifying crime(s) and the victim’s helpfulness, as they are frequently the first to encounter victims. Form I-918B<sup>5</sup> is a required piece of evidence victims submit to USCIS to establish eligibility for U nonimmigrant status. This certification is completed and signed by law enforcement, or the certifying agency involved in the detection, investigation, or prosecution of the criminal activity, but is submitted by the victim with their petition for U nonimmigrant status. Such agencies may include state and local agencies that enforce relevant labor and employment laws (when such violations are also qualifying criminal activities). Completing Form I-918B does not automatically guarantee eligibility for a U visa. In determining a victim’s eligibility, 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 completely 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 certifying agency has the authority to sign certifications or to delegate authority to other agency officials in a supervisory role to sign certifications.<sup>6</sup> Federal, state, local, tribal, or territorial judges have direct authority to sign and may not delegate that authority. Judges may sign certifications based on a review of court records involving the victim. 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 they presided.

**Timing:** USCIS must receive the U visa petition **within 6 months** of the date the certifying official signed Form I-918B. If USCIS receives the U visa petition from the petitioner or their attorney more than six months after the Form I-918B was signed and dated, the Form I-918B will have expired and will not be accepted. In these situations, the petitioner or their attorney will need to obtain a newly signed and dated Form I-918B from the certifying agency.

### 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 the 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.

3. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>

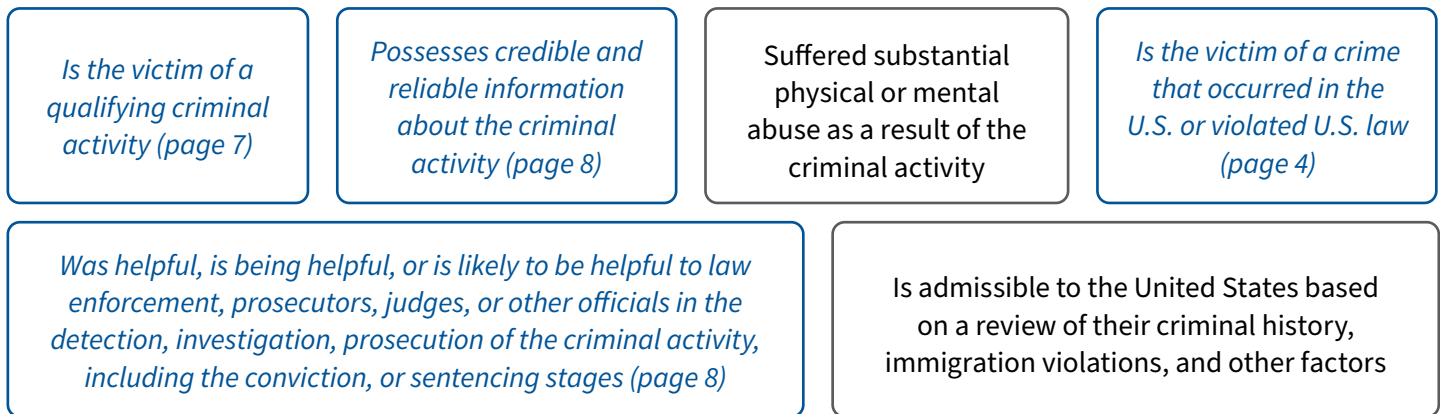
4. <https://www.uscis.gov/tools/resources/information-law-enforcement-agencies-and-judges>

5. The terms “Form I-918B”, “U Visa Certification”, “certification,” and “law enforcement certification” will be used interchangeably throughout this Guide and all refer to the same document.

6. See 8 CFR 214.14(c)(2)(i).

## ELIGIBILITY REQUIREMENTS

USCIS finds a victim eligible for a U visa if the person:<sup>7</sup>



This guide will discuss the eligibility requirements *italicized and highlighted in blue* more thoroughly, as the law enforcement declaration focuses on these areas.

### Defining Qualifying Criminal Activities

Congress established the qualifying criminal activities<sup>8</sup> listed below for the U visa. These are general categories, and not specific crimes or citations to a criminal code. The one exception is “Fraud in Foreign Labor Contracting,”<sup>9</sup> which is a specifically cited federal offense. The criminal activity must have occurred in the U.S., its territories, or possessions, or have violated U.S. law.<sup>10</sup> A victim may also qualify based on an attempt, conspiracy, or solicitation to commit any of the below qualifying criminal activities.

- » Abduction
- » Abusive Sexual Contact
- » Blackmail
- » Domestic Violence
- » Extortion
- » False Imprisonment
- » Felonious Assault
- » Female Genital Mutilation
- » 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

Various federal, state, and local statutes may contain specific crimes that fall into these more general categories. For example, child abuse and elder abuse could be considered forms of domestic violence if the perpetrator/victim relationship and the abuse experienced by the child, incompetent or incapacitated 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 they can reasonably demonstrate that the perpetrator principally committed the offense to avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring the perpetrator to justice, or to further their abuse, exploitation of, or control over the person through manipulation of the legal system.<sup>11</sup>

7. See Immigration and Nationality Act (INA) 101(a)(15)(U)(iii), 8 U.S. Code (U.S.C.) 1101(a)(15)(U)(iii).

8. See INA 101(a)(15)(U)(iii), 8 U.S.C. 1101(a)(15)(U)(iii)

9. See 18 U.S.C. 1351.

10. See 8 CFR 214.14(a)(11).

11. See 8 CFR 214.14(a)(14)(ii).



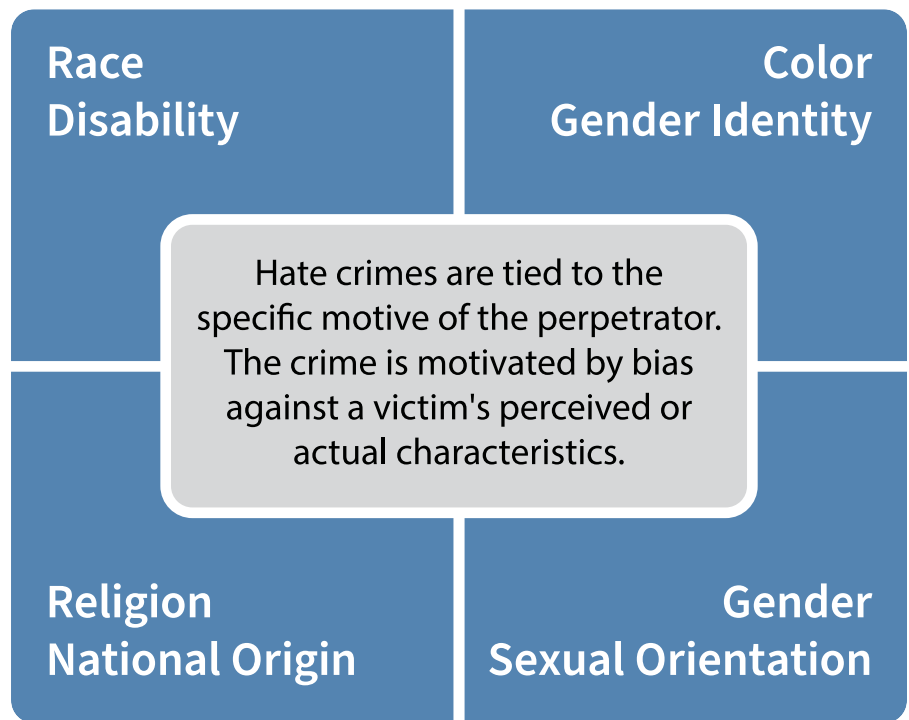
## Similar Criminal Activities May Qualify

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 for a U Visa 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 qualifying crime listed on page 4.

To determine whether the crime qualifies, USCIS considers information and other documentation provided by a certifying agency, 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.

For example, a victim of a hate crime may be eligible for a U visa if the nature and elements of the crime are substantially similar to the categories of crime listed on page 4. Certifications may be based on violations of federal or state hate crime laws.<sup>12</sup>

Additionally, aggravated robbery and robbery, which are not specifically listed as qualifying criminal activities, could nevertheless be considered substantially similar to the qualifying criminal activity of felonious assault, depending on state robbery statutes and evidence of the crime that law enforcement detected, investigated, or prosecuted. 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 under applicable state law, 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.<sup>13</sup>



12. For more information, visit <https://www.justice.gov/hatecrimes/learn-about-hate-crimes>.

13. If the applicable state felony assault statute requires a distinct aggravating factor not included within the aggravated robbery statute of the same state (for example, assault against a specific age or class of people) and no such factor is present, then the crime would generally not be considered substantially similar to felonious assault.

## DOCUMENTING CRIMES INVESTIGATED AND/OR PROSECUTED<sup>14</sup>

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 I. Attach copies of all relevant reports and findings.

Jurisdictions use different terms for criminal activity. Each jurisdiction's crime definitions may also include slightly different elements. As such, it is important that you list accurate and precise citations for any crimes you detected, investigated, or prosecuted. For family court cases, list the criminal code section(s) that apply to the facts found by the court in the case, reflecting the qualifying criminal activity detected. The initiation of a criminal case is not required to establish eligibility for a U visa.

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.

### PEOPLE CULPABLE FOR THE QUALIFYING CRIME(S) ARE NOT ELIGIBLE

A person is not eligible for a U visa if they are culpable for the qualifying crime(s) being investigated or prosecuted.<sup>15</sup> If you believe a person requesting a certification is or may be culpable, you, as the certifying official, may still complete a certification for a victim, and note your concerns about culpability on the form for USCIS to consider. USCIS will determine the person's eligibility for a U visa.

**Note:** Victims of domestic violence may be 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 you, the certifying official, from completing a certification for the victim, or preclude the victim from qualifying for U nonimmigrant status.

14. The Form I-918B screenshots depicted in this Guide are from Version 04/30/2021. **Note:** USCIS forms are periodically revised. Check the USCIS website ([www.uscis.gov](http://www.uscis.gov)) to ensure that you are certifying the current version of the form.

15. See 8 CFR 214.14(a)(14)(iii).

## VICTIM OF A QUALIFYING CRIMINAL ACTIVITY

Various people 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

A person may be eligible as an indirect victim if the following requirements are met:

- » The person must have a qualifying family relationship to the direct victim:
  - If the direct victim is age 21 or older at the time the qualifying crime was committed, their spouse and unmarried children under age 21 may qualify.
  - If the direct victim is under age 21 at the time the qualifying crime was committed, their spouse, unmarried children under age 21, parents, and unmarried siblings under age 18 may qualify.<sup>16</sup>
- » The direct victim is unable to assist law enforcement because they are:
  - *Deceased* due to murder or manslaughter; or
  - *Incompetent or incapacitated*, including due to injury, trauma, or age.<sup>17</sup>
- » The indirect victim must meet all other eligibility requirements for U nonimmigrant status.

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

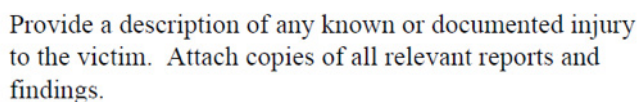
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## VICTIM MUST HAVE SUFFERED SUBSTANTIAL PHYSICAL OR MENTAL ABUSE

As the certifying official, you should provide 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 their injuries.

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

USCIS is responsible for determining whether a person meets this eligibility requirement. USCIS will consider all supporting evidence the certifying agency provides when determining whether a person is eligible for U nonimmigrant status and may request additional information before adjudicating the petition.



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

16. USCIS considers the age of the direct victim at the time the qualifying crime(s) occurred.

17. 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 qualifying 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<sup>18</sup> may provide information on their behalf.

## **A VICTIM'S RESPONSIBILITY TO ASSIST**

A victim seeking a U visa must provide ongoing assistance with the investigation or prosecution related to the qualifying crime(s) when reasonably requested, including after reporting a crime and after the certifying agency signs Form I-918B. This responsibility continues even after the U nonimmigrant status is granted to the victim. A victim applying for lawful permanent residence based on a U visa will have to show that they did not unreasonably refuse to comply with requests for assistance.

## **VICTIM WAS "HELPFUL" IN THE INVESTIGATION OR PROSECUTION**

Your agency can certify a Form I-918B based on past helpfulness, present helpfulness, 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 detection, investigation, or prosecution of the qualifying criminal activity of which they were a victim. Federal U visa regulations do not set a specific statute of limitations for signing the Form I-918B. The key is the victim's helpfulness, not the timing of the helpfulness.

A parent, guardian, or next friend may also provide the required assistance if the victim is under 16 years of age or incapacitated or incompetent and therefore unable to be helpful in the investigation.

