



To: Members of Law Enforcement and Prosecuting Attorneys
From: Attorney Elinor R. Jordan, Senior Program Manager, MCEDSV Survivor Law Clinic
Re: Immigration certification for victims

Dear Member of Law Enforcement,

Thank you for your service to the community. Through your efforts, we hope to build a world in which perpetrators of domestic and sexual violence are consistently held accountable for their crimes. This letter is intended to help you navigate the U visa certification process so that immigrant victims of crime in your community are able to help your investigations.

- **What is a U or T visa?** These are immigration protections enacted with broad, bipartisan support through the Victims of Trafficking and Violence Prevention Act of 2000 to encourage victims of certain serious crimes to report and contribute to investigations. The U or T visa is not a green card, although obtaining one of these visas does provide a path towards obtaining a green card eventually (many years later and only if the victim continues to cooperate).
- **What is the law enforcement certification?** A form on which law enforcement officials can attest that a victim has been helpful to an investigation. Without this certification, the victim cannot obtain a visa. A victim must also show that they suffered severe mental or physical abuse from the crime, that they are not criminals themselves, and must continue to demonstrate that they are helping law enforcement throughout the approval process, which frequently takes several years. The form is I-918B, sometimes called the “Supplement B.”
- **Does the victim automatically get a U visa if I sign the certification?** No. The certification itself does not grant any immigration benefit. The federal government has a specific department that conducts a thorough background check, ensures that there is no fraud, and does a separate investigation into eligibility.
- **What does it mean to be “helpful”?** The federal government defines “helpful” to mean assisting law enforcement authorities in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim—this includes an ongoing requirement to remain willing to assist, but also allows law enforcement to certify if they believe that the victim will be helpful. 8 USC 1101(a)(15)(U)(i)(III); 8 CFR 214.14(b)(3). At its discretion, a certifying agency may withdraw its certification at any time. Law enforcement may also certify that a parent of a minor child victim has been or will be helpful.
- **When should the certification be signed?** Ideally, as soon as possible after the victim begins to cooperate with law enforcement. Recent statistics show that it takes a victim approximately ten years to obtain a U visa, and once a certification is signed, the victim is under an ongoing obligation to cooperate with the investigation and prosecution. Any concern that a victim would stop cooperating after the certification is signed is misplaced. (See above.) A certification can also be signed after a case is over, no matter how long it has been since the case closed.

- ***Who can sign a certification?*** A supervisor or designated official from any federal, state, or local law enforcement official, prosecutor, judge, or other authority investigating criminal activity. 8 USC 1184(p)(1).
- ***Does it make any difference if the perpetrator is not likely to be prosecuted or if he or she pleads to a lesser crime?*** No. What is key for the certification is whether the victim cooperated or not. It does not make any difference whether the perpetrator flees the jurisdiction, the case is not referred to prosecution, or if the perpetrator is acquitted or pleads to a lesser crime, etc.

The U.S. Department of Homeland Security has also created two comprehensive documents to support you in this process:

- 10-page certification guide: https://www.dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf
- 1-page flyer: <https://www.dhs.gov/sites/default/files/publications/U-Visa-Immigration-Relief-for-Victims-of-Certain-Crimes.pdf>

The Coalition would like to support you if you are concerned about U visa certifications or if you have any questions about them. Please call or email me if there is anything I can do to help.

With gratitude and respect,

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