

National Engagement Pre-submitted and Live Q&As Overview of T Visas and U Visas for Certifying Officials March 1, 2023

Q1. What is the processing time for U visa currently?

A1. The current processing times for USCIS are posted online at <https://egov.uscis.gov/processing-times/>.

As of March 29, 2023, the current processing times for U visas are 59-60.5 months. This time range reflects the time from receipt to issuance of either a Bona Fide Determination notice or a notice that the petition will be considered for waiting list placement. It does not reflect the current processing times from initial receipt to the final issuance of U nonimmigrant status. Processing times should be used as a reference point, not an absolute measure of how long a particular case will take to be completed.

Q2. If you provided a Form I-918, Supplement B, U Nonimmigrant Status Certification for a victim of domestic violence and later, after the domestic violence case was closed, your office finds out that the victim was also trafficked by the perpetrator, can you also provide a Form I-914 Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons without filing a separate criminal complaint? In this case, the statute of limitation had expired at the time the information was discovered, barring the agency from filing a criminal complaint for the crime of trafficking.

A2. Whether an agency files a criminal complaint is governed by individual agency procedures. However, there is no requirement that the trafficking case reach a specific stage of the criminal process for the certifying agency to sign the Form I-914B. Charges do not have to be filed, nor does an investigation need to be open at the time a certification is signed. Even if an investigation occurs or charges are filed, the investigation or charges do not have to relate directly to the acts of trafficking and may include other criminal activity.

A victim cannot submit a Form I-914B, in support of a U visa petition. As long as an individual has been identified as a victim of human trafficking and is applying for a T visa, a certifying official may complete the Form I-914B. Form I-914B, can only be submitted in support of a T visa application and Form I-918B can only be submitted in support of a U visa petition.

For additional context, an individual may apply for the T visa if they are a victim of a severe form of trafficking in persons. They may also apply for the U visa if they are a victim of any of the 28 statutorily listed activities (which includes trafficking), or an offense that is substantially similar. Victims are the ones who decide whether they should apply for relief and what type of relief. A victim may file for both a U visa and a T visa at any time if they meet the requirements for each benefit. Likewise, a certifying agency may sign Form I-914B or Form I-918B, for the same victim at any time; there is no prohibition on signing both forms. However, if the victim is going to file for a U visa, they are also required to submit a Form I-918B.

Q3. If a police report states that a suspect was arrested for a crime that could be considered a felonious assault, but the narrative section of the same police report describes property damage, do we as certifying officials have the right to determine that the “felonious assault” does not really apply or does the investigating officer's original charge take precedence? Do we have to issue the Form I-918B, or do we have discretion to determine if the facts of the case fit into one of the qualifying criminal activities?

A3. Your agency has the responsibility to determine if, under your state’s laws, the criminal activity falls within one of the 28 qualifying criminal activities. See page 4 of the [U Visa Law Enforcement Resource Guide](#) for information about the 28 qualifying criminal activities—these are general crime categories, and not specific crimes or citations to a criminal code. A victim may also qualify based on an attempt, conspiracy, or solicitation to commit any of the 28 qualifying criminal activities.

Q4. In a case where the crime listed in the original police report falls into one of the qualifying criminal activities, but the report is later amended to a more appropriate crime that does not fall under one of the qualifying criminal activities, does the certifying agency issue the certification based on the original police report or the amended report?

A4. In circumstances where police reports or other agency documentation change, your agency has the responsibility to determine if the crime detected, investigated, or prosecuted falls within one of the enumerated qualifying criminal activities under federal law or the laws of your jurisdiction, whichever is applicable. When determining whether to complete and sign a certification, a certifying agency should consider all credible information about relevant criminal activities and the victim’s helpfulness, including any original and amended police reports. Certifying agencies with questions about how to handle this particular situation may also wish to consult their agency legal counsel and any relevant agency policies prior to issuing the certification.

Q5. If the victim cannot provide any information of the perpetrator of the crime committed against them or they cannot assist in solving the case in any way, is that considered to not possess specific, credible, and reliable info?