There is no requirement that you sign the certification at a specific stage of the investigation or prosecution (for example, active/open or closed) or that the investigation or prosecution result in a specific outcome (for example, the perpetrator was charged, arrested, or convicted). There is no requirement that an investigation or prosecution be initiated or completed after the victim reports the crime and makes themselves available to reasonable requests for assistance. The initiation or progress of an investigation or prosecution is outside of the victim's control.

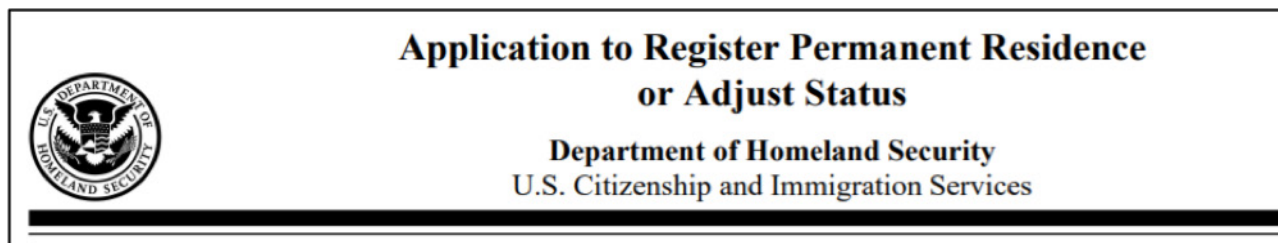
In determining whether the victim is, has been, or will be helpful, USCIS considers the facts of each case, including:

- The level of assistance that law enforcement requests of the victim;
- The victim's responsiveness to requests from law enforcement for assistance; and
- The victim's individual circumstances (such as age/maturity, trauma, etc.).

18. A "next friend" is defined at 8 CFR 214.14(a)(7) 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 a 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).

## FUTURE CERTIFICATION REQUESTS FROM THE VICTIM

If your agency signed a U visa certification, the victim may request your support in the future when adjusting their status by filing an application to become a lawful permanent resident (also known as a “Green Card” application).



To be eligible for lawful permanent residence, the victim must demonstrate that they did not unreasonably refuse to comply with requests for assistance in the investigation or prosecution since receiving a U visa. While a new Form I-918B or similar documentation from your agency is not required, it can help the victim meet their evidentiary burden. There is no federal requirement that a case must have progressed to a certain stage (for example, 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. Providing this second certification will help the victim apply for adjustment of status—a crucial step in a noncitizen’s path to citizenship.

To certify the victim’s helpfulness at this stage, certifying officials have three options:

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

# TOP SIX

## THINGS TO KNOW ABOUT FORM I-918B



### Serves as Required Evidence for Victims

Victims must file Form I-918B with Form I-918. Signing strengthens your certifying agency's ability to detect, investigate, and prosecute serious crimes. Your certifying agency should exercise this discretion on a case-by-case basis consistent with U.S. and state laws and regulations, as well as the internal policies of your certifying agency. However, under federal law, there is no obligation to complete and sign Form I-918B.

1

2

### Signing Means Attesting to the Facts

By signing the certification, you are stating:

- The person is a victim of a qualifying criminal activity;
- Whether the person has been, is being, or is likely to be helpful in the detection, investigation, or prosecution of the qualifying criminal activity (or is exempt), and has complied with all reasonable requests for assistance;
- 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 the certifying official's **original signature**.

3

### Who Completes the Form Matters

The certifying agency – not the victim, nor their attorney or representative – should complete Form I-918B. Additionally, only sign Form I-918B if:

- You are the head of your agency, or in a supervisory role, and your agency has designated you a “certifying official”; or
- You are a federal, state, local, tribal, or territorial judge.

4

### Investigation and Prosecution is Not Required

Whether a crime is investigated or prosecuted depends on many factors outside of the victim's control. If your agency has identified a person as a victim of a qualifying crime, you can choose to complete and sign the Form I-918B. There is no requirement that an investigation or prosecution be initiated or completed after the victim reports the crime and makes themselves available to reasonable requests for assistance.

5

### Signing Does Not Grant Immigration Status

Your agency is not responsible for determining whether a person is eligible for an immigration status; this is the responsibility of USCIS.

USCIS will review the entire file, including the Form I-918B you signed and any other evidence you provided. USCIS also evaluates the victim's criminal history, but it does not automatically render a victim ineligible.

6

### A Certification Has a 6-Month Validity Period

A victim must submit their U visa petition within 6 months of the date the Form I-918B was signed. Once received and accepted by USCIS, the signed law enforcement certification does not expire.



### 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:

- 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 qualifying criminal activity, victimization, and the victim's helpfulness in the detection, investigation, prosecution, conviction or sentencing related to the qualifying criminal activity;
- Procedures to safeguard against fraud, such as centralizing final review of certifications, especially in agencies where there are multiple certifying officials, to promote consistency 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

Throughout the adjudicative process, USCIS may reach out to the certifying official or 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 and 8 CFR 214.14(e)(2).

### 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](mailto: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 I-918B does not automatically confer eligibility for a U visa. USCIS will assess eligibility by examining all the evidence provided by the victim in their complete U visa petition, including the information you provide on the form as well as supplemental evidence provided by the victim.

## **ATTACH ADDITIONAL RELEVANT DOCUMENTS – AND NOTE ON FORM I-918B**

If available, provide additional relevant documents (for example, a copy of the police report or court order, judicial findings, additional statements, photos, etc.) along with the signed form. If you provide additional documents, please note on the form itself what is being provided 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**

You must provide an original signature on Form I-918B.

## **RETURN THE FORM TO THE VICTIM**

You should return the signed Form I-918B to the victim; certifying officials should not send the signed form separately to USCIS. The victim is required to submit the original, photocopy, fax, or scan of the signed certification to USCIS when filing their completed U visa petition.

USCIS suggests the following best practices for certifying officials:

First, make two copies of the original completed and signed Form I-918 B and any supporting documents. Keep one copy for your records. Give the other copy to the victim.

Second, if possible, prepare the original completed and signed Form I-918 B for submission to USCIS by the victim:

1. Place the Form I-918 B and any supporting documentation into an envelope;
2. Seal the envelope;
3. On the front, write in capital letters: “DO NOT OPEN. FOR USCIS USE ONLY;”
4. On the back, write your initials across the seal where the flap meets the envelope;
5. Seal the entire flap with clear tape. Make sure the tape covers your initials as well as the flap; and
6. Give the sealed envelope to the petitioner for submission with their Form I-918.

USCIS’ fraud detection units investigate cases where there is suspicion of fraud and work with other Federal, State, and local law enforcement agencies where fraud is suspected. If USCIS suspects fraud in a U visa petition or Form I-918B, 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.



# 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 the certifying agency 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 detect, 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. These actions bolster relationships between law enforcement and the communities they protect and make communities safer as a whole.

### **HOW DOES USCIS DETERMINE WHETHER SOMEONE IS ELIGIBLE FOR A U VISA?**

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 (see page 4 for eligibility requirements), including the signed Form I-918B, and conducting 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 FORM I-918B IF A PROSECUTION HAS NOT OCCURRED?**

Yes. The decision to complete Form I-918B is within your agency's discretion. However, as a certifying official, you may sign a Form I-918B regardless of the status or stage of the investigation or prosecution. Charges do not have to be filed, nor does an investigation or prosecution need to be open or completed at the time a certification is signed. For example, a victim may establish eligibility for a U visa if the certifying agency detected the qualifying crime based on the information provided by the victim.

### **CAN I COMPLETE A CERTIFICATION IF THE CRIMINAL ACTIVITY OCCURRED OUTSIDE THE JURISDICTION MY LEA OPERATES IN?**

Yes. In certain circumstances, LEAs may have the authority to detect, investigate, or prosecute qualifying criminal activity occurring outside of their jurisdiction. Victims may also choose to report the criminal activity outside of the jurisdiction where it occurred for a variety of reasons. While the criminal activity does not need to have occurred within the jurisdiction of the LEA, the certifying agency completing Form I-918B should provide information about how the certifying official detected or investigated the criminal activity. LEAs may also provide any available information about why the victim sought a certification outside of the jurisdiction where the criminal activity occurred. This can include information provided by the victim about lingering trauma, relocation to escape a perpetrator, fear, lack of experience with local law enforcement, or referral from other LEAs.

### **CAN I CERTIFY A FORM FOR A VICTIM WHO IS NO LONGER IN THE U.S.?**

For U visa eligibility, the qualifying criminal activity must have occurred in the U.S., its territories, or possessions, or have violated U.S. law. However, 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.

## **CAN I APPLY FOR CONTINUED PRESENCE FOR THE VICTIM IF THEY ALSO HAVE A PENDING U VISA PETITION?**

Yes. Filing for Continued Presence (CP) utilizes the victim-centered approach and allows for the support and stabilization of the victim while their I-918B is being processed by USCIS. CP also helps build rapport and establish trust between you and the victim. See the CCHT Continued Presence Resource Guide for law enforcement agencies and civil attorneys: [www.ice.gov/doclib/human-trafficking/ccht/continuedPresenceToolkit.pdf](http://www.ice.gov/doclib/human-trafficking/ccht/continuedPresenceToolkit.pdf).

## **WHY IS A VICTIM REQUESTING ANOTHER CERTIFICATION WHEN MY AGENCY PREVIOUSLY PROVIDED ONE?**

Completing another certification is always at the discretion of the certifying agency. However, there are a few circumstances that may warrant a new certification. Victims applying for a U visa must submit Form I-918B within six months after it is signed by a certifying official. If the Form I-918B expired before the victim was able to file a petition or application with USCIS, they would require a new form. The certifying agency has the option of printing the previous version of the Form I-918B, signing and dating it with the new date, or completing a new version of Form I-918B. This is an instance where it may be helpful to retain copies of Form I-918B that your agency has completed for your records. When completing a new form, please ensure you have [the current version](#) of the form and sign it with a new date. Victims may also request another Form I-918B if the original form was incomplete or when significant additional information regarding the detection, investigation, or prosecution, the victimization, and/or the victim's helpfulness becomes available.

Additionally, if a victim applies for lawful permanent residence (also known as a Green Card), they must demonstrate they did not unreasonably refuse to comply with requests for assistance since receiving a U visa. As evidence of this, the victim may request a newly signed Form I-918B, or other signed document from your agency. There is no federal requirement that a case must have progressed to a certain stage (for example, prosecution or conviction) prior to re-certification.

## **CAN I SAY “NO” TO REQUESTS FOR CERTIFICATION?**

While there are no federal requirements to certify, please refer to your state's laws regarding certifications. The decision whether to complete Form I-918B is at the discretion of the certifying agency. However, if the victim's U visa petition does not include a completed Form I-918B, the victim will be ineligible for U nonimmigrant status.

## **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 person'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?**

Certifying agencies play an important role in supporting the integrity of the U visa program by providing information to USCIS, including (but not limited to):

- Notifying USCIS when a victim refuses or fails to provide assistance when reasonably requested;
- Informing USCIS of any known criminal activity; and
- Alerting USCIS of any suspected fraud.

To terminate, withdraw, or revoke a certification, the certifying official should contact USCIS by emailing [LawEnforcement\\_UTVAWA.VSC@uscis.dhs.gov](mailto: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.

Additionally, if USCIS suspects fraud in a U visa petition, USCIS may reach out to the certifying agency and request further information. USCIS may also contact certifying agencies to confirm the accuracy and source of the information submitted to USCIS on Form I-918B.

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.

### **CAN I RUN CHECKS SUCH AS NATIONAL CRIME INFORMATION CENTER (NCIC) ON THOSE ASKING FOR A CERTIFICATION?**

USCIS does not require certifying agencies to run background or criminal history checks on people asking for a certification. However, prior to signing Form I-918B, certifying agencies may choose to run background and criminal history checks on people 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 a U visa petition.

### **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, criminal activities, and security issues before making a final decision. USCIS runs background and security checks for principal petitioners and all qualifying family members. This includes fingerprint checks, Name/Date of Birth search in federal databases, and immigration status checks. USCIS takes into account whether there is a nexus between a victim's criminal behavior and their victimization. USCIS also carefully considers any evidence of rehabilitation that the victim provides with their U visa petition. USCIS considers the facts of each case separately when determining whether a person is eligible for U nonimmigrant status.

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 the U visa petition. However, in most cases, a person will not be able to meet the statutory requirements for approval of a U visa petition if they have 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 they claim to be a victim.

