



# CERTIFICATION OF U-VISA NON-IMMIGRANT STATUS

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### **I. PURPOSE**

The purpose of this directive is to establish guidelines and procedures for officers who receive requests for a U-Visa Certification (Form I-918, Supplement B). This Directive also specifies the certifying officer who will sign Form I-918, Supplement B.

### **II. POLICY**

It is the policy of the Anne Arundel County Police Department to review all U-Visa Certifications to determine if 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. The U-Visa Certifications will be reviewed by a supervisor in the Homeland Security and Intelligence Unit or any other officer or supervisor designated by the Chief of Police as a certifying official.

### **III. DEFINITIONS**

A. "U-Visa" is defined as an immigration benefit that can be sought by victims of certain crimes, who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime, or is likely to be helpful in the investigation or prosecution of criminal activity.

B. "U-Visa Certification" Form I-918, Supplement B, U Nonimmigrant Status Certification (Form I-918B) is a required element for U-Visa eligibility and a law enforcement certification that the noncitizen is the victim of a qualifying crime who are currently assisting, have previously assisted or likely to be helpful in the investigation or prosecution of criminal activity. *For the purposes of determining helpfulness, if the victim or the victim's parent, guardian, or next friend (a person who represents another person who is under disability or otherwise unable to maintain a suit on his or her own behalf and who does not have a legal guardian) is assisting, has assisted, or is likely to assist law enforcement in the detection, investigation, or prosecution of a qualifying criminal activity, the victim's parent, guardian, or next friend shall be considered to be helpful, to have been helpful, or likely to be helpful.*

*For the purposes of filing a petition with the United States Citizenship and Immigration Services for a U Nonimmigrant Status, a victim, or the victim's parent, guardian, or next friend may request a certifying official or a certifying entity to certify victim helpfulness on a Form I-918, Supplement B Certification if the victim:*

- 1. Was a victim of a qualifying crime and has been helpful to the certifying entity in the detection, investigation or prosecution of that qualifying criminal activity;*

2. *Was under the age of 16 years old on that date that an act constitutes an element of a qualifying criminal activity first occurred or*

3. *The victim's parent, guardian, or next friend has been helpful to the certifying entity in the detection, investigation, or prosecution of that qualifying criminal activity or*

4. *Is incapacitated or incompetent and the victim's parent, guardian, or next friend has been helpful to the certifying entity in the detection, investigation or prosecution of that qualifying criminal activity.*

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C. "Qualifying Crime" is defined by statute to be "activity involving one or more of the following or 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 crimes listed below:

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

D. "Any Similar Activity" refers to other criminal activity when the similarities are substantial and the nature and elements of the criminal activity are comparable.

E. "Helpful to the Investigation" is defined in this policy as:

1. Possesses information about a qualifying criminal activity; and
2. Demonstrates cooperation during the detection, investigation, or prosecution of that criminal activity, even if the investigation is not completed.

#### **IV. PROCEDURE**

Before completing a Form I-918B, Supplement B (a request for a U-Visa certification), the certifying official shall have verified the following:

A. The noncitizen was or is:

1. A victim of a qualifying crime or similar criminal activity (listed in Section III.C above) that took place in Anne Arundel County; or
2. The spouse or under-21-year-old child of a victim who is deceased because of murder or manslaughter, or who is incompetent or incapacitated; or
3. The parents and unmarried under-18-year-old siblings of an under 21-year-old victim who is deceased because of murder or manslaughter, or who is incompetent or incapacitated.

B. The noncitizen has been, is being, or is likely to be helpful to the investigation.

C. When a certification is based on a prior investigation or a criminal case that has been closed or suspended, or when a statute of limitations has passed, the certification shall be completed after the above verification has been conducted.

D. No request for certification will be accepted unless it is made on the proper U.S. Citizenship and Immigration Services form (Form I-918, Supplement B) and has been completed by the referring legal entity (such as a private attorney, nonprofit organization, or victim).

E. Every effort should be made to respond to the request for certification within 30 days from the time it was presented to the Anne Arundel County Police Department.

F. All requests for Form I-918, Supplement B certification presented to this department shall be forwarded to Homeland Security and Intelligence Unit or certifying officials.

G. The certifying official may contact the VAWA Unit of the U.S. Citizenship and Immigration Services to report the U-Visa applicant's failure to continue cooperating with the department when the failure to cooperate is considered unreasonable. To determine whether the failure to cooperate is unreasonable, officials should review and consider the victim's history of abuse and victimization, and any threats the victim has experienced or is experiencing.

H. In rare circumstances, when all criteria for law enforcement certification are met by the noncitizen victim, the certifying official, with reasonable cause, can elect not to sign the law enforcement certification (Form I-918, Supplement B).

***I. A certifying official may withdraw the certification only on refusal to provide information and assistance when reasonably requested of:***

- 1. The victim; or***
- 2. The victim's parent, guardian or next friend if the victim was under the age of 16 years old on that date that an act constitutes an element of a qualifying criminal activity first occurred or if the victim is incapacitated or incompetent.***

***J. If a non-citizen victim is the subject of removal, exclusion, or deportation, the certifying entity shall certify or decline certification of the Form I-918, Supplement B Certification within 14 days after receiving a request for certification.***

***K. Except in cases of willful or wanton misconduct, a certifying entity or certifying official who acts or fails to act in good faith in compliance with the § 11-931 of the Criminal Procedure Article shall be immune from criminal liability or civil or criminal liability for monetary damages that might otherwise occur as a result of the act or failure to act.***

## **V. ADDITIONAL CONSIDERATIONS**

The law enforcement certifications validates the role the victim had, has, or will have in being helpful to the investigation or prosecution of the case; therefore, it is important that the law enforcement agency complete certifications on a case-by case basis. Without a completed U-Visa certification, the victim will not be eligible for a U-Visa.

***A current investigation, the filing of charges, a prosecution, or a conviction is not required for a victim, the victim's parent, guardian, or next friend to request and obtain the Form I-918, Supplement B certification.***

***A certifying entity may disclose information relating to a victim who is seeking or has obtained U Nonimmigrant Status only:***

- 1. In order to comply with federal law, court order, or a discovery obligation in the prosecution of a criminal case; or***
- 2. After adult petitioners, for U Nonimmigrant Status or Adult U Nonimmigrant Status holders have provided written consent for the disclosure of the information.***

**VI. PROPONENT UNIT:** Homeland Security and Intelligence Unit.

**VII. CANCELLATION:** This written directive cancels Index Code 608, dated ***10-01-19***.