A5. Petitioners for U nonimmigrant status must demonstrate that they possess credible and reliable information concerning the qualifying criminal activity and were, are being, or are likely to be helpful to the certifying agency in the **detection, investigation, prosecution, conviction, or sentencing** of the qualifying crime.

Petitioners who are unable to describe the perpetrator or provide any information about the perpetrator may, nonetheless, be able to provide other credible and reliable information that is helpful, e.g., what the perpetrator said during the crime, where it occurred, or other relevant information. There are many ways a victim can possess specific facts to be helpful to a certifying agency.

There may be times that this requirement has not been established. If the certifying agency, within their discretion, decides to issue a certification, they may include information regarding the victim’s inability to describe the perpetrator in addition to any other information the victim

was able to provide relevant to this requirement. The certifying agency may also decline to certify if they determine the baseline helpfulness requirement has not been met for purposes of the certification requirements.

As stated earlier, there is no requirement that an investigation or prosecution be initiated or completed after the victim reports the crime and makes themselves available to reasonable requests for assistance. USCIS recognizes that the initiation or progress of an investigation or prosecution may be outside a victim's control.

Q6. When we approve or deny a request submitted to our agency for a Form I-918B, do we need to provide the facts that support our decision? For example, the request for the certification was approved, but the domestic battery was mutual or there was no injury.

A6. Whether an agency is required to provide the basis for the denial of a request for a certification or the level of detail that should be provided when completing the Form I-918B will depend on any applicable state laws and agency policies regarding certifications. Under federal law, certifying agencies are not required to have internal policies or procedures before they sign a U visa certification. However, USCIS encourages agencies to develop policies pertaining to certifications and train relevant personnel on these policies to promote consistency and transparency and improve the quality of certifications. Examples of topics USCIS recommends being covered in certifying agencies' internal policies include:

- procedures regarding agency verification of the qualifying criminal activity, victimization, and the victim's helpfulness in the detection, investigation, prosecution, conviction or sentencing related to the qualifying criminal activity,
- procedures to safeguard against fraud, such as centralizing final review of certifications, especially in agencies where there are multiple certifying officials, to promote consistency before they are returned to the victim,
- procedures for handling future requests for a new or re-signed Form I-918B establishing general expectations around anticipated response timeframes, and
- processes for increasing transparency of agency certification policies (if any) to the public.

It is also important to note that a person is not eligible for a U visa if they are culpable for the qualifying crime(s) being investigated or prosecuted. If the certifying agency believes the individual requesting a certification is or may be culpable, the certifying official may still complete a certification for a victim and note any information they have about potential culpability on the form for USCIS to consider. USCIS will determine the person's eligibility for a U visa.

Victims of domestic violence may be accused of committing domestic violence or other crimes themselves by their abusers as part of the abuser's attempts to assert power and control over the victim. When evidence suggests these allegations were fabricated by the victim's abuser, they do not preclude you, the certifying official, from completing a Form I-918B for the victim or preclude the victim from qualifying for U nonimmigrant status.

Q7. If a qualifying crime occurs outside of the United States, but violates a federal or state law, can a certifying agency sign the Form I-918B if the victim relocates to

the jurisdiction of the certifying agency? How does such an agency certify the facts or circumstances reported?

A7. For a crime to qualify if it has occurred outside the United States, it must violate a U.S. federal law **that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court**. Such criminal activity will have “violated the laws of the United States” as noted in the 2007 Interim Final Rule.

If the certifying agency determines that qualifying criminal activity violates a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court, the certifying agency may choose to complete the certification. The victim must have assisted, be assisting *or* be likely to assist the certifying agency in the detection, investigation, or prosecution of the criminal activity, regardless of where the victimization occurred. Victims may choose to report the crime committed against them outside of the jurisdiction where it occurred for a variety of reasons, including traumatization, relocation to escape perpetrator, lack of experience with local law enforcement, or referral from other government agencies.

As noted in the 2007 U visa Interim Rule, a prosecution does not actually have to occur, since the statute only requires a victim to be helpful in the investigation or the prosecution of the criminal activity. Prosecution may be impossible due to a number of factors, such as an inability to extradite the perpetrator of the crime.