### **MAY I TYPE MY RESPONSE TO FORM I-918B?**

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

## **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 preside over or 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](mailto: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 victim has the burden of establishing that they meet the substantial physical or mental abuse requirement. The determination of what evidence is credible and the weight to be given to that evidence is within the sole discretion of USCIS.

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.

# MORE RESOURCES

## FOR CERTIFYING AGENCIES AND OFFICIALS



### ICE Homeland Security Investigations (HSI)

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

[www.ice.gov/contact/hsi/](http://www.ice.gov/contact/hsi/)

866-872-4973 or [victimassistance.ice@ice.dhs.gov](mailto:victimassistance.ice@ice.dhs.gov)

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

### DHS Center for Countering Human Trafficking (CCHT)

The CCHT is the first unified, intercomponent coordination center for countering human trafficking and the importation of goods produced with forced labor. The CCHT also processes and authorizes Continued Presence applications from federal law enforcement agents for victims of severe forms of human trafficking.

See the CCHT Continued Presence Resource Guide for law enforcement agencies and civil attorneys: [www.ice.gov/doclib/human-trafficking/ccht/continuedPresenceToolkit.pdf](http://www.ice.gov/doclib/human-trafficking/ccht/continuedPresenceToolkit.pdf)

For direct assistance regarding Continued Presence, please email: [ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov). For other CCHT inquiries, contact: [info@ccht.dhs.gov](mailto:info@ccht.dhs.gov)

### Office for Civil Rights and Civil Liberties (CRCL):

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 T visa, U visa, or VAWA confidentiality protections by a federal employee. See 8 U.S.C. 1367(a)(2).

Toll Free: 866-644-8360

[crcl@dhs.gov](mailto:crcl@dhs.gov) or [VAWA@hq.dhs.gov](mailto:VAWA@hq.dhs.gov)

### Office for State and Local Law Enforcement (OSLLE):

(202) 282-9545 or [OSLLE@hq.dhs.gov](mailto: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 disasters within the United States.

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

240-721-3333

*This line is for certifying agencies only.*

### Request Training:

[T\\_U\\_VAWATraining@uscis.dhs.gov](mailto:T_U_VAWATraining@uscis.dhs.gov)

### DHS FEDERAL LAW ENFORCEMENT TRAINING CENTER

<https://www.fletc.gov/training-program/human-trafficking-awareness-training>

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

[LawEnforcement\\_UTVAWA.VSC@USCIS.dhs.gov](mailto:LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov)

*This e-mail is for certifying agencies 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/lesc](http://www.ice.gov/lesc)

#### LOCAL ICE OFFICES

Enforcement and Removal Operations

[www.ice.gov/contact/ero/](http://www.ice.gov/contact/ero/)

#### OFFICE OF THE PRINCIPAL LEGAL ADVISOR

[www.ice.gov/contact/opla/](http://www.ice.gov/contact/opla/)

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

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

# APPENDIX A

## U VISA PROCESS

This is the general process for a victim to seek a U visa, from the victim's initial encounter with the certifying agency to USCIS' final eligibility determination. A victim must show that they have not refused to comply with reasonable requests for assistance during all stages of the petition process.

The time between initial filing, review for bona fide determination/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 per year. This statutory limit does not apply to derivative family members. This cap has been reached every year since 2010.

Information about victims filing U visa petitions is protected by specific privacy and confidentiality laws.<sup>19</sup>

| <b>Cooperation</b><br><b>STEP 1</b>   | <b>Filing</b><br><b>STEP 2</b>   | <b>BFD/Waiting List</b><br><b>STEP 3</b>  | <b>Approval</b><br><b>STEP 4</b>   | <b>Green Card</b><br><b>STEP 5</b>   |
|---|--|---|--|--|
| Victim assists the certifying agency in the detection, investigation, and/or prosecution of qualifying crime. | Victim applies for U visa with USCIS, including a signed Form I-918 B, dated within 6 months of when the victim files their U visa petition. | USCIS reviews the petition and determines if principal petitioner may receive employment authorization (EAD) and deferred action (DA) based on a bona fide determination (BFD). <sup>20</sup> | Once a visa is available, USCIS reviews each petition in receipt date order to verify eligibility. | After at least 3 years after a grant of U nonimmigrant status, if victim meets certain requirements, victim applies to become a lawful permanent resident. |
| Victim requests a certification and the certifying agency decides whether to sign Form I-918 B.               |  | If the victim cannot receive a BFD-based EAD and DA, USCIS issues a notice and requests more evidence to evaluate the petition for potential placement on the waiting list.                   | If determined eligible, USCIS approves the victim's petition for U nonimmigrant status.            | If determined eligible, USCIS approves victim's application for lawful permanent resident status.  |
|   |  | If placed on the waiting list, the victim also receives employment authorization and deferred action.   |  |  |

19. See 8 U.S.C. 1367.

20. See <https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5> for more information on the Bona Fide Determination Process.

# U and T Visa Law Enforcement Resource Guide

for Federal, State, Local, Tribal and Territorial  
Law Enforcement, Prosecutors, Judges, and  
Other Government Agencies



# U and T Visa Resource Guide

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# Introduction

As a federal, state, local, tribal or territorial law enforcement officer, prosecutor, judge, or other government official, you play an important role in the application process for U nonimmigrant status (also known as a U visa) for victims of certain crimes and T nonimmigrant status (also known as a T visa) for victims of human trafficking. U and T visas not only help protect victims of crime, but are also key tools for you in your work. Lack of legal immigration status in the United States may be among the reasons for some victims choosing not to come forward to work with law enforcement. Perpetrators and human traffickers also use victims' lack of legal status as leverage to exploit and control them. By stabilizing their status in the United States, immigration relief can be critical to providing victims of crime a greater sense of security that also makes it easier for them to assist you with your law enforcement and prosecutorial efforts.

In order to qualify for the U and T visa, the victim must prove to U.S. Citizenship and Immigration Services (USCIS) that he or she cooperated with law enforcement.<sup>1</sup> USCIS is the federal component of the Department of Homeland Security (DHS) responsible for adjudicating (approving or denying) U and T visa applications. One of the primary ways that a victim may demonstrate cooperation is by submitting a signed statement from law enforcement as part of the application. In the U visa context, this statement is a required part of the petition and is known as USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification (Form I-918B or certification). In the T visa context, this statement is known as USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim in Trafficking of Persons (Form I-914B or declaration). While not required in the T visa context, the signed declaration provides valuable evidence of the victim's cooperation.

Because these signed statements from law enforcement are such critical pieces of U and T visa applications, victims may approach you to request that you certify their cooperation. You may also encounter victims who are afraid or reluctant to cooperate in a criminal investigation because they lack a lawful immigration status, and who are not aware that they may qualify for a U or T visa.

DHS has created this Resource Guide to inform you and address concerns about the role of law enforcement agencies within these visa programs. This Guide includes information about U and T visa requirements; the I-918B certification and I-914B declaration processes; best practices; answers to important and frequently asked questions from judges, prosecutors, law enforcement agencies, and other officials; where to look for more resources; and contact information for DHS personnel on U and T visa issues.

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<sup>1</sup> See 8 CFR 1.1, 1.2, 100.1. Exceptions to the cooperation requirement exist for U and T visa applicants who are under age 18 or who have suffered trauma.

# U Visa Basics

## Why was the U visa created? How does it help law enforcement?

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000<sup>2</sup> was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and trafficking in persons, while offering protections to victims of such crimes without the immediate risk of being removed from the country. Congress, in the VTVPA, created the U nonimmigrant status program out of recognition that victims without legal status may otherwise be reluctant to help in the investigation or prosecution of criminal activity. Immigrants, especially women and children, can be particularly vulnerable to criminal activity like human trafficking, domestic violence, sexual assault, stalking, and other crimes due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences. Accordingly, under this law, Congress sought not only to prosecute perpetrators of crimes committed against immigrants, but to also strengthen relations between law enforcement and immigrant communities.

## What is the U visa? What are the benefits to the victim?

The U visa is an immigration benefit for victims of certain crimes who meet eligibility requirements.<sup>3</sup>

USCIS may find an individual eligible for a U visa if the victim:

- Is the direct or indirect victim of qualifying criminal activity<sup>4</sup>;
- Has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity;
- Has information about the criminal activity;<sup>5</sup> and
- 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.<sup>6</sup>

Additionally, the victim must be admissible to the United States based on a review of his or her criminal history, immigration violations, and other factors. If found inadmissible, an individual may apply for a waiver of inadmissibility for which he or she may be eligible.

The U visa allows eligible victims to temporarily remain and work in the United States, generally for four years. While in U nonimmigrant status, the victim has an ongoing duty to cooperate with law enforcement and cannot unreasonably refuse to assist with the investigation or prosecution of the

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<sup>2</sup> Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).

<sup>3</sup> <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>. See also INA 101(a)(15)(U).

<sup>4</sup> The criminal activity occurred in the United States or violated U.S. laws.

<sup>5</sup> If under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may possess the information about the criminal activity on the individual's behalf.

<sup>6</sup> If under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may assist on behalf of the individual.

criminal activity. If certain conditions are met, an individual with a U visa may apply for adjustment to lawful permanent resident status (i.e., seek a green card in the United States) after three years.

Additionally, certain family members of a U visa recipient may also be eligible to live and work in the United States as “derivative” U visa recipients based on their relationship with the principal recipient. These include:

- Unmarried children under the age of 21;
- Spouse;
- Parents of U visa petitioners under age 21; and
- Unmarried siblings under 18 years old of U visa petitioners under age 21.

By law, there is a 10,000 annual cap on U visas for principal applicants. However, USCIS continues to adjudicate applications even after the annual cap has been reached. Cases that qualify for approval after the cap has been reached receive "conditional approval" and work authorization based on "deferred action" until U visas become available.

### **How does USCIS review U visa petitions?**

USCIS takes several steps to determine whether a victim is eligible for a U visa. USCIS reviews the entire application, which includes the petition (Form I-918), Form I-918B certification, the victim’s affidavit, as well as supporting evidence such as police reports, medical records, photographs, court documents, and witness affidavits. If the applicant is inadmissible due to, for example, prior criminal history, immigration violations, or security concerns, USCIS also reviews any application received for a waiver of inadmissibility. However, some inadmissibilities cannot be waived. As a part of its review of the U visa certification (Form I-918B), USCIS may contact the certifying official to ask if the victim has continued to provide assistance reasonably requested or to request other information. USCIS may also contact the certifying agency if any issues or questions arise during the adjudication based on information provided in the certification.

For all U visa petitioners and their qualifying family members, USCIS conducts a thorough background investigation including a Federal Bureau of Investigation (FBI) fingerprint check and name check. USCIS also reviews the petitioner’s immigration records to assess whether any inadmissibility issues exist, such as the petitioner’s criminal history, immigration violations, or any security concerns. The results of these checks, as well as any evidence that certifying officials and immigration authorities possess, may be considered when determining eligibility for a U visa. Because qualifying “derivative” family members are subject to the same background checks, it is possible that a derivative’s adverse criminal or immigration background could result in a denial of derivative status even when the principal’s petition has been approved.

### **What is a U visa certification?**

In order to be eligible for a U visa, the victim must submit a U visa certification completed by a certifying agency or official. USCIS Form I-918, Supplement B (Form I-918B or certification) is the U visa certification that a federal, state, local, tribal, and territorial law enforcement agency, prosecutor, judge, or other government official can complete for a victim who is petitioning USCIS for a U visa. The law enforcement certification explains the role the victim had, has, or will have in being helpful to the investigation or prosecution of the case.

Form I-918B and its instructions are available on the USCIS website at [www.uscis.gov](http://www.uscis.gov) with the Form I-918

for the U visa. The certification must be signed by the certifying official with an original signature within the six months (6 months minus one day) immediately preceding the U visa petitioner's submission of Form I-918.

### **What kind of information does the U visa certification provide?**

The certification, Form-I-918B, is a required piece of evidence to help demonstrate:

- That a qualifying criminal activity has occurred;
- That the victim has information about the criminal activity; and
- That the victim was helpful, is being helpful, or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of criminal activity.

Law enforcement may also report information about any known or observed harm sustained by the victim. While Form I-918B asks the law enforcement official to provide information about the injury to the victim, the certifying official is not required to assess whether the victim suffered substantial physical or mental abuse as a result of the criminal activity. This is a requirement that the U visa petitioner must establish to the satisfaction of USCIS.

