

DISTRICT ATTORNEY'S OFFICE
U VISA POLICY AND PROCEDURE

U Visa Basics

In October 2000 Congress passed the Victims of Trafficking and Violence Protection Act (VTVPA). VTVPA encourages victims to report crimes and contribute to investigations and prosecution regardless of immigration status, and supports law enforcement efforts to investigate and prosecute crimes committed against immigrant victims.

The U visa is an immigration benefit that can be sought by victims of certain crimes (refer to the U Visa Law Enforcement Certification Resource Guide, attached). Congress capped the number of available U visas to 10,000 per fiscal year.

To qualify for a U visa, an applicant must demonstrate that she/he meets certain requirements. The provision requires:

- That the U visa applicant include with her/his application a law enforcement certification (Form I-918) completed by a certifying agency. Certifying agencies include all authorities responsible for the investigation, prosecution, conviction or sentencing of the qualifying criminal activity.
- Certification confirms that a qualifying crime has occurred and that the "victim was helpful, is being helpful, or is likely to be helpful in the detection, investigation or prosecution of criminal activity."

USCIS conducts a background investigation (refer to the U Visa Law Enforcement Certification Resource Guide).

Who Can Apply

Victims of a qualifying crime, certain immediate family members including parents, unmarried minor children under the age of 21, spouses, and minor siblings of a minor primary victim.

Qualifying crimes:

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

*Includes any similar activity where the elements of the crime are substantially similar. Also includes attempt, conspiracy, or solicitation to commit any of the above, and other related crimes.

District Attorney U visa Policy

If a person seeks a U visa and requests certification from the District Attorney's office, the following procedure will be followed:

- An advocate will have initial contact with the person and query historical Victim Witness Database records to verify if the victim was an eligible crime victim per USCIS definitions and assisted law enforcement and prosecutor in the investigation and prosecution of the crime. If there was no prosecution or no record of Victim/Witness services, the victim will be referred to the law enforcement agency that investigated the crime.
- The Advocate will advise the assigned Deputy District Attorney on the case and obtain additional relevant information.
- The Advocate may prepare a U visa certification form for the Assistant District Attorney to review and sign. The verification process and the certification form should be completed within 60 days.
- The original certification form will be given to the applicant for inclusion with the U visa application. A copy of the certification will be kept in a designated file in the Victim Witness Unit.
- If a case goes to warrant and the victim submits a certification request, the advocate will advise the assigned Deputy District Attorney on the case. The decision to prepare a U visa certification will be made on a case by case basis.

Per USCIS, "It is not the duty of the certifying agency or individual to verify or investigate the applicant's criminal background." USCIS conducts a thorough background check as part of the application process.

If the Advocate becomes aware that the victim did not cooperate with the investigation or prosecution, or directly contributed to the events leading to their victimization, the victim will be notified that the District Attorney's Office is unable to sign the certification per USCIS policy. Per USCIS policy, the decision to sign is at the agency's discretion.

It is the responsibility of the victim to submit the certification paperwork to USCIS. The victim has six months from the date of the signed certification form to submit the certification paperwork to USCIS.