Q8. Does the certifying agency have to determine the victim’s admissibility to the United States, or is that handled by USCIS?

A8. USCIS has sole responsibility to determine whether a Form I-918 petitioner is admissible to the United States per statute and regulation. USCIS does not require certifying agencies to run background or criminal history checks on victims requesting a certification, or to consider whether the victim meets admissibility requirements under immigration law. However, prior to signing Form I-918B, certifying agencies may choose to run background and criminal history checks on victims requesting a certification, consistent with their legal authority under federal, state, and local law. It is important to note that the fact that a victim has a criminal history does not automatically preclude approval of a U or T visa petition. Congress provided USCIS with broad authority in both the T and U visa programs to waive (or forgive) most grounds of inadmissibility that were caused by, or incident to, the victimization if it is determined it is in the national or public interest.

Q9. Does Domestic Violence include familial relationships, or just intimate partner?

A9. State laws pertaining to domestic violence vary considerably, and for this reason certifications based on domestic violence vary among different certifying agencies and across jurisdictions. For example, a domestic violence statute may encompass intimate partner violence as well as violence between relatives or household members.

USCIS will consider the statutory violation that was detected, investigated, or prosecuted to determine whether the crime qualifies based on the totality of the evidence or is substantially similar to a qualifying crime. The certifying agency is responsible for determining if the crime detected, investigated, or prosecuted falls within one of the enumerated qualifying criminal activities under the laws of the certifying agency’s jurisdiction. However, USCIS who has the sole

responsibility for determining whether a crime is, or is substantially similar to, a qualifying criminal activity for purposes of eligibility for the benefit.

Q10. Is there some sort of directory of agencies that currently offer certifications? For example, if a request for a certification comes to an agency, but it may be better handled by a different certifying agency, it would be helpful to know what other agencies are issuing certifications so that the victim can be referred to them.

A10. USCIS does not maintain any public directory of agencies that certify in either the U or T context.

Q11. How close (or far) are we from reaching the visa limits for U and T visas per year?

A11. The annual statutory cap for the T program is 5,000 visas; the visa cap has never been reached in the history of the T visa program.

The annual statutory cap for the U program is 10,000 visas. We have reached the visa cap for the U visa program every year since 2010, as the number of U petitions filed has far surpassed the statutory limit. In response to the growing number of pending U petitions, USCIS implemented the bona fide determination (BFD) process for U visa petitioners and their qualifying family members in June 2021. The BFD was created with the goal of conducting initial reviews of U nonimmigrant status petitions more efficiently while providing eligible victims of qualifying crimes with employment authorization and deferred action while they await a final adjudication of their petition for U nonimmigrant status under the annual statutory cap. The BFD process provides victims with stability and better equips them to cooperate with and assist law enforcement.

For further information on the number of T and U filings reviewed each year, please visit: <https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data>. These publicly available data sets include the numbers of applications and petitions that were received, approved, denied, or pending.

Q12. What happens if a certifying agency provides the victim the signed U visa certification without sealing the envelope? Also, if a sealed envelope is only a "best practice" and is not required, how do you ensure that an attorney or applicant does not unseal and submit an altered certification?

A12. Currently, Form I-918B the certification will be considered properly filed regardless of whether it is submitted in a sealed envelope, as this is a recommended a best practice and not a requirement for certifying agencies. Adjudicators are specifically trained to recognize potentially altered evidence and to identify discrepancies in fact patterns. If an adjudicator determines Form I-918B appears to have been altered by someone other than the certifying official, the case will be referred to the USCIS Center Fraud Detection Office (CFDO) for further review. Any findings resulting from CFDO's review will be provided to the adjudicator for consideration. USCIS may also contact the certifying official directly to confirm the information provided on the Form I-918B.

Q13. Under what circumstances should a victim apply for both the T visa and U visa?

A13. As mentioned above, an individual may apply for the T visa if they are a victim of a severe form of trafficking in persons. They may also apply for the U visa if they are a victim of any of the 28 statutorily listed activities (which includes trafficking), or an offense that is substantially similar. Victims are the ones who decide whether they should apply for relief and what type of relief(s). For more information on eligibility for T Nonimmigrant Status, please visit: <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes/victims-of-human-trafficking-t-nonimmigrant-status>. For more information on eligibility for U Nonimmigrant Status, please visit: <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes/victims-of-criminal-activity-u-nonimmigrant-status>.