**Without a completed and signed U visa certification, the victim will not qualify for a U visa, as it is a required part of the application, and there is no exception to this requirement. However, by signing a U visa certification, the certifying agency, official, or judge is not sponsoring or endorsing the victim for a U visa, and the completed certification does not guarantee that USCIS will approve the U visa petition. USCIS considers the U visa certification as only one part of the evidence in support of the U visa petition.** USCIS determines the victim's credibility and whether to approve the petition based on the totality of the evidence and circumstances of each case.

The decision whether to sign a certification is at the certifying agency's discretion. Each certifying agency should exercise its discretion on a case-by-case basis consistent with applicable U.S. laws and regulations, and the policies and procedures outlined in this guide as well as any internal policies of the certifying agency.

### **Which agencies may sign a U visa certification?**

Certifying agencies include all authorities responsible for the detection, investigation, prosecution, conviction or sentencing of the qualifying criminal activity, including but not limited to:

- Federal, State Local, Tribal, and Territorial law enforcement agencies;
- Federal, State, Local, Tribal, and Territorial prosecutor's offices;
- Federal, State, Local, Tribal, and Territorial Judges;
- Federal, State, and Local Child and Adult Protective Services;
- Equal Employment Opportunity Commission;
- Federal and State Departments of Labor; and
- Other Federal, State, Local, Tribal, or Territorial government agencies that have criminal, civil, or administrative investigative or prosecutorial authority.

**What does "Helpful" in the detection, investigation, prosecution, conviction, or sentencing mean?**

“Helpful” means the victim has been, is being, or is likely to assist law enforcement, prosecutors, judges, or other government officials in the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity of which he or she is a victim. This includes providing assistance when reasonably requested. This also includes an ongoing responsibility on the part of the victim to be helpful. Those who unreasonably refuse to assist after reporting a crime will not be eligible for a U visa. The duty to remain helpful to law enforcement exists even after a U visa is granted, and those victims who unreasonably refuse to provide assistance after the U visa has been granted will not be eligible to obtain lawful permanent residence and may have the visa revoked by USCIS. Certifying agencies should contact and inform USCIS of the victim’s unreasonable refusal to provide assistance in an investigation or prosecution: LawEnforcement\_UTVAWA.VSC@uscis.dhs.gov.

Law enforcement, prosecutors, judges or government officials can certify a U visa based on past, present, or the likelihood of future helpfulness of a victim. A current investigation, the filing of charges, a prosecution or conviction is not required to sign the law enforcement certification. An instance may occur where the victim has reported criminal activity, but an arrest, prosecution, or conviction cannot take place due to evidentiary or other circumstances. Examples of this include, but are not limited to, when the perpetrator has fled or is otherwise no longer in the jurisdiction, the perpetrator cannot be identified, or the perpetrator has been deported by federal law enforcement officials. There is no statute of limitations on signing the certification – one can be signed for a crime that happened many years ago or recently. A certification may also be submitted for a victim in a closed case. However, the victim must submit a recently signed certification with his or her U visa petition (signed within six months of submission), even if the crime certified did not recently occur.

**What constitutes a qualifying crime?**

The following table shows the criminal activities that qualify a victim for the U visa.<sup>7</sup>

|  |  |   |
|--|--|---|
| <ul style="list-style-type: none"> <li>• Abduction</li> <li>• Abusive Sexual Contact</li> <li>• Blackmail</li> <li>• Domestic Violence</li> <li>• Extortion</li> <li>• False Imprisonment</li> <li>• Felonious Assault</li> <li>• Female Genital Mutilation</li> <li>• Fraud in Foreign Labor Contracting</li> </ul> | <ul style="list-style-type: none"> <li>• Hostage</li> <li>• Incest</li> <li>• Involuntary Servitude</li> <li>• Kidnapping</li> <li>• Manslaughter</li> <li>• Murder</li> <li>• Obstruction of Justice</li> <li>• Peonage</li> <li>• Perjury</li> <li>• Prostitution</li> <li>• Rape</li> </ul> | <ul style="list-style-type: none"> <li>• Sexual Assault</li> <li>• Sexual Exploitation</li> <li>• Slave Trade</li> <li>• Stalking</li> <li>• Torture</li> <li>• Trafficking</li> <li>• Witness Tampering</li> <li>• Unlawful Criminal Restraint</li> <li>• Related Criminal Activities<sup>8</sup></li> </ul> |
|--|--|---|

<sup>7</sup> These are not specific crimes or citations to a criminal code; various federal, state, and local statutes could fall into these general categories of crime. One exception is “Fraud in Foreign Labor Contracting,” which is the federal offense defined at 18 USC 1351.

<sup>8</sup> Includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes, as well as any similar activity where the elements of the crime are substantially similar. “Substantially similar” typically refers to a crime detected, investigated or prosecuted by a qualified certifying official that contains the same key elements as a qualifying criminal activity. For example, a simple robbery would not typically be a qualifying criminal activity. However, if the statute cited for the detection, investigation,

## Review and Tips for Completing Form I-918B

The following are important notes and tips on filling out the Form I-918B:

- USCIS has the sole authority to grant or deny a U visa. The certification does not guarantee that the U visa petition will be approved by USCIS.
- A certifying official's decision to sign a certification is completely discretionary and under the authority of that agency or official. Neither DHS nor any other federal agency has the authority to require or demand that any agency or official sign the certification. There is also no legal obligation to complete and sign Form I-918B.
- The Form I-918B should be completed by the certifying agency or official (and not the victim, or the victim's advocate or attorney).
- By signing a certification, the certifying agency or official attests that the information is true and correct to the best of the certifying official's knowledge.
- 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. You should only sign the certification if your agency has given you this authority.
- If a certifying agency has a written delegation of authority, provide a copy to USCIS to keep on file by emailing it to [LawEnforcement\\_UTVAWA.VSC@USCIS.dhs.gov](mailto:LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov).
- Federal, state, local, tribal, or territorial judges may sign U visa certifications. Delegation of authority is not applicable to or required of certifications by judges.
- Return the signed Form I-918B to the victim (or the victim's attorney, representative, etc.). The certifying official should not send the signed certification separately to USCIS. The victim is required to send the original signed certification form along with his or her complete U visa petition to USCIS.
- Be prompt in providing the signed certification to the victim or the victim's attorney or representative. USCIS must receive the U visa petition, which includes the Form I-918B, within six (6) months of the date the Form I-918B was signed.
- If the certifying official is providing additional documents (e.g., a copy of the police report or court order, or judicial findings, additional statements, photos, etc.) along with the certification or if more space is needed to fill out any of the information on the form, the official should provide that additional information as advised by the form instructions.
- When completing the Form I-918B, certifying officials are encouraged to check the boxes for all qualifying criminal activities detected based on the facts of the case at the time of certification. Certifying officials should not limit the boxes that are checked to the criminal activities that the agency has decided to investigate or prosecute and should check all qualifying criminal activities present in the case.
- As requested on the Form I-918B, the certifying official should document the helpfulness of the victim and whether that victim refused to be helpful at any time throughout the investigation or prosecution.
- The certification form **must contain an original signature** and should be signed in a color of ink other than black for verification purposes. Photocopies, faxes, or scans of the certification form cannot be accepted by USCIS as an official certification.

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or prosecution is armed robbery, this may be a qualifying criminal activity. In most jurisdictions, armed robbery contains the elements of felonious assault as delineated in the federal criminal statutes, therefore armed robbery may be "substantially similar" to the qualifying crime of felonious assault.

## T Visa Basics

### Why was the T visa created? How does it help law enforcement?

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000<sup>9</sup> was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and trafficking in persons, while offering protections to victims of such crimes without the immediate risk of being removed from the country. Congress, in the VTVPA, created the T nonimmigrant status (“T visa”) program out of recognition that human trafficking victims without legal status may otherwise be reluctant to help in the investigation or prosecution of this type of criminal activity. Human trafficking, also known as trafficking in persons, is a form of modern-day slavery, in which traffickers lure individuals with false promises of employment and a better life. Immigrants can be particularly vulnerable to human trafficking due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences. Accordingly, under this law, Congress sought not only to prosecute perpetrators of crimes committed against immigrants, but also to strengthen relations between law enforcement and immigrant communities.

### What is the T visa? What are the benefits to the victim?

The T visa is an immigration benefit for victims of human trafficking who meet certain eligibility requirements.

USCIS may find an individual eligible for a T visa if the victim:

- Is or was a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), as defined by federal law;<sup>10</sup>
- Is in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands or at a U.S. port of entry due to trafficking;
- Has complied with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking;<sup>11</sup> and
- Would suffer extreme hardship involving unusual and severe harm if removed from the United States.<sup>12</sup>

In addition, the victim must be admissible (based on a review of criminal history, immigration violations, and other factors) to the United States. If inadmissible, the individual may apply for a waiver of inadmissibility for which he or she may be eligible.

The T visa allows eligible victims to temporarily remain and work in the U.S., generally for four years. While in T nonimmigrant status, the victim has an ongoing duty to cooperate with law enforcement’s

<sup>9</sup> Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).

<sup>10</sup> “Sex trafficking” is defined as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.” 22 U.S.C. § 7102(10).

<sup>11</sup> Special exceptions are made for trafficking victims who are under 18, or those who are unable to cooperate due to physical or psychological trauma.

<sup>12</sup> <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>. See also INA 101(a)(15)(T).

reasonable requests for assistance in the investigation or prosecution of human trafficking. If certain conditions are met, an individual with T nonimmigrant status may apply for adjustment to lawful permanent resident status (i.e., apply for a green card in the United States) after three years in the United States or upon completion of the investigation or prosecution, whichever occurs earlier.

Additionally, certain family members of a T visa recipient may also be eligible to live and work in the United States as “derivative” T visa holders. These are:

- Unmarried children under the age of 21;
- Spouse;
- Parents of principal T visa recipients under age 21 at the time of application;
- Unmarried siblings under 18 years old of principal T visa applicants under age 21; and
- Adult or minor children of certain immediate family members of the T visa recipient

While in the United States, the victim has an ongoing duty to cooperate with law enforcement’s reasonable requests for assistance in the investigation or prosecution of human trafficking.

Congress capped the number of available T visas for principal applicants at 5,000 per fiscal year. However, to date, the annual cap has never been reached and visas remain available to applicants who qualify.

### **How does USCIS Review T visa applications?**

USCIS takes several steps to determine whether a victim is eligible for a T visa. USCIS reviews the victim’s entire application, which includes the Form I-914 as well as the Form I-914B or other evidence of the victim’s cooperation, the victim’s affidavit, and supporting evidence. Supporting evidence may include court documents, witness affidavits, medical reports, and any other credible evidence to show that the victim is eligible for a T visa. If the applicant is inadmissible, USCIS also considers all evidence relevant to any potential waivers of inadmissibility.

For all T visa applicants and their qualifying family members, USCIS conducts a thorough background investigation, including a Federal Bureau of Investigation (FBI) fingerprint check and name check. USCIS will also review the applicant’s immigration records to assess whether any inadmissibility issues exist, such as criminal history, immigration violations, or security concerns. Any evidence that law enforcement and immigration authorities possess may be used in determining eligibility for a T visa. USCIS may contact the certifying law enforcement agency if there are any issues or questions that arise during the adjudication based on information provided in the law enforcement declaration. Because qualifying family members (derivatives) are subject to the same criminal background review, fingerprint checks, and immigration status checks as the principal victim applicant, it is possible that a derivative’s adverse criminal or immigration background would result in a denial of derivative status even when the principal has been approved.

### **What Is a T visa declaration?**

The T visa declaration is supplementary evidence of a victim’s assistance to law enforcement that a federal, state, local, tribal, and territorial law enforcement agency, prosecutor, judge, or other government official can complete for a T visa applicant. The declaration must be provided on Form I-914, Supplement B, and instructions are available on the USCIS website at [www.uscis.gov](http://www.uscis.gov). The T visa declaration is not a required document for a T visa application, but USCIS gives significant weight to the



declaration when reviewing the victim’s application.

### **What kind of information does the T visa declaration provide?**

Form I-914B is not a required piece of evidence, but when provided, it is helpful evidence to demonstrate that:

- The victim is or was a victim of a severe form of trafficking in persons; and
- The victim has complied with any reasonable requests from law enforcement in an investigation or prosecution of human trafficking.<sup>13</sup>

The T visa declaration is not conclusive evidence that the applicant meets these eligibility requirements, as only USCIS can make this determination. In addition, **by signing a T visa declaration, the certifying agency, official or judge is not sponsoring or endorsing the victim for a T visa. USCIS considers the T visa declaration as one part of the evidence in the T visa application.** USCIS also conducts a full background check and, in considering each T visa application and the applicant’s credibility, examines the totality of the evidence and the circumstances of each case.

