

INSTRUCTIONS FOR COMPLETING THE U VISA CERTIFICATION FORM

Overview of the U Visa

In October 2000, Congress passed the Victims of Trafficking and Violence Protection Act (the Act). As part of this Act, Congress sought to strengthen the ability of law enforcement agencies to detect, investigate and prosecute crimes against immigrants. In order to do this, Congress recognized that victim cooperation and assistance is often the key to effective detection, investigation and prosecution of crimes. And, where the victims are immigrants, their immigration status in the United States can directly affect their ability to cooperate and assist in these efforts. Thus, Congress provided a specific avenue for immigrant crime victims to obtain lawful immigration status. Congress did this by amending certain sections of the Immigration and Nationality Act (INA) to create the “U visa”.

To qualify for a U visa, an applicant must demonstrate that she meets the requirements set forth at INA Sec. 101(a)(15)(U); 8 U.S.C. 1101(a)(15)(U). This provision requires, among other things, that the U visa applicant include with her/his application a certification from a Federal, State or local qualifying official (such as, but not limited to a law enforcement officer, prosecutor or judge). This certification must affirm that the immigrant victim, “has been helpful, is being helpful, or is likely to be helpful” in the investigation of certain criminal activity set forth in the statute. The following completed certification form will be submitted to the Immigration and Naturalization Service (INS) by the immigrant victim as part of her/his application for a U visa.

If the INS approves the U visa application, the immigrant will be deemed a “lawful temporary resident” of the United States for a period of up to three years. This means that s/he will be permitted to live and work legally in the United States for the duration of the U visa. At the end of three years, an immigrant in U visa status is eligible to apply to become a lawful permanent resident (green card holder).

Instructions for Completing the U Visa Certification

Question One

The law requires that the certification be provided by a Federal, State or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority with the power to investigate (or oversee the investigation of) criminal activity. Question one provides INS with the information to establish that are an official under one of these categories and, thus, qualified to provide the applicant with the requisite certification.

Question Two

For purposes of the certification, the law limits the U visa to immigrant victims of certain types of criminal offenses. In this question (statement) you are certifying to INS that you have the authority and expertise to investigate criminal offenses and that some or all of the criminal offenses you are authorized to investigate fall within the types of offenses listed in Question Two.

Question Three

Based on your understanding of the criminal activity in relation to this case, this question asks you to identify specific provisions of Federal, State or local laws that this criminal activity MAY violate. It is important to note that the immigration law governing the U visa and these certifications only requires that there be criminal activity that could be, has been, or is the subject of investigation and that this criminal activity relate to a violation of a criminal law(s) that fall within one of the categories of crimes listed in Question Two. The law does not require that there is presently a pending investigation in relation to this criminal activity. Nor does the law require that the criminal activity at issue be legally sufficient to support the filing of an indictment or to sustain a conviction. Additionally, it is important to note that you do not need to be the official actually conducting an investigation into this criminal activity. In order to complete the U visa certification form, you need only be an official who is authorized to investigate the types of criminal activity listed in Question Two.

Example: Officer Hardy is a law enforcement officer with the Yakima County Sheriff Department. An attorney for Ms. Lazarus comes to him and requests that he complete a certification in support of her U visa application. Ms. Lazarus is an immigrant victim of repeated and brutal assaults from her live-in companion, Mr. Lamar. She lives outside the city of Yakima, Washington. Several weeks previously, Ms. Lazarus called the sheriff when Mr. Lamar began assaulting her. Officer Hardy talks with Ms. Lazarus and reviews the police report in relation to the incident that was filed by one of his fellow officers. He determines that the criminal activity at issue here relates to a violation of Washington criminal law that constitutes types of offenses listed in Question Two. He then fills in question three with the citation to two sections of Washington criminal law: R.C.W. 9A.36.021 Assault in the second degree and R.C.W. 9A.40.040 Unlawful imprisonment.