Q14. What temporary status is provided for petitioners with pending T or U visa petitions? Are these temporary statuses automatically applied upon submission of a petition, or does the certifying agency have to make a separate request?

A14. Individuals with pending requests for T or U visas are not considered “in status.” There is no separate status available for such individuals. For individuals who are petitioning for a U visa, they may receive a bona fide determination or be placed on the U waiting list, which would provide them employment authorization and deferred action while their petitions are pending final adjudication.

Individuals who are victims of trafficking can also work with law enforcement to request Continued Presence (CP). CP is a temporary immigration designation provided to individuals identified by law enforcement as victims of a “severe form of trafficking in persons” who may be potential witnesses. CP allows trafficking victims to lawfully remain in the U.S. temporarily and work during the investigation into the human trafficking-related crimes committed against them and during any civil action under 18 U.S.C. § 1595 filed by the victims against their traffickers. CP is initially granted for two years and may be renewed in up to two-year increments. CP recipients also receive federal benefits and services. For more information, see the [Center for Countering Human Trafficking and Blue Campaign’s Continued Presence pamphlet](https://www.ice.gov/doclib/human-trafficking/pdf/continued-presence.pdf): <https://www.ice.gov/doclib/human-trafficking/pdf/continued-presence.pdf>. For additional training resources on Continued Presence, visit: <https://www.dhs.gov/blue-campaign/law-enforcement>.

Q15. If a certifying agency submits a request to withdraw a U visa I-918B, certification, does USCIS confirm receipt of the request to withdraw?

A15. If the withdrawal is submitted through the law enforcement email account at LawEnforcement_UTVAWA.VSC@uscis.dhs.gov, the certifying agency will either receive an automatic response from the account, or a case-specific response, if necessary. This account is monitored daily and information and/or documentation is forwarded to the petitioner’s file in a timely manner. If the request is received via postal mail, the certifying agency will not receive a written confirmation.

Q16. If a trafficking victim has drug charges, would they still qualify for T-Visa?

A16. All T visa applicants must either be admissible to the United States or receive a waiver of inadmissibility. USCIS has broad authority to grant these waivers. Prior to approving or denying

a T visa application, USCIS evaluates each application on a case-by-case basis. USCIS reviews all available information concerning arrests, immigration violations, criminal activities, and security issues before making a final decision. If an applicant is subject to one or more grounds of inadmissibility (including drug-related grounds of inadmissibility), they may apply for a discretionary waiver of the ground(s) by filing an Application for Advance Permission to Enter as a Nonimmigrant (Form I-192).

Q17. What constitutes "substantial" physical or mental abuse? Often injuries are minor or non-existent. Additionally, police reports often don't document the existence of mental abuse.

A17. When determining whether a petitioner has suffered substantial physical or mental abuse, USCIS considers factors such as, the nature of the injury inflicted or suffered; the severity of the perpetrator's conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions.

Certifying agencies may have important information regarding physical or mental abuse suffered by the victim – if this information is available, certifying officials should include it in Part 3, Question 7 of Form I-918B. USCIS is responsible for making the determination regarding this eligibility requirement based on the totality of evidence contained in the record, including information provided by the victim describing the abuse they have suffered during, and potentially, after the commission of the qualifying crime.

Q18. What government entities are considered “law enforcement” with the authority to issue certifications?

A18. The definition of certifying agencies in the U and T visa contexts include, but are not limited to, agencies traditionally considered to be “law enforcement.” Examples are as follows: in the U visa context, any federal, state, tribal, territorial, or local law enforcement office or agency, prosecutor, judge, or other authority that has the responsibility to detect, investigate, or prosecute the qualifying criminal activity, or convict or sentence the perpetrator. Agencies with criminal investigative jurisdiction, such as child and adult protective services, the Equal Employment Opportunity Commission, and federal and state Departments of Labor.

