

## 09-002 Procedures for Law Enforcement Certification for U Nonimmigrant Status

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Los Angeles County Sheriff's Department

### FIELD OPERATIONS DIRECTIVE

Field Operations Support Services

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### PROCEDURES FOR LAW ENFORCEMENT CERTIFICATION FOR U-NONIMMIGRANT STATUS

#### **BACKGROUND**

The "U-Visa" was created by the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) to help curtail criminal activity, protect victims, and encourage victims to fully participate in the investigation and/or prosecution of a case. California Penal Code section 679.10 (Victim and Witness Rights) mandates law enforcement to certify U-Visa applications when certain conditions are met. These conditions are set forth below.

#### **U-VISA RULES**

A person must be the victim of one or more of the following (or any similar) crimes:

- Rape
- Torture
- Human Trafficking
- Incest
- Domestic Violence
- Sexual Assault
- Abusive Sexual Contact
- Prostitution
- Sexual Exploitation
- Female Genital Mutilation
- Stalking
- Being Held Hostage
- Involuntary Slave Trade
- Kidnapping
- Abduction
- Unlawful Criminal Restraint
- False Imprisonment
- Blackmail
- Extortion
- Manslaughter
- Murder
- Felonious Assault
- Witness Tampering
- Obstruction of Justice
- Perjury
- Peonage (holding persons in servitude or partial slavery to work off a debt or to serve a penal sentence)
- Fraud in Foreign Labor Contracting

A qualifying crime also includes those criminal offenses for which the nature and elements of the offense are similar to the criminal activity described in the list above.

If a person is the victim of an attempt, conspiracy, or solicitation to commit, any of the crimes listed above, they qualify as a victim under the U-Visa application criteria.

### **DETECTIVE BUREAU RESPONSIBILITIES**

A U-Visa request shall be reviewed, and certified or denied by the unit which investigated the qualifying crime. Investigations handled by a specialized unit (e.g., Special Victims Bureau, Homicide Bureau, Human Trafficking Task Force, etc.) shall be reviewed, and certified or denied by the specialized unit.

The detective supervisor, or their designee, shall review the request to certify or deny the U-Visa application based on the USCIS criteria, and state law. Each U-Visa request shall be reviewed on an individual basis by confirming the following information from the case file:

- Qualifying crime committed against the victim; and
- The victim's helpfulness in the investigation of the case. The victim's helpfulness can be described as a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection, investigation, or prosecution of a qualifying crime. If the victim has not refused or has not failed to provide information and assistance that was reasonably requested by law enforcement, the victim is considered helpful.

The following examples are not reasons to deny a certification:

- The reported incident is still being investigated;
- Charges were not filed as a result of the incident;
- There was not a prosecution or conviction as a result of the incident;
- The petitioner has a criminal history; or
- There were no injuries to the petitioner.

If a unit determines that certification is warranted, the USCIS I-918 Supplement B form shall be completed. The victim's injuries, if any, shall be documented in the I-918 Supplement B form. The certification form shall be submitted to the station unit commander for review and signature along with the Sheriff's Agency Designation letter. Both the Sheriff's Agency Designation letter and I-918 form can be found by following the links in the attachments section below.

If a unit determines that the petitioner is not a qualifying petitioner, the request shall be denied and a letter to the petitioner shall be completed. The letter shall include a brief explanation regarding the facts that led to the

denial. A sample of the denial letter can be found by following the links in the attachments section below.

A USCIS I-918 Supplement B form shall be certified or denied within 30 days of receiving the request by the Department. If the victim is in removal proceedings, the request shall be certified or denied within 7 days of receiving the request by the Department.

If the victim unreasonably refuses to assist in the investigation or prosecution after a certification has been completed, the unit may notify USCIS in writing of the victim's refusal to participate. The information for the written notification is available on the I-918 Supplement B form.

When a U-Visa request is made, the detective supervisor, or their designee, shall complete the U-Visa Tracking Sheet (see link in attachments section below). A digital copy of the tracking sheet shall be forwarded to Field Operations Support Services via email.

### **UNIT COMMANDER'S RESPONSIBILITIES**

If the person is a qualifying petitioner, the unit commander shall review and sign the I-918 Supplemental B form and Sheriff's Agency Designation letter. The I-918 form and letter shall be sent to the petitioner and/or the petitioner's legal representative.

If the person is not a qualifying petitioner, the unit commander shall review and sign a denial letter which explains that the request will not be certified because the petitioner does not qualify.

Once the appropriate letter and I-918 form, if applicable, has been signed by the unit commander, the document(s) shall be given to the petitioner and/or their legal representative.

### **REFERENCES**

8 CFR Parts 103, 212, 214, 248, 274a and 299  
Penal Code section 679.10

### **ATTACHMENTS**

[U Visa Tracking Sheet](#)

[Sheriff's Designation Letter](#)

[Denial Letter](#)

[Supplement B U-Nonimmigrant Status Certification \(USCIS Form I-918\)](#)

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