Question Four

This question asks that you indicate the date and location of the suspected criminal activity. If the criminal activity took place over time and in numerous locations, please indicate as such.

Question Five

This question establishes the identity of the primary U visa applicant and asks you to indicate that s/he is, has been, or is likely to be helpful to an investigation into the criminal activity at issue in the case. Again, note that it is not a requirement that there has been or is presently an investigation pending into the criminal activity.

The second part of this question is relevant where the primary applicant/immigrant victim has relatives who may also qualify for U visa status. The law simply requires that you make an assessment as to whether any investigation in relation to the criminal activity would be harmed without the assistance of the parent, spouse or child of the principal immigrant victim. Harm in this instance may include any risk that would compromise an investigation into the criminal activity.

Question Six

This question asks you to briefly describe the relevant information that the primary applicant possess in relation to this criminal activity.

Continuing with the example used in Question Three: Officer Hardy might complete this section by filling in Ms. Lazarus name and then stating in the space provided:

“Ms. Lazarus is the primary victim of the suspected criminal activity in this case. She, therefore, can provide eye-witness testimony regarding the criminal activity believed to have been committed by Mr. Lamar.”

Question Seven

The law requires that the criminal activity at issue fall within one of these broad categories.

Completed Certifications

The applicant is required to submit this form with his/her application. Once you have completed the certification form, return it to the immigrant victim or her/his attorney or advocate. DO NOT mail this form separately to the INS.

U VISA CERTIFICATION FORM

I, _____, hereby affirm the following:
(NAME)

1. I am a: (check one)

_____ Federal official _____ State official _____ Local official
(municipal, district, county)

_____ INS officer* (see 2B below)

Specifically, I am a: (check one)

_____ Law Enforcement Officer _____ Prosecutor;
_____ Judge _____ Other Investigating Authority.

(JOB TITLE)

(NAME OF EMPLOYER)

(STREET ADDRESS/LOCATION)

(CITY, STATE & ZIP CODE)

(TELEPHONE)

2A. I am responsible or the agency for which I work is responsible for investigating (or overseeing the investigation of) criminal activity involving or similar to violations of (some or all of) the following types of offenses under Federal, State or local criminal laws: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy or solicitation to commit any of these crimes OR

*2B. I am an INS officer with information not limited to immigration violations related to criminal activity described above or similar criminal activity.

3. The criminal activity at issue in this case may involve (but is not limited to) possible violations of the following criminal laws:
(PROVIDE STATUTE OR CODE CITATION(S) AND OFFENSE NAME(S))

and based on my expertise and understanding of these laws, I have determined that these laws fall within the list of offenses set forth in Question #2 or is similar activity violating Federal, State or local criminal law.

4. It is suspected that this criminal activity occurred on or about:
(SPECIFY AS MUCH AS POSSIBLE DATE(S) AND LOCATION(S) OF CRIMINAL ACTIVITY)

5. I affirm that _____: (CHECK ALL THAT APPLY)
(NAME OF U VISA APPLICANT)**

- has been helpful;
- is being helpful;
- is likely to be helpful

in an/the investigation and/or prosecution of this criminal activity.

6. I affirm that _____ possesses relevant information
(NAME OF U VISA APPLICANT)** relating to this criminal activity. This information includes (but is not limited to) the following: (PROVIDE BRIEF DESCRIPTION OF INFORMATION)

** If the U visa applicant is under the age of 16, please certify that the applicant's parent, guardian or "next friend" meets these requirements.

7. I affirm that this criminal activity occurred: (CHECK ALL THAT APPLY)

____ in the United States (including Indian country and military installations);
____ in territories and possessions of the United States; OR
____ outside the United States, but violated United States' laws.

Certification for applicant's spouse, child or parent

8. This investigation and/or prosecution would be harmed without the assistance of

(NAME OF APPLICANT'S SPOUSE, CHILD OR PARENT)

who is the ____ spouse ____ child ____ parent of the applicant listed above.

SIGNATURE

DATE