



Colorado Springs Police Department

Standard Operating Procedure

DL-305-02 Petition for U Nonimmigrant Status (U Visa)

Section 300 – Special Populations

Effective Date: 10/31/2023

Supersedes Date: N/A

.01 Purpose

The purpose of this directive is to establish guidelines for the review and signing of a Petition for U Nonimmigrant Status (U Visa). The U Visa is intended to expand the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, and other crimes against non-citizens while offering protection to victims of such crimes.

.02 Cross Reference

[GO 305 Immigration and Foreign Nationals](#)

[DL-305-01 Persons with Limited English Proficiency](#)

.03 Definitions

Certifying Official: Designated by the Chief of Police as the Special Victims Section Lieutenant (SVS Lt).

Helpful: A threshold in which the certifying official deemed the victim helped or was likely to be helpful in detecting, investigating, or prosecuting a qualifying criminal event. Without documentation to indicate a victim wasn't helpful or refused to assist law enforcement, victims must be determined to be helpful. An agency's inability to communicate with a victim due to the victim's language must not be considered a refusal or failure to provide assistance.

Qualifying Criminal Activity: Any activity that constitutes a crime as defined pursuant to Colorado law, regardless of the statutory language or title used pursuant to Colorado law, for which the nature and elements of the offenses are substantially similar to the general categories enumerated in 8 U.S.C. Sec. 1101 (a)(15)(U), or any other similar criminal activities, and the attempt, conspiracy, or solicitation to commit any of those offenses.

Victim of Qualifying Criminal Activity: A non-citizen who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity, including those who were:

- Direct or indirect victims.
- Parents and unmarried siblings under the age of 18 of a direct victim who was under 21 years of age at the time the qualifying criminal activity occurred
- Deceased victims who died as a result of murder, manslaughter
- Victims who are incompetent or incapacitated, such that they are unable to provide information concerning the criminal activity or be helpful in the investigation or prosecution of the crime.

.04 Procedure

A required section of the U Visa application includes an I-918, Supplement B, Nonimmigrant Status Certification form, also referred to as the law enforcement certification form, that must be submitted to the U.S. Citizen and Immigration Services (USCIS) by the petitioning party after receiving a signed certification by the Certifying Official. The certification form demonstrates that the victim has met several U Visa eligibility criteria.

Certifying I-918 Supplement B Nonimmigrant Status Certification Form

The Victim Advocate Coordinator will receive the certification form requests and review the application and associated case information for completeness. The Victim Advocate Coordinator will provide the certification form and any attached paperwork to the SVS Lt. for review. If additional information is needed, the Victim Advocate Coordinator will contact the requestor for that information.

Upon reviewing the paperwork, the SVS Lt. will sign the certification form when:

- The individual qualifies as a victim of a qualifying criminal activity; and
- The individual was helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity.

No other factors may be considered when deciding whether to sign the certification form. More than one victim can be identified and provided with certification so long as they meet the necessary criteria.

Signing the Certification Form

If the SVS Lt. signs the certification form, they shall coordinate with the Victim Advocate Coordinator to return the signed certification form to the requestor, along with, free of charge, relevant pages of offense reports related to the qualifying criminal activity subject to release by law, unless already provided by another agency. The timing of the release of such reports for open investigations or prosecutions is subject to the investigating unit's discretion.

By completing the certification form, the SVS Lt. attests that the information is true and correct to the best of their knowledge. Completion of a certification form merely verifies factual information relevant for federal immigration officials to determine eligibility for a U Visa.

Declining to Sign the Certification Form

If the SVS Lt. declines to sign the certification form, written notification will be made to the requestor. The denial notification must contain a detailed explanation of the reason(s) for the denial, consisting of one of the following reasons:

- A lack of jurisdiction over the certification form request due to CSPD not having been involved in the detection, investigation, or prosecution of the qualifying criminal activity; or
- The requestor was not a victim of a qualifying criminal activity; or
- The requestor demonstrated a lack of helpfulness, including documented instances of failure or refusal to comply with reasonable requests for assistance.

Upon receiving written notification that a request for a certification form is being denied, a requestor may provide supplemental information to the department and request the circumstances be again reviewed by the SVS Lt. or from another certifying agency, noting that a requestor may seek approval from more than one certifying agency.

Timelines to Process the Certification Form

As a standard rule, the department will process all applications within 90 days of receipt, including making a determination to sign or decline a certification form.

If, however, the requestor provides (1) documentation that they are in federal immigration removal proceedings or (2) documentation that one or more children, parents, or siblings of the requestor would become ineligible for U non-immigrant status by virtue of age within sixty business days after the receipt date, the department will process the request within 30 days, including making a determination to sign or decline a certification form.

Cases Under Court Seal

If a case used in support of an application is under court seal, the department is prohibited from making a determination as well as confirming the investigation's existence. The requestor will be referred to the District Attorney's Office in such a situation.

Reporting to the State of Colorado

The Victim Advocate Coordinator is responsible for tracking (annually) the following information related to C.R.S. §24-4.1-406:

- Number of requests received for certification
- Number of signed certifications
- Total number of denied certifications
 - The number of certifications denied for each of the reasons listed under ‘declining to sign certification form’
- Number of decisions that fell outside the prescribed completion deadlines

On or before March 1st of each year, the department will report the aforementioned information from the previous year to the Division of Criminal Justice in the Department of Public Safety for the State of Colorado. The Victim Advocate Coordinator will submit the annual report, in aggregate form, on behalf of the department.