Examples in the T visa context: any federal, state, tribal, territorial, or local law enforcement agency, prosecutor, judge, labor agency, children’s protective services agency, or other authority that has responsibility to detect, investigate, or prosecute acts of trafficking, or convict or sentence the trafficker.

Q19. If a petitioner has a drug or money laundering arrest or conviction, how likely are waiver requests granted for those type of crimes? Is approval of these waivers contingent on the level of cooperation with law enforcement or what factors do the immigration officers take into consideration for these waivers?

A19. In the U visa context, USCIS looks to two grounds for the basis of waivers of inadmissibility:

- 8 USC 1182(d)(3)(A)(ii) provides the authority to waive many grounds of inadmissibility generally for nonimmigrants.

- 8 USC 1182(d)(14) is a waiver specific to petitioners for U nonimmigrant status which may be utilized to consider waivers of most grounds of inadmissibility except 212(a)(3)(E) Nazi persecution, genocide, torture, or extrajudicial killing if it considers it to be in the public or national interest to do so

Although the waivers are broad, if the individual has been convicted of violent or dangerous crimes or security related grounds apply, USCIS will exercise favorable discretion only in extraordinary circumstances. 8 CFR 212.17. Denial of a waiver is discretionary, made on case-by-case basis and is not appealable. On a case-by-case basis, USCIS may also revoke a previously approved waiver.

Some factors that USCIS considers when determining whether approving a request to waive admissibility concerns is warranted are:

- Evidence of rehabilitation;
- Reasons for wishing to remain in the U.S.;
- Family ties in the U.S.; contribution and ties to the community;
- Length of residence in the U.S.;
- Financial impact of departure to others;
- Severity of the trauma/abuse suffered as a result of the qualifying criminal activity;
- Helpfulness to law enforcement; and
- Explanation in noncitizen's own words of the specific circumstances surrounding the act or conviction that prompted the need for the waiver request.

Q20. If there was a qualifying crime but no reference in the police report of physical or mental abuse, can the certifying agency still issue the certification?

A20. Yes. As the certifying official, you should provide information about physical or mental harm or abuse sustained by the victim, if known or observed. While USCIS encourages you to provide this information and attach supplemental documentation related to any injuries sustained (for example, police reports), USCIS is responsible for determining whether a person meets this eligibility requirement and will evaluate the totality of evidence submitted by the petitioner in its assessment.

Q21. Who is responsible for all the additional evidence to be submitted in addition to the Form I-918? Does it have to be submitted by the requesting attorney/victim, such as police reports?

A21. The victim is responsible for submitting the petition for U visa (Form I-918, Petition for U Nonimmigrant Status) with the required Form I-918B certification to USCIS. If additional documentation is provided to the victim by the LEA, the victim is responsible for submitting any additional evidence directly to USCIS along with their petition. However, while not required, USCIS encourages certifying agencies to attach any relevant police reports and other documentation regarding the victimization and the victim to Form I-918B.

Q22. As a certifying agency, when we sign the certification what are we really certifying? If we close and seal the envelope to be returned to the victim, do we also need to notify them of our decision since the envelope is sealed?

A22. The U visa regulations at 8 CFR 214.14(c)(2)(i) outline the requirements for the Form I-918B, noting that it must state that:

- the person signing the certificate has the required authority to sign on behalf of that agency or is a Federal, State or local judge;
- law enforcement agency, or prosecutor, judge or other authority, that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of qualifying criminal activity;
- the petitioner has been a victim of qualifying criminal activity that the certifying official's agency is investigating or prosecuting;
- the petitioner possesses information concerning the qualifying criminal activity of which he or she has been a victim;
- the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that qualifying criminal activity; and
- the qualifying criminal activity violated U.S. law, or occurred in the [United States](#), its territories, its possessions, Indian country, or at military installations abroad.

Similarly, the Certification section of the [Form I-918, Supplement B](#), outlines that certifiers are attesting that they have the authority to sign, based upon the investigation of facts, that the individual was a victim of a qualifying crime. By signing the form, you are certifying that the victim has been, is being, or is likely to be helpful in the detection, investigation, or prosecution of the qualifying criminal activity of which they were a victim. A certifying official is not certifying whether an individual qualifies for U nonimmigrant status. If you decide to issue a certification, you should provide a victim of with a copy for their records as noted in the U visa Law Enforcement Resource Guide.

