




Clayton County Police Department PROCEDURES

Subject CERTIFICATION OF U-VISA NON-IMMIGRANT STATUS		Procedure # D48	
Authorizing Signature 	Effective 05-21-2024	<input checked="" type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Rescinds	Total Pages 5

I. PURPOSE

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 Clayton County Police Department (CCPD) 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.

III. U-VISA ESSENTIALS

A. General

1. The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000, encourages victims to report crimes and contribute to investigations and prosecutions regardless of immigration status, and supports law enforcement efforts to investigate and prosecute crimes committed against immigrant victims.
2. The U-Visa is 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 who are likely to be helpful in the investigation or prosecution of criminal activity. The U-Visa provides eligible victims with nonimmigrant status in order to temporarily remain in the United States (U.S.) while assisting law enforcement.
3. If an individual believes they qualify for a U-Visa, then that individual or their representative will complete the USCIS Form I-918, Petition for U Nonimmigrant Status (Form I-918), and submit it to the U.S. Citizenship and Immigration Services (USCIS) with all relevant documentation, including Form I-918B, the U-Visa law enforcement certification. Given the complexity of U-Visa petitions, petitioners often work with a legal representative or victim advocate.

B. Certifying Agencies

1. In order to be eligible for a U-Visa, the victim must submit a law enforcement certification completed by a certifying agency. Certifying agencies include all authorities responsible for the investigation, prosecution, conviction or sentencing of the qualifying criminal activity, including but not limited to:
 - a. Federal, State and Local law enforcement agencies;
 - b. Federal, State and Local prosecutors' offices;
 - c. Federal, State and Local Judges;
 - d. Federal, State, and Local Family Protective Services;
 - e. Equal Employment Opportunity Commission;
 - f. Federal and State Departments of Labor; and
 - g. Other investigative agencies.
2. The law enforcement certification, Form-I-918B, is a required piece of evidence to confirm to that a qualifying crime has occurred and that that the victim was helpful, is being helpful, or is likely to be helpful in the detection, investigation or prosecution of criminal activity.
3. Although a law enforcement certification is a required part of a victim's petition for a U-Visa, law enforcement officers and agencies cannot be compelled to complete a certification. Whether a certifying law enforcement agency signs a certification is at the discretion of that law enforcement agency and the policies and procedures it has established regarding U-Visa certifications.
4. The law enforcement certification 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.

C. Qualifying Criminal Activity

Qualifying criminal activity includes one (1) or more of the following or any similar activity in violation of Federal, State or local criminal law of the United States: Abduction; Abusive Sexual Contact; Being Held Hostage; Blackmail; Domestic Violence; Extortion; False Imprisonment; Felonious Assault; Female Genital Mutilation; Fraud in Foreign Labor Contracting (as defined in section 1351 of title 18); Incest; Involuntary Servitude; Kidnapping; Manslaughter; Murder; Obstruction of Justice; Peonage; Perjury; Prostitution; Rape; Sexual Assault; Sexual Exploitation; Slave Trade; Stalking; Torture; Trafficking; Unlawful Criminal Restraint; Witness Tampering; or other related crimes (includes any similar activity where the elements of the crime are substantially similar, and it also includes attempt, conspiracy, or solicitation to commit any of the above, and other related crimes). See also 8 USC Section 1101 (a) (15) (U) (iii).

D. USCIS Review of U-Visa Law Enforcement Certifications

1. USCIS is the federal component of the Department of Homeland Security (DHS) and responsible for approving and denying immigration benefits and immigration status, including the U-Visa.
2. Federal, State and local law enforcement agencies do not grant or guarantee a U-Visa or any other immigration status by signing a U-Visa certification (Form I-918B).

3. Only USCIS may grant or deny a U-Visa after a full review of the petition to determine whether all the eligibility requirements have been met and a thorough background investigation.
4. An individual may be eligible for a U-Visa if:
 - a. They are the victim of qualifying criminal activity.
 - b. They have suffered substantial physical or mental abuse as a result of having been a victim of criminal activity.
 - c. They have information about the criminal activity. If under the age of sixteen (16) or unable to provide information due to a disability, a parent, guardian, or next friend may possess the information about the crime on the individual's behalf.
 - d. They were helpful, are being helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the crime. If under the age of sixteen (16) or unable to provide information due to a disability, a parent, guardian, or next friend may assist law enforcement on behalf of the individual.
 - e. The crime occurred in the United States or violated U.S. laws.
 - f. They are admissible to the United States.
5. By signing a law enforcement certification, the law enforcement agency is stating that a qualifying criminal activity occurred, that the victim had information concerning the criminal activity, and that the victim was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying crime. In addition, law enforcement may report information about any harm sustained by the victim that law enforcement has knowledge of or observed.
6. While a U-Visa petition will not be granted without the required law enforcement certification, the fact that a certification has been signed does not automatically grant the victim a U-Visa. The certification is only one (1) of the required pieces of evidence needed to be eligible for a U-Visa.