Signing a declaration is at the certifying agency’s discretion which should be exercised on a case-by-case basis consistent with U.S. laws and regulations, and the policies and procedures outlined in this Guide, as well as internal policies of the certifying agency.

If the T visa applicant does not include a law enforcement declaration, the applicant must present credible evidence that he or she meets the cooperation requirement. The applicant must include an original personal statement that indicates the reason the law enforcement declaration doesn’t exist or is unavailable and whether similar records documenting any assistance provided by the applicant are available. The statement or evidence should demonstrate that good faith attempts were made to obtain the law enforcement declaration, including describing the efforts the applicant undertook. USCIS will assess the evidence presented to determine whether the applicant satisfies the cooperation requirement.

### **Which agencies may sign a T visa declaration?**

Certifying agencies include all authorities responsible for the detection, investigation, prosecution, conviction or sentencing of human trafficking, including but not limited to:

- Federal, State Local, Tribal, and Territorial law enforcement agencies;
- Federal, State, Local, Tribal, and Territorial prosecutors’ offices;
- Federal, State, Local, Tribal, and Territorial Judges;
- Federal and State Departments of Labor; and
- Other Federal, State, Local, Tribal, or Territorial government agencies that have criminal, civil, or administrative investigative or prosecutorial authority related to human trafficking.

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<sup>13</sup> Special exceptions are made for trafficking victims who are under 18, or those who are unable to cooperate due to physical or psychological trauma.

## Who is a victim of severe forms of trafficking in persons?

A victim of severe forms of trafficking in persons is an individual who is a victim of either:

- Sex Trafficking, which is defined as:
  - the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act,
  - or in which the person induced by any means to perform such act has not attained 18 years of age;<sup>14</sup> or
- Labor Trafficking, which is defined as:
  - the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.<sup>15</sup>

State, local, territorial, and tribal law enforcement officers can play a key role in recognizing potential victims of human trafficking. **If you have identified a potential victim of trafficking, you should contact U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations, which investigates incidents of human trafficking, as soon as possible either through your local ICE office or through the national tipline at 1-866-347-2423 (1-866-DHS-2-ICE).** Specially trained federal agents may be dispatched to make sure the victim is safe and secure, as well as provide the victim with immediate services until longer term relief can be found.

## What does “reasonable request for assistance” mean?

Whether a particular law enforcement request to a victim for assistance in the investigation or prosecution of human trafficking is “reasonable” depends on the totality of the circumstances. USCIS is responsible for making this determination. In determining “reasonableness” of the request, USCIS will consider certain factors such as, general law enforcement and prosecutorial practices; the nature of the victimization; and the specific circumstances of the victim, including fear, severe traumatization, and the age and maturity of young victims.

There are certain times when a victim is not required to cooperate with requests for assistance: (1) if the victim is under the age of 18, or (2) if the victim has experienced physical or psychological trauma that prevents him or her from complying with a reasonable request.

If the T visa applicant does not include a law enforcement declaration, the applicant must present credible evidence that he or she meets the cooperation requirement. The applicant must include an original personal statement that indicates the reason the law enforcement declaration does not exist or is unavailable and whether similar records documenting any assistance provided by the applicant are available. The statement or evidence should demonstrate that good-faith attempts were made to obtain the law enforcement declaration, including describing the efforts the applicant undertook. USCIS will assess the evidence presented to determine whether the applicant satisfies the cooperation requirement.

<sup>14</sup> 22 U.S.C. § 7102(10).

<sup>15</sup> 22 U.S.C. § 7102(9).

## Review and Tips for Completing Form I-914B

The following are important notes and tips on filling out the Form I-914B:

- USCIS has the sole authority to grant or deny a T visa. The declaration does not guarantee that the T visa will be approved by USCIS.
- An agency's decision to sign a declaration is completely discretionary and under the authority of that agency or official. Neither DHS nor any other federal agency has the authority to require or demand that any law enforcement agency sign the declaration. There is also no legal obligation to complete and sign Form I-914B.
- The Form I-914B should be completed by the law enforcement agency or official (and not the victim or the victim's advocate or attorney).
- By signing a declaration, the law enforcement agency attests that the information is true and correct to the best of the official's knowledge.
- The head of the agency has the authority to sign declarations or to delegate authority to other agency officials in a supervisory role to sign declarations. You should only sign the declaration if your agency has given you this authority.
- If a certifying agency has a written delegation of authority, provide a copy to USCIS to keep on file by emailing it to [LawEnforcement\\_UTVAWA.VSC@uscis.dhs.gov](mailto:LawEnforcement_UTVAWA.VSC@uscis.dhs.gov)
- Federal, state, local, tribal, or territorial judges have direct authority to sign T visa declarations. Delegation of authority is not applicable to or required of declarations by judges.
- Return the signed Form I-914B to the victim (or the victim's attorney, representative, etc.). The law enforcement agency should not send the signed declaration separately to USCIS. The victim will send the original signed declaration form along with his or her complete T visa application to USCIS.
- If the law enforcement official is providing additional documents (e.g., a copy of the police report, additional statements, photos) along with the declaration or if more space is needed to fill out any of the information on the form, law enforcement should indicate on Form I-914B a note of "see attachment" or "see addendum." Each additional page should be provided on agency letterhead.
- The official must document on Form I-914B the cooperation of the victim and whether the victim refused to comply with requests at any time throughout the investigation or prosecution.
- The declaration form must contain an original signature. That signature must either be typed or printed legibly in a color other than black ink for verification purposes. Photocopies, faxes, or scans of the declaration form cannot be accepted by USCIS as an official declaration.
- The victim has an ongoing duty to cooperate with law enforcement even after they receive the T visa. If a victim stops cooperating, you can contact USCIS to withdraw or disavow your certification.

## Best Practices for Agencies Signing Certifications and Declarations

Across the United States, law enforcement agencies, officials, and judges have taken different procedural approaches to signing U visa certifications and T visa declarations. Some examples of how various agencies or officials educate their officials about U visa certifications and T visa declarations and how they designate a certifier or certifiers in their agencies include:

- Distributing department policy or a general order on the process and use of the U visa certification or T visa declaration;
- Distributing a letter or memorandum from the Chief or Sheriff to the agency's designee in charge of signing U visa certifications or T visa declarations designating a process and authority to certify;
- Designating the head of the Victim Witness Assistance Program as the certifier;
- Sending written notification, via email or other method, from the Chief or Sheriff to the entire department explaining the purpose of the U or T visa, the certification/declaration process, and who is/are designated as the certifier(s); and
- Assigning the Investigations Bureau Chief as the certifier to delegate an officer or supervisor to review requests made by both law enforcement officers and the community and make a recommendation on the certification to the Bureau Chief.

This Resource Guide can be distributed for informational and training purposes. Certifying agencies are not required to have an internal policy or procedure before they can sign U visa certifications or T visa declarations. DHS encourages certifying agencies to implement policies that accurately reflect and conform with the statute, regulations and DHS policies and with the information contained in this and other publications issued by USCIS and DHS on the U visa and T visa programs. If a policy exists, the certifying agency is encouraged to send a copy to the Vermont Service Center of USCIS to keep on file to [LawEnforcement\\_UTVAWA.VSC@uscis.dhs.gov](mailto:LawEnforcement_UTVAWA.VSC@uscis.dhs.gov).

# Answers to Frequently Asked Questions for U Visa Certifications (Form I-918B) and T Visa Declarations (Form I-914B)

For several years, DHS has been providing training and holding external stakeholder events and outreach, as well as working with law enforcement, judges, and other officials on U visa certifications and T visa declarations. As a result, DHS has developed this list of answers to frequently asked questions grouped by topic. In addition, law enforcement agencies may request additional training and information by emailing USCIS at: T\_U\_VAWATraining@uscis.dhs.gov.

## Questions Regarding the Certification and Declaration Process

### Which law enforcement agencies are eligible to sign certifications or declarations?

A federal, state, local, tribal, or territorial law enforcement agency, prosecutor, judge, or other authority that has the responsibility for the detection, investigation, prosecution, conviction or sentencing of a qualifying crime or criminal activity or human trafficking is eligible to sign Form I-918B or Form I-914B. This includes agencies with investigative jurisdiction in their respective areas of expertise, including but not limited to: child and adult protective services, the Equal Employment Opportunity Commission (EEOC), and Federal and State Departments of Labor (DOL). Law enforcement agencies that can provide T visa declarations include components of the Department of Justice (United States Attorney's Offices, the Civil Rights and Criminal Divisions, the Federal Bureau of Investigation (FBI), and the U.S. Marshals Service), components of the Department of Homeland Security (U.S. Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP)), the Department of Labor, and the Diplomatic Security Service of the Department of State.

In cases where the information provided by the victim led to the detection of criminal activity, a certifying agency may sign a certification. In these cases it does not matter if another agency will be the one to determine whether to pursue a criminal investigation or prosecution. In cases where the police investigated the crime and prosecutors are now prosecuting the case, both police and prosecutors may sign a certification. The authority of the police to sign a certification does not end when the case is referred for prosecution.

### Who in the certifying agency can sign Form I-918B or Form I-914B?

Form I-918B: A certifying official(s) can sign Form I-918B. The U visa regulation defines a certifying official as a judge or "[t]he head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency." 8 C.F.R. § 214.14(a)(3). Although not required with each certification, it is helpful to include a letter showing the designation of the signing official(s). The letter would be signed by the agency head and would reflect that person with a particular rank or title within the agency is to be the signing official(s).

Form I-914B: A supervising official of a Federal, state or local law enforcement agency that has the responsibility and authority for the detection, investigation, or prosecution of severe forms of trafficking in persons or other related activity may sign Form I-914B.

**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.

**Is my agency required to create a policy for reviewing and signing Form I-918B and Form I-914B? Is there a template policy I may refer to in creating my agency's policy?**

No. A law enforcement agency is not required under federal regulations to create a policy to review and sign Form I-918B or Form I-914B; however, many agencies have found this to be helpful. There is no federal template for creating an agency policy; however, you may find helpful information among similarly-situated federal, state, and local law enforcement agencies.

**I am a designated official, but my agency and/or I have never signed a Form I-918B/I-914B. Should I notify USCIS that I will be signing the form or is there a training I should go through before signing the certification/declaration?**

You are not required to submit any information to USCIS in advance or attend a training in order to sign Form I-918, Supplement B or Form I-914, Supplement B. However, if you would like to notify USCIS that you are the designated official, you may contact the Vermont Service Center directly at [LawEnforcement\\_UTVAWA.VSC@uscis.dhs.gov](mailto:LawEnforcement_UTVAWA.VSC@uscis.dhs.gov). You may pose questions to USCIS or provide notification that you are the head of your agency and/or the designated official. Also, USCIS provides webinar trainings for law enforcement officials. You may contact [T\\_U\\_VAWATraining@uscis.dhs.gov](mailto:T_U_VAWATraining@uscis.dhs.gov) to find out information on the next webinar for law enforcement officials.

**If I sign a certification or declaration, does the victim automatically get a U visa, T visa or lawful immigration status?**

No. There are many additional eligibility requirements that USCIS evaluates based on a victim's U visa petition or T visa application, depending on which visa the victim is seeking (see above sections.) Upon receiving a U visa petition, including Form I-918B, or T visa application, USCIS will conduct a full review of all evidence and a thorough background check of the victim before approving or denying the petition or application. The background check will include an FBI fingerprint check, name and date of birth (DOB) check, and a review of immigration inadmissibility issues, including security-based and criminal inadmissibility grounds.

A victim may be found inadmissible if the victim does not meet required criteria in the Immigration and Nationality Act to gain admission to or lawful immigration status in the United States. Victims may seek a waiver of inadmissibility, which USCIS has discretion to grant. Waivers are considered based on the totality of the evidence in the case and the results of the background check. USCIS may also contact the certifying official for further information if necessary.

Note that, independent of the T and U visa processes, law enforcement agencies may seek "Continued Presence" for trafficking victims. Continued Presence is a form of temporary immigration relief that may be granted by ICE's Homeland Security Investigations, Law Enforcement Parole Unit. Continued

Presence enables the victim to work legally and remain in the United States without accruing unlawful presence. State or local law enforcement officials who identify a victim of human trafficking who is a potential witness should coordinate with their federal law enforcement partners to submit a request for Continued Presence with their local ICE office for a particular individual. Even if the victim may ultimately apply for and be granted a T or U visa, Continued Presence may provide greater stability to the victim before the petition or application is submitted or while it is pending. Please see more information about Continued Presence in this guide under the Other Protections for Victims section.

