

<b>Police Department GENERAL ORDER</b>	<b>Date of Issue</b>	<b>Page</b>	<b>Number</b>
<b>Subject: CERTIFICATION OF U VISA – NON- IMMIGRANT STATUS (FORM I-918, SUPPLEMENT B)</b>			
<b>CALEA STANDARDS</b>		<b>BY AUTHORITY OF</b>	

## **I. PURPOSE**

The purpose of this General Order is to establish guidelines and procedures when receiving requests for a **U Nonimmigrant Status certification (Form I-918 Supplement B example attached)**. This General Order also establishes the certifying supervisor that will sign Form I-918, supplement B.

Congress created the U nonimmigrant classification in the Violence Against Women Act of 2000 (VAWA 2000) and amended by the Violence Against Women and Department of Justice Reauthorization Act of 2006 (VAWA 2005). This legislation was intended to strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking, and other crimes by creating protections for undocumented crime victims who may fear reporting those crimes to law enforcement due to their undocumented status.

This General Order acknowledges that undocumented victims may be reluctant to assist in the detection, investigation or prosecution of criminal activity for fear of removal from the United States. VAWA 2000 has provided an avenue to access immigration relief to these victims; while strengthening the ability of this police department to better serve immigrant victims of domestic violence, sexual assaults, trafficking of persons and other crimes. This law allows this department to continue offering protection to undocumented victims and building trust in immigrant communities.

## **II. POLICY**

It is the policy of this Police Department that “any person(s) in a supervisory role” and specifically any supervisor in the Domestic Violence Unit, Sexual Assault Unit, and or investigatory Units, is designated to issue U nonimmigrant status certification on behalf of the Chief of Police.

It is also the policy of this department that any supervisor may designate others as U visa certifiers. Each of the above mentioned units will have an updated list of designees and make a copy of same available to the Station’s Desk Sergeant.

## **III. DEFINITIONS**

- A. As the regulations implementing the U visa note, the statutory list of qualifying crimes designate “general categories.” Each jurisdiction may have several crimes, with various titles, that fall under certain categories such as “domestic violence, sexual assaults, human trafficking and other crimes which vulnerable immigrants are often targeted as victims.
- B. **Qualifying criminal activity is defined** by statute to be “activity involving one or more of the following or **any similar activity** in violation of Federal, State, or local criminal law”, the statute also includes the attempt, conspiracy, or solicitation to commit any of the below listed crimes:
- |                             |                           |                      |
|-----------------------------|---------------------------|----------------------|
| Abduction                   | Incest                    | Rape                 |
| Abusive Sexual Contact      | Involuntary Servitude     | Sexual Assault       |
| Blackmail                   | Kidnapping                | Sexual Exploitation  |
| Domestic Violence           | Manslaughter              | Slave Trade          |
| Extortion                   | Murder                    | Torture              |
| False Imprisonment          | Obstruction of Justice    | Trafficking          |
| Felonious Assault           | Peonage                   | Perjury              |
| Unlawful Criminal Restraint | Female Genital Mutilation | Witness Tampering    |
| ”being held hostage”        | Prostitution              | Other Related Crimes |
- C. “Any Similar Activity” is deemed similar to one specified on the statutory list, when the similarities are substantial and the nature and the elements are comparable.
- D. U nonimmigrant status Certification (Form I-918, Supplement B) is commonly referred as U visa.

#### IV. PROCEDURES

- A. Upon a request for a U visa certification, the following needs to be verified:
- a) **A person has been a victim of qualifying criminal activity**  
**The individual must meet this requirement in one of the following ways:**
- 1) The individual is a direct victim of a crime that is similar to one enumerated above and by statute suffering from direct or proximate harm.
  - 2) The individual suffers unusually direct harm though he or she is not the intended victim
  - 3) The individual is a family member (spouse or unmarried child under 21, or if the direct victim is under 21, his or her parent or sibling under age 18) of a crime victim who is deceased due to murder or manslaughter, or is incapacitated or incompetent.
  - 4) The individual is the “next friend” of a crime victim who is incapacitated. The next friend must appear in a lawsuit to benefit the victim
- b) **The Victim possesses information about the qualifying crime activity**
- 1) See under “Definitions” for explanation
  - 2) NOTE: You may certify for helpfulness in an investigation of a qualifying crime, even if the primary investigation was for a crime that is not on the statutory list. For instance, drug crimes are not on the list, but you may investigate domestic violence while at the scene of a drug investigation. If the applicant was helpful in

investigating the domestic violence, you may sign a certification for her even if you decide to charge the perpetrator for drug crimes instead.

c) **The victim has been, is being or is likely to be helpful to the detection, investigation and/or prosecution of that qualifying criminal activity.**

- 1) The law clearly states that the crime may be under investigation OR prosecution. As such, there is no requirement that the crime be charged, prosecuted, or if the case is prosecuted that the victim testify or the perpetrator is convicted. In addition, by using language “**has been helpful**,” the law indicates that law enforcement should certify victims of historic crime.
- 2) This federal law does not impose any statute of limitations and the duration of time elapsing between the crime and the request for certification is irrelevant.
- 3) Furthermore, members of this department should not wait for a victim to demonstrate a certain threshold of helpfulness. Instead, certifications should be promptly executed in order to protect victims from deportation proceedings. Should the victim’s behavior change and the victim is no longer helpful, the executing agent has the choice of contacting the Department of Homeland Security to retract the U-visa certification.

- B. The certification must be executed using the U nonimmigrant Status Certification form (form I-918, supplement B). If the victim does not supply the form, one can be copy from Appendix A.
- C. The certifying official should write out their rank and unit to which assigned, specifically that he/she is a supervisor or a designee
- D. The supervisor or designee should execute the certification as soon as possible but under no circumstances more than 30 days from the date the request was submitted
- E. See the form instructions for other specific instructions on filling out the form

**V. ADDITIONAL CRITICAL CONSIDERATIONS:**

- A. The U-visa is adjudicated by the Department of Homeland Security. It is up to DHS to screen an applicant’s criminal history and other immigration qualifications. Law enforcement’s role is to assess an individual as a crime victim who has been helpful.
- B. U-visa signatories should not screen for any other information beyond the requirements listed above. Law enforcement agencies are not the adjudicator for an individual’s immigration status in the U.S. and should not be expected to evaluate this.
- C. As the instructions on the form note, providing a certification for a U Visa does not necessarily mean the applicant will be granted a visa. It is only one of several requirements. Without a certification, however, victims of crimes can not qualify for U visas. The Department Homeland

Security, United States Citizen and Immigration Services (USCIS) will decide whether a petitioner will receive a U visa.

- D. It is also the policy of this department that under no circumstances is any member to give immigration advice to any victim, but it is appropriate to provide referrals to nongovernmental organizations in our community which assist crime victims. See Appendix B for a list of those agencies.