



# GENERAL ORDER

DURHAM POLICE DEPARTMENT  
DURHAM, NC

NUMBER:

4082 R-5

## U VISA CERTIFICATION

Effective Date: 08/06/2014

Revision Dates: R-1 02/18/2015; R-2 01/23/2017; R-3 01/15/2018; R-4 02/08/2019; **R-5 05/06/2019**

### INTRODUCTION

In an effort to assist in the investigation and successful prosecution of certain crimes, the Durham Police Department will review applications for U Nonimmigrant Status. This program, known as U Visas, is an immigration benefit for victims of certain crimes who are currently or have previously assisted law enforcement or who are likely to be helpful in the investigation or prosecution of criminal activity. By reviewing and certifying applications, the Department seeks to secure the assistance and testimony of crime victims who may otherwise become unavailable due to their immigration status.

### DEFINITIONS

*I-918 Form* – This is the initial application form completed by a victim (or their representative) requesting U Nonimmigrant Status. These forms are reviewed and approved by the U.S. Citizenship and Immigration Service (USCIS) on a case-by-case basis. If the petition is approved, the victim receives nonimmigrant status to live and work in the U.S. for up to four (4) years.

*I-918 Supplement B Form* – This form is completed by a Certifying Agency (law enforcement being one) that certifies that the petitioner is a victim of a crime and has been helpful to the investigation or prosecution. This form is required for the USCIS to approve a U Visa request; however, Certifying Agencies are not required to complete the form. Refer to Instructions for Form I-918 Supplement B U Nonimmigrant Status Certification.

*“Helpfulness”* – For the purpose of the U Visa program, The Department of Homeland Security (DHS) has provided guidance for determining whether or not a victim has been helpful. To be considered helpful, a victim was, is or is likely to be assisting law enforcement in the investigation or prosecution of established, qualifying criminal activity.

*Indirect Victim* – The parent of a victim who is under twenty-one (21) and is incompetent/incapacitated and unable to assist in the investigation or prosecution. In order to qualify the indirect victim needs to meet all of the remaining eligibility requirements, including having information about the crime and being helpful to law enforcement in the investigation/prosecution of a crime.

*Qualifying Criminal Activity* – A criminal offense as determined by USCIS and listed on the I-918 Supplement B certification form.

## U VISA CERTIFICATION PROCESSING

The U Visa certification process begins when the Department receives a request for certification from a victim, an indirect victim or a representative of the victim, here after referred to as “the petitioner.” Requests will be processed by the Executive Officer to the Chief of Police, hereafter referred to as the Executive Officer.

Upon receipt of the request, information regarding the case will be gathered and may include:

- A review of incident/investigative reports;
- Interviews with the lead investigator of the case;
- Consultation with a prosecutor, if applicable;
- Criminal history of the petitioner; and,
- Solvability factors of the crime.

Once the necessary information has been gathered and reviewed, the Executive Officer will submit a recommendation to the Chief of Police or his/her designee as to whether or not the request should be certified. If the recommendation to certify has been made, the completed I-918 Supplement B form shall be submitted to the Chief or his/her designee along with the necessary supporting documentation for review and signature. The original, signed I-918 Supplemental B form must be returned to the petitioner for submission to the USCIS. The USCIS prefers the supplemental form be signed in ink other than black to distinguish the original signature. The lead investigator will also be notified that the request has been certified. Copies of the original request and all documentation returned to the petitioner will be maintained by the Office of the Chief of Police.

If it is determined that the petitioner does not meet the departmental criteria for certification, the Chief or his/her designee will be advised and provided with the reasons for not certifying the request. The petitioner will then be notified by the Chief of Police or his/her designee that the request was not certified.

The Department will make every effort to complete the certification review process within a reasonable amount of time.

## CERTIFICATION GUIDELINES


In order for the Chief or his/her designee to certify a request, the following criteria apply:

- The petitioner was the victim of a qualifying criminal activity on January 1, 2008 or afterwards, or the petitioner was the victim of a qualifying criminal activity prior to January 1, 2008 but the case remains active with workable leads or has been cleared and prosecution is pending; *and*
- The petitioner possesses and has communicated credible and reliable information that is helpful to the investigation or prosecution of the case. Refusal to participate in follow-up activities such as additional interviews, suspect identification or post arrest proceedings, including court appearances, will result in the request not being certified. Additionally, if the petitioner’s assistance is not requested then the form should not be certified.

If at any time after the certification is sent the petitioner unreasonably refuses to assist in the investigation or prosecution of the crime, the Department must disavow or withdraw the I-918 Supplement B form. If a petitioner is no longer helpful to the investigation or prosecution, the lead investigator will notify the Executive Officer so the withdrawal of the certification can be initiated. This is done by sending written notification to USCIS. The notification shall be submitted on Department letterhead and include:

- The name and date of birth of the individual certified;

- The name of the individual who signed the certification and the date it was signed;
- The reason the agency is withdrawing/disavowing the certification including information describing how the victim's refusal to cooperate in a case is unreasonable;
- The notification must be signed and include the title of the official who is withdrawing/disavowing the certification; and
- A copy of the original certification form.

  
Cerelyn J. Davis  
Chief of Police