#### **Am I legally required to sign this declaration or certification?**

No. A law enforcement agency is under no legal obligation to complete a declaration or certification. Signing is at the discretion of each law enforcement agency, in accordance with that agency's policy. However, it is important to note that:

- Without a certification, a U visa petition will be denied.
- The declaration is not required for a T visa, but it is an important piece of evidence submitted by the applicant.<sup>16</sup>

#### **Will my certifying agency be liable for any future conduct of someone who is granted a U or T visa?**

#### **What if I signed a certification or declaration for someone who later commits a crime?**

No. A certifying agency/official cannot be held liable for the future actions of a victim for whom the agency signed a certification or declaration or to whom DHS granted a U or T visa. The U visa certification simply addresses whether the petitioner was a victim of a qualifying crime, possessed information relating to the crime, and was helpful in the detection, investigation, prosecution, conviction, or sentencing of that crime. The T visa declaration simply addresses whether the victim was a victim of human trafficking and has complied with all reasonable requests for assistance. The certification and declaration do not guarantee the future conduct of the victim or grant a U or T visa. USCIS is the only agency that can grant a U or T visa. If a victim is granted a U or T visa and is later arrested or commits immigration violations, federal immigration authorities will respond to those issues. If a certifying agency or official later discovers information regarding the victim, crime, or certification that the agency believes USCIS should be aware of, or if the agency or official wishes to withdraw the certification, the agency or official should contact USCIS by emailing the Vermont Service Center at [LawEnforcement\\_UTVAWA.VSC@uscis.dhs.gov](mailto:LawEnforcement_UTVAWA.VSC@uscis.dhs.gov).

#### **Who decides which benefit to seek, a U or T visa?**

The victim or victim's advocate or attorney should make that decision and indicate the appropriate certification or declaration for law enforcement to sign. It is possible that an individual may qualify for both a U and a T visa.

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[http://www.uscis.gov/sites/default/files/USCIS/Resources/Humanitarian%20Based%20Benefits%20and%20Resources/TU\\_QAf%20orLawEnforcement.pdf](http://www.uscis.gov/sites/default/files/USCIS/Resources/Humanitarian%20Based%20Benefits%20and%20Resources/TU_QAf%20orLawEnforcement.pdf)

## Helpfulness and Cooperation of the Victim:

**A victim is requesting Form I-918B or Form I-914B, but I am unsure whether he or she meets the helpfulness requirement or the compliance with reasonable requests requirement. May I sign this certification or declaration?**

Yes. Both the I-918B and the I-914B provide an opportunity for law enforcement to provide information to USCIS about the extent of the victim's assistance in the detection, investigation, prosecution, conviction, or sentencing of criminal activity. You may complete the form including all information you find relevant about the victim's assistance. USCIS will ultimately determine whether the victim meets these requirements.

- Form I-918B asks whether the victim possesses information concerning the criminal activity; was, is, or is likely to be helpful in the investigation and/or prosecution of the criminal activity; was asked to provide further assistance; and has unreasonably refused to provide assistance. You may select "yes" or "no" to these questions and further explain your answers.
- Form I-914B asks the certifying officer to provide information about the victim's cooperation and includes several options to select regarding the victim's cooperation with law enforcement.

**What constitutes "helpfulness" or "enough cooperation" for a U visa certification?**

USCIS regulation requires that the U petitioner has been, is being, or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity. This means that since the initiation of cooperation, the victim has not unreasonably refused to cooperate or failed to provide information and assistance reasonably requested by law enforcement or prosecution in connection with a criminal investigation or prosecution.

USCIS will not provide a U visa to those petitioners who, after initially cooperating with the certifying official, refuse to provide continuing assistance when reasonably requested. USCIS also will not approve the petitions of those who are culpable for the qualifying criminal activity.

**What constitutes "complying with any reasonable request" for a T visa declaration?**

USCIS regulations require that the victim of trafficking comply with reasonable requests from law enforcement officials for assistance in the investigation or prosecution of the acts of trafficking in persons. To determine whether the request from law enforcement is reasonable, USCIS takes into account the totality of the circumstances, such as general law enforcement and prosecutorial practices; the nature of the victimization; and the specific circumstances of the victim, including fear, severe traumatization, and the age and maturity of young victims.

## Law Enforcement Certification Authority and Timing:

**At what stage in the criminal case can I sign a certification?**

There is no required time when you may or may not sign a certification. It is possible to sign a certification at any stage in the case, including at the point of detection, during an investigation, when the prosecutor initiates a prosecution, before a trial, whether or not the victim is needed to testify, and



after the case is concluded.

You may sign a certification regardless of the outcome of the qualifying criminal case, including in the following instances:

- the prosecutor decided not to prosecute;
- the grand jury did not issue an indictment;
- the case was dismissed by the prosecutor or a judge;
- a case brought by the EEOC or DOL resulted in a judgment, settlement, or dismissal;
- a judge issued a protection order or custody ruling;
- a child abuse case was settled;
- the defendant entered a plea, whether or not the plea was to an offense that is a qualifying criminal activity; and
- the defendant was found not guilty.

**If an investigation or case is closed, may law enforcement still complete Form I-918B or Form I-914B?**

**Is there a statute of limitations?**

Certifying officials may complete Form I-918B or Form I-914B for an investigation or prosecution that is closed. There is no statute of limitations regarding the time frame in which the criminal activity must have occurred. Federal legislation specifically provides that a victim may be eligible for a U visa based on having been helpful *in the past* to the detection, investigation, prosecution, conviction, or sentencing of criminal activity. A crime victim may be eligible to receive U visa certification when, for example, the case is closed because the perpetrator could not be identified; a warrant was issued for the perpetrator but no arrest could be made due to the perpetrator fleeing the jurisdiction or fleeing the United States, or has been deported; before or after the case has been referred to prosecutors, as well as before or after trial and whether or not the prosecution resulted in a conviction. A trafficking victim could be eligible to receive a T visa declaration when a case is closed for similar reasons. The petitioner must still meet all the eligibility requirements for a U or T visa to be approved.

**Does the victim have to testify to be eligible for certification or declaration?**

No. As mentioned above, there is no requirement that an arrest, prosecution, or conviction occur for someone to be eligible for a U or T visa. While there is no requirement for the victim to testify at a trial to be eligible for a U or T visa, if the victim is requested to testify, he or she cannot unreasonably refuse to cooperate with the certifying law enforcement agency. If the victim unreasonably refuses to testify, the agency or official should notify USCIS and may withdraw the previously signed Form I-918B or Form I-914B.

**What if the victim or witness has been detained or ordered removed for an immigration violation?**

Individuals currently in removal proceedings or with final orders of removal may still apply for a U or T visa. A petitioner for U nonimmigrant status or an applicant for T nonimmigrant status has administrative remedies and is not prejudiced by completion of removal proceedings. Specifically, a victim who is the subject of a final order of removal, deportation, or exclusion may still file a petition or application for U or T nonimmigrant status directly with USCIS. If a victim is granted U or T nonimmigrant status prior to, or after, removal, the regulations provide a procedure whereby the victim may remain in or return to the United States. To avoid deterring individuals from reporting crimes, ICE

officers, special agents, and attorneys are expected to exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints. Particular attention is paid to victims of domestic violence, human trafficking, sexual assault, or other serious crimes, and witnesses involved in pending criminal investigations or prosecutions. It is common for perpetrators to report immigrant crime victims and witnesses to immigration enforcement officials to gain advantage in a civil or family law case and/or to avoid prosecution in a criminal case. Congress created the U visa as a tool to counter such efforts by perpetrators.<sup>17</sup>

If a judge, law enforcement official, prosecutor, or other certifying official is aware of a victim or witness against whom a detainer has been lodged, who has been detained, who has been placed in removal proceedings for an immigration violation, or who has been ordered removed, the official should promptly contact his or her local ICE Enforcement and Removal Operations (ERO) contact or the local Office of the Chief Counsel to make ICE aware of the situation. Specifically with regard to a lodged detainer, the law enforcement official may notify the ICE Law Enforcement Support Center at (802) 872-6020 if the individual may be the victim of a crime or if the officials want this individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness. If a victim is scheduled to appear in court as a witness in a criminal or civil case, as a party in a protective order case or as a parent in a case involving the victim's children, judges and other certifying officials may contact the Law Enforcement Support Center to arrange for ICE officials to bring the victim to court or to facilitate participation in the court hearing electronically.<sup>18</sup>

**Can I complete a U visa certification for a victim who is no longer in the United States?**

Yes. While the criminal activity must have occurred in the United States, 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 from outside the United States.

**Can I complete a T visa declaration for a victim who is no longer in the United States?**

Yes. You may note, however, that one requirement of the T visa petition is that the victim be in the United States on account of the severe form of human trafficking. USCIS, not the law enforcement agency, determines whether the victim meets this physical presence requirement. Note that human trafficking victims who have left the United States may be eligible for a U visa because trafficking is a qualifying criminal activity. The decision whether to seek a T or U visa should be made by the victim, or the victim's advocate or attorney.<sup>19</sup>

**Can I still certify if the perpetrator is no longer in the jurisdiction or prosecution is unlikely for some reason?**

<sup>17</sup> VTPA, Pub. L. No. 106-386, §§ 1502(a)(3), 1512(a)(2)(B), 114 Stat. 1464-1548 (2000).

<sup>18</sup> See U.S. Immigration and Customs Enforcement, 11064.1: Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities (Aug. 23, 2013)(hereinafter "ICE Parental Directive") available at: [https://www.ice.gov/doclib/detention-reform/pdf/parental\\_interest\\_directive\\_signed.pdf](https://www.ice.gov/doclib/detention-reform/pdf/parental_interest_directive_signed.pdf) and U.S. Immigration and Customs Enforcement, *FAQs on the Parental Interests Directive*, available at: <https://www.ice.gov/about/offices/enforcement-removal-operations/parental-directive-faq.htm>.

Yes. There is no statutory or regulatory requirement that an arrest, prosecution, or conviction occur for someone to apply for a U or T visa. Instances may occur where the perpetrator has fled the jurisdiction, left the United States, or been arrested for unrelated offenses by another agency in another jurisdiction. An arrest, prosecution, or conviction may not be possible in these situations. A U visa petitioner will still have to meet the helpfulness requirement by reasonably assisting the certifying law enforcement agency, and will also have to meet all other eligibility requirements in order to qualify for a U visa. A T visa applicant will still have to comply with all reasonable requests for assistance.

**Can a victim’s petition still be approved if the defendant is acquitted or accepted a plea to a lesser charge, accepted a plea to an offense that is not qualifying criminal activity, or if the case was dismissed?**

Yes. As mentioned above, a conviction is not required for someone to be eligible for a U or T visa. Plea agreements and dismissals do not negatively impact the victim’s eligibility. As long as the victim has been helpful in the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity and meets all other eligibility requirements, the victim may petition for a U visa. In the case of a T visa, as long as the individual has been subject to human trafficking and has complied with reasonable requests for assistance, plea agreements and dismissals do not negatively impact the victim’s eligibility. If the victim unreasonably refuses to assist the investigation or prosecution and harms the criminal case, this will negatively impact the victim’s ability to receive an approval. The certifying law enforcement agency should notify USCIS if the victim has unreasonably refused to cooperate in the investigation or prosecution of the crime.

**If a victim reports a crime that does not require investigation or cannot be investigated by my agency, because, for example, the victim cannot identify the perpetrator or the perpetrator is deported or fled the jurisdiction, may I certify that the person was helpful?**

Yes. The law enforcement agency may sign Form I-918B or I-914B if the victim was helpful in the detection of criminal activity. Each law enforcement agency may determine its own policy on reviewing and signing Form I-918B or Form I-914B. USCIS will review each petition or application on a case-by-case basis to determine whether the victim meets all eligibility requirements, including whether the person is a victim of a qualifying crime or a victim of a severe form of trafficking and whether the person was helpful or complied with reasonable requests for assistance.

**What if the victim stops cooperating after I sign his/her certification or declaration?**

At its discretion, a certifying agency may withdraw or disavow a Form I-918B or Form I-914B at any time if a victim stops cooperating. When this occurs, the victim’s petition or application will be denied, and all derivative family member applications associated with the original application or petition will also be denied.