If your agency declines to sign a certification, procedures should be in place for the appropriate agency official to notify the requestor of the agency's decision. Please also refer to any laws in your state governing U visa certification processes for certifying agencies.

Q23. Can we submit certifications electronically as opposed to being in a sealed envelope?

A23. USCIS does not currently permit electronic submission of certifications.

Q24. In cases where the applicant made an initial report, but cannot offer any assistance beyond alleging that a crime occurred, what purpose would a U Visa approval serve? For example, if the suspect is unknown to them, and it appears that the applicant cannot substantially assist law enforcement in the investigation or prosecution of the alleged crime. What about if their assistance will not be needed beyond the initial report because the case is suspended?

A24. Petitioners for U nonimmigrant status must demonstrate that they possess credible and reliable information concerning the qualifying criminal activity and are helpful to a certifying agency in the investigation or prosecution of it. Although petitioners may submit relevant,

credible evidence for the agency to consider, USCIS determines, in its sole discretion, the credibility and weight given to all the evidence, including the Supplement B.

Noncitizen victims of human trafficking and qualifying criminal activity may not have immigration status in the United States and may therefore be fearful of working with law enforcement. Traffickers and abusers often use a lack of immigration status to exploit and control victims. In addition, language and cultural barriers may make it difficult for victims to reach out for help after experiencing victimization. Immigration relief, like the U and T visa, provides a path for victims to stabilize their status in the United States and build a sense of safety and security. The U visa was designed to promote cooperation between law enforcement and victims by encouraging victims to report crimes, even if they lack immigration status. The U visa not only strengthens law enforcement's ability to detect, investigate, and prosecute serious crimes, but it also bolsters relationships between law enforcement and noncitizens, which leads to safer communities as a whole. Hence, there are many ways a victim can possess specific facts to be helpful to a certifying agency. Petitioners who can't describe the offender or provide any suspect information may be able to provide other credible and reliable information that is helpful, for example, what an offender said during the crime, where it occurred, or other information relevant to the crime. If the law enforcement agency determines that the petitioner has not been, is not being or, is not likely to be helpful, then it is in their discretion to decline to make such a certification.

Certification practices are established by the individual law enforcement agency. As stated earlier, there is no requirement that an investigation or prosecution be initiated or completed after the victim reports the crime and makes themselves available to reasonable requests for assistance. USCIS recognizes that the initiation or progress of an investigation or prosecution may be outside a victim's control. The law enforcement agency may determine that a victim has been, is being, or is likely to be helpful in the **detection or investigation** of a qualifying crime or criminal activity, as well as to the **prosecution, conviction, or sentencing** of the perpetrator of the qualifying crime or criminal activity.

Q25. We see requests for recertification that are for cases that under our current internal standards would not have been initially approved because of similar circumstances in that the applicant cannot offer assistance outside of alleging a crime occurred or the statute of limitations has run out. We lean towards only approving requests for certifications where a victim is actively assisting an investigation and prosecution is moving forward. Is it common to keep recertifying applications where the applicant did not offer essential assistance past just alleging a crime occurred with no further help?

A25. Federal U visa regulations and statutes do not set a specific statute of limitations for signing the Form I-918B. The key is the victim's helpfulness, not the timing of the helpfulness. Your agency can certify a Form I-918B based on past helpfulness, present helpfulness, or the likelihood of a victim's future helpfulness. Helpfulness means the victim was, is, or is likely to be assisting law enforcement in the detection, investigation, or prosecution of the qualifying criminal activity of which they were a victim. This includes being helpful and providing assistance when reasonably requested, along with an ongoing responsibility on the part of the victim to be helpful. Those who unreasonably refuse to assist after reporting a crime will not be eligible for a U visa.