IV. PROCEDURES

A. Departmental Role & Responsibilities

1. The Department's sole role in this process is to certify that the incident was reported to the CCPD, and that the petitioner assisted the Department with the reported incident. All approvals and decisions regarding the granting/approval of the U-Visa lie with the USCIS.
2. The Legal Advisor, Office of the Chief of Police Division, will be the Department's point of contact for all I-918, Supplement B, U Nonimmigrant Status Certifications sent to the CCPD. The Designated Certifying Official is the Legal Advisor.
3. The U-Visa Certifications will be reviewed by the Legal Advisor or any other officer or supervisor designated by the Chief of Police as a certifying official.

B. Requirements

1. All applicant individuals must meet the following four (4) statutory eligibility requirements and have:
 - a. Suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity, and
 - b. Valid information concerning the criminal activity, and

- c. Assisted or are continuing to assist in providing useful information to the investigation or prosecution of the crime, and
 - d. Been a victim of a criminal activity that violated the laws of the United States and occurred within the jurisdiction of a certifying agency.
2. Qualifying criminal activity is defined by statute as an activity involving offenses ranging from murder, rape, robbery, felonious assault, sexual exploitation, extortion, human trafficking, torture, abduction, false imprisonment, witness tampering, obstruction of justice, etc. This list is not all inclusive, but represents types of criminal activity which target vulnerable immigrants.
 3. The victim must submit a U Nonimmigrant Status Certification (Form I-918, Supplement B) that is certified by a law enforcement agency to the USCIS.
 - a. A completed certification is not a sponsorship or endorsement of a victim.
 - b. A certification does not give immigration status or provide immigration protection.
 - c. A completed certification also does not guarantee that USCIS will provide immigration status.
 4. The CCPD may act as a certifying agency for a petitioner of an I-918 Supplement B, U Nonimmigrant Status Certification if the following criteria are met:
 - a. The petitioner must be the victim of a qualifying criminal activity as referenced earlier in this procedure (i.e., Section III.C.), and the qualifying criminal activity must be classified as a felony offense which is reported to the CCPD. The petitioner must establish that they possess information concerning the criminal activity which they have been a victim of and has been, is being or is likely to be helpful to an investigation or prosecution of the qualifying crime.
 - b. The offense must still be under jurisdiction of the CCPD and the petitioner must make application within one (1) year of the occurrence of the criminal offense.

Where the statute of limitations for the underlying criminal activity has not expired:

 - 1) The Legal Advisor may consider an applicant's request for certification if the petitioner establishes that they have significant information leading to the identification of the perpetrator of the underlying criminal activity committed against the petitioner; or
 - 2) The Legal Advisor has otherwise determined that a public benefit exists to review the request for certification.
 - c. The CCPD may act as a certifying agency when all of the above requirements have been met and it is determined to be in the best interest of justice, or when the requestor is a necessary witness concerning successful prosecution of the state's case.
 5. Law enforcement certification, by itself, does not provide legal immigration status for the applicant. The USCIS will make the final determination as to whether an individual will be granted legal immigration status.
 6. The CCPD will not process or review incomplete applications or where there is missing or insufficient evidence of helpfulness or substantial harm.
 7. Once a case has been filed with a District Attorney's Office, the CCPD may refer a U-Visa applicant to the certifying official for the District Attorney's Office where the case was filed.
 8. The CCPD will not certify those indirect victims of offenses with deceased victims resulting from murder or manslaughter, or offenses with a victim younger than twenty-one (21) years

of age that has become incompetent or incapacitated as a direct result of the offense committed against the victim, where the applicant (indirect) victim was not a witness to the offense, and/or is unable to provide assistance to the investigation that will assist with identifying and prosecuting involved suspects.

9. All requests for recertification or re-examination of previously reviewed U-Visa applications submitted to the CCPD will be denied. Decisions made by previous Designated Certifying Officials for the CCPD will remain in effect and will not be re-examined by subsequent Designated Certifying Officials.

C. Application for a U-Visa Certification

1. If applying for a U-Visa certification with the CCPD, applicants shall provide the following items in their application packet:
 - a. A filled-out USCIS Form I-918 Supplement B, U Nonimmigrant Status Certification form: <https://www.uscis.gov/sites/default/files/document/forms/i-918supb.pdf>.
 - b. A copy of the requestor's government issued identification.
 - c. The CCPD Incident Report Case Number.
 - d. An addressed, prepaid postage, means of return for your certified document. The envelope will need to be large enough to contain several documents.
2. Completed documents and applications may be sent to the following:

Clayton County Police Department
Legal Advisor – UVISA
7911 North McDonough Street
Jonesboro, GA 30236
Office: 678-610-4783
Email: CCPDLegal@claytoncountyga.gov

3. Email applications will not be accepted, walk in applications are by appointment only.

D. Documentation

1. Documentation identifying current and prior Designated Certifying Officials will be maintained by the CCPD and the Fraud Detection Unit within the USCIS.
2. All applications and decisions will be recorded and maintained by the Legal Advisor. Certification decisions will be based upon an investigation of the facts submitted.