To withdraw or disavow a certification, the certifying agency must notify the USCIS Vermont Service Center in writing or via email. Written notification regarding withdrawal or disavowal should include:

- The agency’s name and contact information (if not included in the letterhead);
- The name and date of birth of the individual certified;
- The name of the individual who signed the certification and the date it was signed;
- The reason the agency is withdrawing/disavowing the certification, including information

- describing how the victim’s refusal to cooperate in the case is unreasonable;
- The signature and title of the official who is withdrawing/disavowing the certification; and
- A copy of the certification the agency signed (if a copy was retained by the agency).

The letter should be either scanned and emailed to the Vermont Service Center at [LawEnforcement\\_UTVAWA.vsc@uscis.dhs.gov](mailto:LawEnforcement_UTVAWA.vsc@uscis.dhs.gov), or mailed to:

USCIS-Vermont Service Center  
 ATTN: VAWA, T, and U Section  
 75 Lower Welden Street  
 St. Albans, VT 05479.

### **U Visa Specific:**

**For a U visa, if one crime is initially detected or investigated but a different crime is eventually prosecuted, does that have an impact on the certification?**

A certification is valid regardless of whether the initial criminal activity detected or investigated is different from the crime that is eventually prosecuted. As long as the person is a victim of a qualifying criminal activity, that person may be eligible for a U visa. Examples include:

- An initial investigation of rape eventually leads to a charge and prosecution of sexual assault. Both rape and sexual assault are qualifying crimes.
- An initial investigation of embezzlement leads to a charge and prosecution of extortion. While embezzlement is not a qualifying crime, the investigation eventually led to a charge of extortion, which is a qualifying crime. If the person assisting in the investigation or prosecution is a victim of extortion, that person may qualify for a U visa.
- In the process of investigating drug trafficking allegations, police determine that the drug trafficker’s wife is a victim of domestic violence. The victim reported the domestic abuse. The state brings a prosecution against the husband for drug offenses but not domestic violence crimes. The wife is cooperating in the drug prosecution. Law enforcement may complete a Form I-918B certification for reporting the domestic abuse case that is not being prosecuted.
- An initial investigation of Fraud in Foreign Labor Contracting leads to a charge and prosecution of obstruction of justice.

Form I-918B certifications may also be submitted for criminal activities similar to the list of qualifying criminal offenses. Examples include:

- An investigation or prosecution into a charge of video voyeurism may fall under the qualifying crime of sexual exploitation. This may be determined by state or local criminal law and the facts and evidence in that specific case. Please note that while video voyeurism is not specifically listed as a qualifying crime, it may be considered a type of sexual exploitation, which is a qualifying crime. The victim would need to show how these crimes are related and present this evidence to USCIS, along with the Form I-918B certification form signed by a certifying law enforcement agency.
- An investigation or prosecution of child abuse or elder abuse may fall under the qualifying criminal activity of domestic violence. This occurs under the state domestic violence protection order statute or criminal domestic violence statute when the abuse experienced by the child, disabled adult, or senior meets the statutory elements of domestic violence. When the perpetrator/victim relationship is covered by the state protection order statute or criminal

domestic violence laws, the child, dependent adult, or elder abuse is considered domestic violence under state law. When this occurs, child, elder and dependent adult abuse cases may be considered a form of domestic violence.

- An investigation or prosecution of dating violence may fall under the qualifying criminal activity of domestic violence or stalking. When a state's domestic violence statute includes dating violence, then dating violence may be considered a form of domestic violence, a qualifying criminal activity. Similarly, stalking can be a part of the pattern of abuse co-occurring with dating violence. When the facts and evidence in the specific case meet the definition of stalking under state criminal laws or under a state's stalking protection order statute, dating violence may be considered stalking which is a qualifying criminal activity.

A victim would need to show how these crimes are related and present this evidence to USCIS, along with the Form I-918B certification signed by a certifying agency or official.

**A victim has approached me to request certification of Form I-918B for a crime not listed on the form.**

**How may I fill out Form I-918B in this circumstance?**

A law enforcement official may sign Form I-918B to indicate a person's helpfulness in the detection, investigation, prosecution, conviction, or sentencing of criminal activity. Each jurisdiction uses different terms for criminal activity. Also, each jurisdiction's crime definitions may include slightly different elements. Form I-918B requests the official to list statutory citations for the criminal activity. The official should provide those citations and may also provide information about the elements of the criminal activity and how it involves or is similar to the statutory list of criminal activity for the U visa.

**Who would qualify to file for a U visa as an indirect victim?**

Under certain circumstances, an indirect victim of a qualifying criminal activity may file as the principal applicant in a U visa petition. These circumstances include:

- In the case of murder, manslaughter, incompetent or incapacitated victims (which include children under 21 years of age):
  - Spouses; and
  - Children under 21 years of age at the time of filing.
- If the victim of the criminal activity is under 21 years of age at the time the qualifying criminal activity occurred:
  - Parents; and
  - Unmarried siblings under 18 years of age at the time of the qualifying criminal activity.

In the case of witness tampering, obstruction of justice or perjury, a victim can demonstrate that he or she has been directly or proximately harmed by one of these criminal activities if he or she can show that there are reasonable grounds to conclude 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 for other criminal activity, or to further his or her abuse, exploitation of, or control over the immigrant through manipulation of the legal system.

**If the victim is a child, why would a non-citizen parent ask for a Form I-918B certification stating that the parent was the victim?**

In many cases where a child is the victim of criminal activity, the child may not be able to provide law

enforcement with adequate assistance. This may be due to the child's age or trauma suffered, among various other reasons. Parents of a child victim play a crucial role in detecting and reporting criminal activity, providing information and assisting certifying officials in the detection, investigation, prosecution, conviction, or sentencing of the crime committed against the child. Recognizing this, an alien parent can apply for a U visa seeking to be recognized as an "indirect victim" if the principal victim is a child under 21 years of age and is incompetent or incapacitated to provide assistance to certifying officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity committed against the child or if the child is deceased due to murder or manslaughter. The immigration status of the child victim is not relevant to this determination; Form I-918B can be submitted for an alien parent whether or not the child is a U.S. citizen or a non-citizen. The parent(s), in order to qualify as an "indirect victim," must meet the remaining eligibility requirements for a U visa to receive an approval. Therefore, the "indirect victim" parent(s) must have information about the criminal activity, and must have been or be currently helpful, or must be willing to be helpful, to certifying officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity and the criminal activity must have occurred in the United States or violated U.S. law. The parent(s) must also demonstrate that he, she, or they suffered substantial physical or mental abuse as a result of the criminal activity and will be subject to the standard background checks (FBI fingerprint and name/DOB check) and immigration records review as well.

#### **What constitutes "possesses information" for U visa petitioners?**

To be eligible for a U visa, the victim of the criminal activity must possess credible and reliable information establishing that the victim has knowledge of the details of the criminal activity or events leading up to the criminal activity, including specific facts about the crime/victimization leading the certifying agency or official to determine that the victim has assisted, is assisting, or is likely to provide assistance in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity. If the victim was under 16 years of age or incompetent or incapacitated at the time the qualifying criminal activity occurred, a parent, guardian, or next friend may possess the information. A "next friend" is defined as a person who acts for the benefit of an alien who is under 16 or incompetent or incapacitated. The next friend is someone dedicated to the best interests of a victim who cannot appear on his or her own behalf because of inaccessibility, mental incompetence, or other disability. A next friend cannot be a party to a legal proceeding involving the victim and cannot be a court appointed guardian. A next friend also does not qualify for a U visa or any immigration benefit simply by acting as a next friend for the victim, but he or she may possess information about the criminal activity and may provide the required assistance. It is important to note that both "direct" and "indirect" victims can qualify to petition for U visas. Although they were not the direct victim of the criminal activity, indirect victims may possess information that is helpful to the detection, investigation, prosecution, investigation, conviction, or sentencing of criminal activity.

#### **Who determines if the "substantial physical or mental abuse" requirement has been met for the U Visa?**

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 do not make this determination. Certifying agencies and officials may, however, provide any information they deem relevant regarding injuries or abuse on the Form I-918B. The Form I-918B asks the certifying official to provide information about any injuries the agency or official knows about, has

documented, or has made findings about. If the certifying agency or 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 law enforcement, the U visa petitioner has the burden of proving the substantial physical or emotional abuse.

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.

### **USCIS Processing:**

#### **What do I do with a completed certification or declaration?**

Once the certifying official completes and signs the Form I-918B or Form I-914B, the original should be given to the victim or the victim’s legal representative or advocate, so that it can be added to the original U visa petition or T visa application packet before submission to USCIS. Please also note that only a law enforcement official, prosecutor, judge, or other government official authorized to sign certifications/declarations may complete and sign the Form I-918B or Form I-914B. The victim or the victim’s attorney or advocate may not sign the Form I-918B or Form I-914B.

#### **I already signed Form I-918B or Form I-914B, but the victim has returned asking for another newly signed form. Why is this happening?**

This may occur for two reasons. An application or petition must be submitted within six months after Form I-918B certification has been signed by law enforcement. If the Form I-918B expired before the petitioner was able to file the petition with USCIS, the victim would require a new form in order to properly file the U visa petition.

Also, a victim who has an approved U or T visa may become eligible and apply for lawful permanent resident status (i.e. a green card). To be eligible for adjustment of status, U visa holders cannot unreasonably refuse to provide assistance to an official or law enforcement agency, and T visa holders must continue to cooperate with reasonable requests from law enforcement. As evidence, the victim may request the law enforcement official to provide a newly signed Form I-918B, or Form I-914B or a signed document from the official or law enforcement agency.

#### **Is there an “expiration date” on the Form I-918B or Form I-914B?**

Form I-918B expires six months after the certifying official signs the form. USCIS must receive the

properly filed U visa petition including the Form I-918B within six months of the date on the Form I-918B. There is no expiration date for the Form I-914B.

### **What are the safeguards for protecting the U and T visa program against fraud?**

USCIS recognizes that certifying agencies and officials may be in the best position to determine if a qualifying crime has taken place. If, in the normal course of duties, a certifying official or agency has determined that a qualifying criminal activity has taken place, the victim possessed information related to the criminal activity, and the victim has been helpful, law enforcement may sign the U visa certification. Whether a certifying agency or official signs the certification is under the authority of the agency or official. The certification also acts as a check against fraud and abuse, as the certification is required in order to be eligible for a U visa.

USCIS takes fraud and abuse of the U and T visa programs seriously. If USCIS suspects fraud in a U visa petition or T visa application, USCIS may request further evidence from the petitioner and may also reach out to the certifying official or agency for further information. USCIS also has a dedicated unit with the sole purpose of targeting and identifying fraudulent immigration applications. The Fraud Detection and National Security (FDNS) unit of USCIS conducts investigations of cases that appear fraudulent and works with other Federal, State, and local law enforcement agencies when fraud or abuse is discovered.

As an additional check against fraud, a U visa recipient cannot obtain a green card unless the victim proves that he or she cooperated, when requested, with law enforcement or prosecutors. In order to obtain a green card, if the U visa victim did not cooperate, he or she must prove to DHS' satisfaction that his or her refusal to cooperate was not unreasonable. A T visa recipient cannot obtain a green card unless he or she continues to comply with law enforcement's reasonable requests for assistance and has maintained good moral character since issuance of the T visa.

### **Will USCIS approve a victim with a criminal history?**

USCIS may deny a U visa petition or T visa application for a variety of reasons including the victim's criminal history. Denials may occur in cases where a victim has multiple arrests or convictions, or has a serious or violent criminal arrest record. USCIS may also deny a petition if the victim was complicit or culpable in the qualifying criminal activity of which he or she claims to be a victim. USCIS conducts background and security checks (FBI fingerprint check, name/date of birth check, and a check of immigration records) on U visa petitioners and T visa applicants and reviews all available information concerning arrests, immigration violations, and security issues before making a final decision. The fact that a victim has a criminal history does not automatically preclude approval of U or T nonimmigrant status. Each petition or application is evaluated on a case-by-case basis, and USCIS takes into account whether any criminal behavior was related to the victimization. If the certifying official believes USCIS should know something particular about a victim's criminal history, that information can be cited on the certification or with an attached report or statement detailing the victim's criminal history with that law enforcement agency or his or her involvement in the crime.



## Other Law Enforcement Tools to Assist in Investigations and Prosecutions

There are two significant tools law enforcement agencies can use to benefit immigrant victims who may not qualify for a T or U visa, but who may need a means of temporarily being in the United States lawfully during the course of an investigation. These tools include Continued Presence and Significant Public Benefit Parole.