Completing another certification for the same victim is always at the discretion of the certifying agency. However, if the victim's U visa petition does not include a completed Form I-918B, the victim will be ineligible for U nonimmigrant status. There are a few circumstances where USCIS will request an updated or new certification from the victim that prompt additional requests to certifying agencies. Victims applying for a U visa must submit Form I-918B within six months after it is signed by a certifying official. If the Form I-918B expired before the victim was able to file a petition or application with USCIS, they would require a new form. Victims may also request another Form I-918B if the original form was incomplete or when significant additional information regarding the detection, investigation, or prosecution, the victimization, and/or the victim's helpfulness becomes available. Additionally, if a victim applies for lawful permanent residence (also known as a Green Card), they must demonstrate they did not unreasonably refuse to comply with requests for assistance since receiving a U visa. As evidence of this, the victim may request a newly signed Form I-918B or another signed document from your agency.

Q26. During the training, USCIS received several questions that relate to internal certification procedures, including:

- **Can we issue U-Visa certs for cases that are sealed?**
- **Is there a required records retention period for maintaining signed forms?**
- **Are law enforcement agencies required to submit a written response to the attorneys submitting the request explaining the decision, especially if the request is denied?**

A26. These questions are specific to certifying agency procedures. Pages 15-16 of the U Visa Law Enforcement Guide list best practices for certifying agencies and officials. USCIS encourages certifying agencies to establish internal guidelines that include procedures for handling new or re-signed Forms I-918B, procedures to safeguard against fraud, and processes for increasing transparency of the agency's certification policies to the public, among other best practices.

Pre-submitted Questions

Q1. If a child is sexually abused, their parent would be considered an indirect victim. Is there any stipulations or time limit for them to apply? Can they apply 20 years later?

Per Federal U visa regulations, the investigation or prosecution refers to the **detection or investigation** of a qualifying crime or criminal activity, as well as to the **prosecution, conviction, or sentencing** of the perpetrator of the qualifying crime or criminal activity.

The U visa regulations do not set a specific statute of limitations for a victim to apply for U nonimmigrant status or for a certifying agency to sign the Form I-918B, U Nonimmigrant Status Certification. As a result, there may be instances when a victim comes forward with information about a qualifying criminal activity and asks a certifying official to complete a certification years after the qualifying criminal activity occurred. From a victim centered approach, a certifying official should consider the victim's helpfulness, and not the timing of the helpfulness. Additionally, a certifying agency can certify a Form I-918B based on past helpfulness, present helpfulness, or the likelihood of a victim's future helpfulness. Helpfulness means the victim

(direct victim, indirect victim, or bystander) was, is, or is likely to be assisting law enforcement in the investigation or prosecution of the qualifying criminal activity of which they were a victim.

In determining whether the victim is, has been, or will be helpful, USCIS considers the facts of each case, including:

- The level of assistance that law enforcement requests of the victim;
- The victim's responsiveness to requests from law enforcement for assistance; and
- The victim's individual circumstances (such as age/maturity, trauma, etc.).

Q2. I was once told that once the actual victim turns 21, that the parents are no longer eligible. Is this true?

Here, it is important to distinguish between two aspects of the U visa program:

- 1) a parent's potential eligibility as an **indirect victim**, and
- 2) a parent's eligibility as a **qualifying family member** of a principal petitioner.

Certain family members may be indirect victims of a qualifying criminal activity and may file as principal petitioners if the direct victim is unable to assist LE because they are deceased due to murder or manslaughter, or incompetent or incapacitated:

- For a direct victim who is 21 or older at time of the qualifying crime, the direct victim's spouse or unmarried children under 21 may apply as indirect victims.
- For a direct victim who is under 21 at the time of the qualifying crime, the direct victim's spouse, unmarried children under 21, parents, or unmarried siblings under 18 may apply as indirect victims.

The indirect victim must meet all other eligibility requirements for the U visa (including harm, helpfulness, etc.).

Certain qualifying family members may also be eligible for a U visa based upon their relationship to the principal petitioner who is filing for the U visa. The principal petitioner must have their petition for a U visa approved before qualifying family members can be eligible for their own U visa; however, the principal petitioner can file a petition for family members at the same time as their petition, or after they are granted the U visa.