### Continued Presence

Continued Presence (CP) is a form of temporary immigration relief available to individuals who are identified by law enforcement as victims of human trafficking and who are potential witnesses in an investigation or prosecution. CP is authorized by ICE Homeland Security Investigations (HSI) Parole and Law Enforcement Program Unit and *can only be sponsored by a federal law enforcement agent*. **An application for CP should be initiated immediately upon identification of a victim of human trafficking.** CP allows victims of human trafficking to remain in the United States during an ongoing investigation into human trafficking- related crimes committed against them. CP is initially granted for one year and may be renewed in one-year increments. Recipients of CP also receive work authorization and social service benefits through the Department of Health and Human Services Office of Refugee Resettlement, which provides a sense of stability and protection. These conditions improve victim cooperation with law enforcement, which leads to more successful prosecutions and the potential to identify and rescue more victims.

CP is available to all trafficking victims, even if a human trafficking violation is not charged, if charges are never brought, or the victim is not cooperating in a law enforcement investigation. However, once an investigation has ended and a decision not to prosecute has been made, CP is no longer appropriate.

State, local, tribal, and territorial law enforcement officials who would like to request CP for human trafficking victims are encouraged to work with the local HSI office in their area. In addition, Victim Assistance Coordinators can assist law enforcement officials in obtaining referrals to non-governmental victim services providers who can offer a variety of services to assist crime victims, such as immigration legal assistance, crisis intervention, counseling, medical care, housing, job skills training, and case management.

### Significant Public Benefit Parole

Significant Public Benefit Parole (SPBP) may be utilized as a means of permitting an individual outside of the U.S. to enter the U.S. temporarily to serve as a witness, defendant, or cooperating source, and if necessary in extremely limited cases, the individual's immediate family members. It must be emphasized that SPBP will only be granted for the minimum period required to accomplish the requested purpose, for example, if a trial is 3 months long, parole will be granted for 3 months. SPBP is a temporary measure used on a case by case basis to allow an individual who is otherwise inadmissible to enter the United States.

## Other Forms of Legal Status for Immigrant Victims

Federal law provides additional options for immigration status to victims and witnesses of crime who may or may not be eligible for a T or U visa, including status under the Violence Against Women Act (VAWA) and Special Immigrant Juvenile Status (SIJS):

### VAWA

Recognizing that immigrant victims of domestic violence may remain in an abusive relationship when their immigration status is tied to their abuser, the Violence Against Women Act of 1994 (VAWA) created a self-petitioning process that removes control from the abuser and allows the victim to submit his or her own petition for permanent residence without the abuser's knowledge or consent. Those eligible for VAWA protection include the abused spouse or former spouse of a U.S. citizen or Lawful Permanent Resident, the abused child or step-child of a U.S. citizen or lawful permanent resident, or the abused parent of a U.S. citizen. VAWA immigration relief applies equally to women and men. To file for VAWA immigration relief, the self-petitioner must send a completed [Form I-360](#) (Petition for Amerasian, Widow(er), or Special Immigrant) along with corroborating evidence to USCIS. A law enforcement certification is not needed in these cases.

### Special Immigrant Juvenile Status

Some children present in the United States without legal immigration status may be in need of humanitarian protection because they have been abused, abandoned, or neglected by a parent. The abuse may have occurred in the United States or prior to the child's arrival in the United States. Special Immigrant Juvenile (SIJ) status is an immigration classification that may allow vulnerable children to immediately apply for Lawful Permanent Resident status. To be eligible for SIJ, a child must:

- be unmarried, under 21 years of age at the time of filing Form I-360 with USCIS;
- be physically present in the United States; and
- have an order from a state court with jurisdiction over the child that: (1) declares the child is a dependent of the court/dependent on the court, or legally commits or places the child under the custody of either a state agency or department or an individual or entity appointed by a juvenile court; (2) declares reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and (3) finds it would not be in the child's best interest to be returned to his or her country of origin.

## DHS Contact Information

### USCIS Contacts

| <b>Type of Information/Inquiry</b>  | <b>Where to go/Who to contact</b>  |
|---|--|
| For more information about the U and T visa programs and law enforcement certifications and declarations: | <a href="http://www.uscis.gov">www.uscis.gov</a><br><a href="http://www.uscis.gov/humantrafficking">www.uscis.gov/humantrafficking</a>   |
| To ask a question about a specific case or to rescind a signed certification or declaration:              | The question or rescind letter should be scanned and emailed to the Vermont Service Center at:<br><br>LawEnforcement_UTVAWA.VSC@uscis.dhs.gov.<br><i>Please note that this e-mail address is for law enforcement personnel only. Any e-mail sent by any person or entity that is not law enforcement to this specific e-mail address will not be answered.</i><br>or mailed to:<br>USCIS-Vermont Service Center<br>Attn: VAWA,T, & U Section<br>75 Lower Welden Street<br>St. Albans, VT 05479 |
| To request T or U visa training for your agency:  | <a href="mailto:T_U_VAWATraining@uscis.dhs.gov">T_U_VAWATraining@uscis.dhs.gov</a>   |
| To ask specific policy questions about T and U visa certifications:                                       | Call (202) 272-1470  |
| Representatives may submit an inquiry regarding a specific case by emailing:                              | <a href="mailto:hotlinefollowupI918I914.vsc@uscis.dhs.gov">hotlinefollowupI918I914.vsc@uscis.dhs.gov</a>   |

### Citizenship and Immigration Services Ombudsman

The Office of the Citizenship and Immigration Services Ombudsman (Ombudsman) is dedicated to improving the quality of citizenship and immigration services delivered to the public by providing individual case assistance, as well as making recommendations to improve the administration of immigration benefits by USCIS. Created by section 452 of the Homeland Security Act of 2002, the Ombudsman is an impartial and confidential resource that is independent of USCIS. Customers can request case assistance by visiting the website listed below. The Ombudsman's Office also has a duty officer available Monday-Friday between 11 a.m. and 3 p.m. to answer emails and phone calls for those who are unable to file through the online process.

| <b>Type of Information/Inquiry</b>   | <b>Where to go/Who to contact</b>   |
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| For more information about the CIS Ombudsman and protections for victims:  | <a href="http://www.dhs.gov/cisombudsman">www.dhs.gov/cisombudsman</a>                        |
| To refer U visa petitioners or T visa applicants who are experiencing problems that have not been able to be resolved through DHS customer assistance avenues: | <a href="http://cisomb.dhs.gov/oca/form7001.aspx">http://cisomb.dhs.gov/oca/form7001.aspx</a> |

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| To request telephonic case assistance:   | Toll Free: (855) 882-8100<br>Phone: (202) 357-8100             |
| To share specific policy concerns about T and U visa certifications or request information about a pending request for assistance: | <a href="mailto:cisombudsman@dhs.gov">cisombudsman@dhs.gov</a> |

### **U.S. Immigration and Customs Enforcement (ICE)**

If a law enforcement official is aware of a victim of human trafficking, the official should promptly contact his or her local ICE Homeland Security Investigations (HSI) office. If a law enforcement official is aware of a victim or witness against whom a detainer has been lodged, who has been detained, who has been placed in removal proceedings for an immigration violation, or who has been ordered removed, the official should promptly contact his or her local ICE Enforcement and Removal Operations (ERO) contact or the local Office of the Principal Legal Advisor (OPLA) to make ICE aware of the situation.

| <b><i>Type of Information/Inquiry</i></b>   | <b><i>Where to go/Who to contact</i></b>  |
|---|---|
| To contact your local ICE HSI office:   | <a href="http://www.ice.gov/contact/hsi/">http://www.ice.gov/contact/hsi/</a>   |
| To contact your local ICE ERO office:   | <a href="http://www.ice.gov/contact/ero/">http://www.ice.gov/contact/ero/</a>   |
| To contact your local ICE OPLA office:  | <a href="http://www.ice.gov/contact/opla/">http://www.ice.gov/contact/opla/</a>   |
| Specifically with regard to a lodged detainer, the law enforcement official should notify the ICE Law Enforcement Support Center: | Phone: (802) 872-6050<br>LESC Computer Services Division<br>188 Harvest Lane<br>Williston, Vermont 05495<br><a href="https://www.ice.gov/contact/lesc">https://www.ice.gov/contact/lesc</a> |

### **Office for Civil Rights and Civil Liberties**

| <b><i>Type of Information/Inquiry</i></b>  | <b><i>Where to go/Who to contact</i></b>  |
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| 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 employees and officials of the Department of Homeland Security: | By Mail:<br>Office for Civil Rights and Civil Liberties<br>U.S. Department of Homeland Security Building 410,<br>Mail Stop #0190<br>Washington, D.C. 20528<br><br>By Phone or Email:<br>Phone: (202) 401-1474<br>Toll Free: (866) 644-8360<br>TTY: (202) 401-0470<br>Toll Free TTY: (866) 644-8361<br>Fax: (202) 401-4708<br>E-mail: <a href="mailto:crcl@dhs.gov">crcl@dhs.gov</a> |

To report a violation of T visa, U visa, or VAWA relief confidentiality protections by a federal employee (*see* 8 U.S.C. § 1367(a)(2)).

By Mail:  
Office for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security Building 410,  
Mail Stop #0190  
Washington, D.C. 20528

By Phone or Email:  
Phone: (202) 401-1474  
Toll Free: (866) 644-8360  
TTY: (202) 401-0470  
Toll Free TTY: (866) 644-8361  
Fax: (202) 401-4708  
[crcl@dhs.gov](mailto:crcl@dhs.gov)  
[VAWA@hq.dhs.gov](mailto:VAWA@hq.dhs.gov)

### **Office for State and Local Law Enforcement**

On the recommendation of the 9/11 Commission, Congress created the Office for State and Local Law Enforcement (OSLLE) in 2007 to serve as the liaison between the Department of Homeland Security and non-Federal law enforcement agencies across the country. The primary mission of OSLLE is to lead 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. For more information about DHS coordination with federal, state, local, tribal, and territorial law enforcement, please contact the DHS Office for State and Local Law Enforcement.

Phone: (202) 282-9545  
Email: [OSLLE@hq.dhs.gov](mailto:OSLLE@hq.dhs.gov)

## Further Resources

| Links and Information for T & U Nonimmigrant Status Resources            |   |
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| <b>Victims of Human Trafficking -T Nonimmigrant Status Information:</b>  | <a href="#">Victims of Human Trafficking: T Nonimmigrant Status</a>   |
| <b>Victims of Criminal Activity - U Nonimmigrant Status Information:</b> | <a href="#">Victims of Criminal Activity: U Nonimmigrant Status</a>   |
| <b>Information Guides:</b>   | <a href="#">ICE Toolkit for Prosecutors</a><br><br><a href="#">DHS Council on Combating Violence Against Women Resource Guide</a>   |
| <b>Poster:</b>   | <a href="#">Don't Be Afraid To Ask For Help</a>   |
| <b>Brochures:</b>  | <a href="#">Immigration Options for Victims of Crime</a><br><br><a href="#">Information for Law Enforcement Officials (PDF)</a><br><br><a href="#">Pamphlet on victim support (PDF) for law enforcement, first responders, and healthcare professionals</a><br><br><a href="#">Pamphlet on victim support for judges (PDF)</a><br><br><a href="#">Brochure on T visa, U visa and VAWA (PDF)</a><br><br><a href="#">Brochure on Continued Presence (PDF)</a><br><br><a href="#">Pamphlet on the Legal Rights Available to Immigrant Victims of Domestic Violence in the United States and Facts About Immigrating on a Marriage-Based Visa</a> |
| <b>Video:</b>  | <a href="#">Video on the U and T visa and other immigration relief process and paperwork for law enforcement</a><br><br><a href="#">Video on the T Nonimmigrant Status - Immigration Relief for Victims of Human Trafficking</a><br><br><a href="#">Human Trafficking 101 – DHS Blue Campaign</a>   |

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|   | <p><u>Roll-Call Video (Part 1) featuring law enforcement experts explaining human trafficking</u></p> <p><u>Roll-Call Video (Part 2) featuring law enforcement experts explaining immigration relief</u></p> <p>The DHS Federal Law Enforcement Training Center (FLETC) offers a <u>web-based human trafficking training course</u> which teaches law enforcement officers how to recognize human trafficking during routine duties, protect victims, and initiate human trafficking investigations.</p> |
| <p><b>Non-Governmental Organization Support</b></p> | <p>Anti-human trafficking task forces comprise federal, state, local, county, and tribal law enforcement and prosecutors, as well as non-governmental organizations (NGOs) providing victim services. To find out whether there is a task force in your area, visit the Bureau of Justice Assistance, <u>Anti-Human Trafficking Task Force Initiative Web page</u>.</p>  |