A principal petitioner can petition for the following qualifying family members:

A. If they are under 21 years of age on the date their petition is received by USCIS, their:

- (1) Spouse;
- (2) Unmarried children under 21 years of age;
- (3) Parents; or
- (4) Unmarried siblings under 18 years of age.

B. If they are over 21 years of age on the date their petition is received by USCIS, their:

(1) Spouse; or

(2) Unmarried children under 21 years of age.

Q3. Can USCIS provide more information on and/or samples indicating how much detail USCIS would like to see in the Supp. B form and accompanying narrative? Also, does it require more detail from civil law enforcement agencies? We have gotten feedback that our certifications are more detailed than necessary (though we do sometimes see RFEs as well).

USCIS does not have samples indicating how much detail is sufficient; however, USCIS encourages those filling out the Supplement B to be as specific and detailed as possible when answering the form questions. The level of detail does not vary depending on the type of agency filling out the form. Any details included by the certifying official help adjudicators determine whether petitioners have met the burden of proof to establish eligibility for a T or U nonimmigrant status. Please include all relevant details you have.

Q4. Are we allowed to release a copy of the Letter of Certifiers in our agency when private counsel request a copy?

As this question relates to certifying agency policy, and we defer to agencies to create their own internal policies. Sharing information about who is designated to sign certifications in your agency is at your discretion.

Q5. Is it proper for an applicant (or his/her attorney) to complete the I-918 Supplement B for certification by an agency if the signing authority verifies the accuracy and truthfulness of the submitted information?

The certifying agency – not the victim, nor their attorney or representative – should complete Form I-918B. The questions included in the Form I-918B are posed directly to the certifying agency and the form used in support of other evidence submitted by the petitioner.

USCIS strongly recommends that law enforcement agencies develop policies regarding how a victim can submit a certification request. Some certifying agencies have policies that indicate that victims send a letter with a certification request that outlines the qualifying crime, the victim's assistance, as well as other relevant information. Certifiers may also request information they deem relevant for their completion of the Supplement B from the victim or their attorney or representative.

Ultimately, given that the certifying agency is attesting to the veracity and completeness of the certification, the certifying agency – not the victim, nor their attorney or representative – should complete Form I-918B.

Q6. Victims of domestic violence can choose to proceed with the matters criminally, civilly (family court restraining order) or both. If a victim reports an act of domestic violence to a law enforcement agency but chooses to only pursue a restraining order only, can a law enforcement agency issue a certification or should that only be signed by the judge who heard the testimony of the purported victim?

The U visa regulations define a certifying agency as a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. Given the scope of that definition, a victim may meet the helpfulness requirement for their cooperation with multiple certifying agencies depending on the QCA, as different agencies may have different responsibilities. Certifying agencies may also detect the QCA in the course of carrying out their responsibilities.

As stated earlier, there is no requirement that an investigation or prosecution be initiated or completed after the victim reports the crime and makes themselves available to reasonable requests for assistance, and USCIS recognizes that the initiation or progress of an investigation or prosecution may be outside a victim's control. That being said, certification practices vary among law enforcement and certifying agencies.

Therefore, a victim may be able to request and receive a certification from different agencies investigating or prosecuting the same criminal activity.

Q7. If a law enforcement agency declines to issue a certification, can another law enforcement agency issue one if such submission is true and correct to the best of the certifier's knowledge and belief. (Since the certification is voluntary, some agencies have personal objections to signing such applications whereas other agencies are satisfied with such a task.)

Each certifying agency determines, within the certifying agency's discretion, whether to complete and sign a certification, in accordance with the agency's procedures. Therefore, a decision by one certifying agency to not certify is discretionary and does not preclude another agency from issuing a certification. However, pursuant to U visa regulations, a certifying agency must demonstrate they have responsibility for the detection or investigation of a qualifying crime or criminal activity, or for the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity. Additionally, the certification must state that the applicant has been a victim of qualifying criminal activity that the certifying official's agency has detected or is investigating or prosecuting; the petitioner possesses information concerning the qualifying criminal activity of which he or she has been a victim; and that the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that qualifying criminal activity, among other requirements.