



# **DISTRICT ATTORNEY DANE COUNTY**

**ISMAEL R. OZANNE**  
**District Attorney**



## **Dane County District Attorney's Office Protocol on U-Visa Certification**

### Purpose of a U-Visa

Congress created the U-Visa program for certain victims of criminal activity with the enactment of the Victims of Trafficking and Violence Protection Act (VTVPA) of 2000. Congress recognized that victims who do not have legal status may be reluctant to help in the investigation or prosecution of criminal activity for fear of removal from the United States. The VTVPA was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute crimes while offering protection to immigrant crime victims without the immediate risk of being removed from the country.

The U-Visa is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime, or who are likely to be helpful in the investigation or prosecution of criminal activity. It provides eligible victims with nonimmigrant status in order to temporarily remain in the United States while assisting law enforcement.

The Secretary of the Department of Homeland Security may find a non-citizen eligible for a U-Visa if the applicant has obtained a certification from a certifying agency or official explaining that the victim has been helpful, is being helpful, or is likely to be helpful in the detection, investigation, prosecution, conviction or sentencing of qualifying criminal activity.

### Considerations for Certification

The United States Citizenship and Immigration Services (USCIS) Form I-918, Supplemental B, is the document by which an applicant requests a law enforcement agency's certification. Certifying agencies include all authorities responsible for the investigation, prosecution, conviction or sentencing of the qualifying crimes; this includes the District Attorney's Office. Whether a certifying agency signs a certification is at the discretion of that agency and the policies and procedures it has established regarding U-Visa certifications. However, without a completed U-Visa certification, the applicant will not be eligible for a U-Visa.

There is no statute of limitations on a certification request. Instead, the applicant must only demonstrate that they possess information concerning the criminal activity enumerated in the statute, and that they are being, has been or is likely to be helpful to in the detection, investigation, prosecution, conviction or sentencing of the criminal activity.

In order to be entitled to a U-Visa certification, the only three elements the applicant must establish are that they:

- (1) are a victim of a qualifying crime;
- possesses information concerning a qualifying crime; and
- has been, are being, or are likely to be helpful in the investigation or prosecution of a qualifying crime.

## Definitions

**“Qualifying criminal activity”** includes any one or more of the following enumerated crimes, “or *any similar activity*”:

- rape;
- torture;
- trafficking;
- incest;
- domestic violence;
- sexual assault;
- abusive sexual contact;
- prostitution;
- sexual exploitation;
- stalking;
- 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;
- fraud in foreign labor contracting;
- or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes

**“Similar activity”** refers to a criminal activity that may be named differently in a state statute where the nature and elements of the criminal activities are comparable.

**“Helpfulness”** includes providing assistance when reasonably requested. The helpfulness requirement is an ongoing obligation on the part of the victim to be helpful. Thus, anyone who unreasonably refuses to assist after reporting a crime are not eligible for a U-Visa. The duty to remain helpful to law enforcement exists even after a U visa is granted.

## Procedure for Requesting and Processing U-Visa Certification

- Receiving U-Visa Certification Requests
  - All certification requests must be sent by the applicant’s immigration attorney to the District Attorney’s Office electronically in edit-enabled PDF format to the following email: [DaneVW@da.wi.gov](mailto:DaneVW@da.wi.gov). The certification request must include a copy of the completed Form I-918, Supplemental B. Although not required, a cover letter may be attached to the certification request.
    - Printed/mailed certification requests will be not be processed.
    - Additional documentation, such as copies of police reports, criminal complaints, applicant identification, or release of information, are not necessary for consideration.
  - Parts 1, 2, and 3 (with the exception of Part 2, Sections 1-3) of Form I-918 Supplemental B must be completed before submission for certification by the applicant’s immigration attorney.
    - Incomplete certification requests will be returned uncertified.
  - Once a Bilingual VW Case Manager has been designated to review the certification request, they will email the applicant’s immigration attorney to confirm receipt and advise if any additional documentation is needed. They will also advise the immigration attorney of

the anticipated return date for the approved Form I-918, Supplemental B, or if the certification request has been declined.

- The Bilingual VW Case Managers should complete certification or advise of decline within four (4) weeks of receipt of the request.
  - If a certification request is time-sensitive, it is the responsibility of the immigration attorney to include this information in their request, and to contact the assigned Bilingual VW Case Manager. The DA's Office cannot guarantee completion of certification within time-sensitive deadlines.
- The reviewing prosecutor and assigned Bilingual VW Case Manager may make the determination to decline certification.
  - The assigned Bilingual VW Case Manager will inform the requesting immigration attorney via email as soon as a decline decision has been made.
    - A brief explanation of the reason(s) for the decline may be included.
    - The DA's Office takes no position as to whether or not an applicant may reach out to the investigating law enforcement agency, or any other certifying agency, to request certification.
- Special Considerations
  - Unreferred and Declined Criminal Cases
    - Requests for certification should be made to the investigating law enforcement agency for consideration in cases that were not referred to the DA's Office for charging, or were referred but the reviewing attorney declined to prosecute. The DA's office will not process requests for non-prosecuted cases.
  - Reviewing Requests for Pre-charge Diversion Cases
    - Applicants are welcome to submit certification requests in criminal cases reviewed by our office and subsequently referred to a pre-charge diversion program (i.e. restorative justice or pre-charge Deferred Prosecution)
  - Reviewing Requests for Criminal Cases with Amended Charges
    - The DA's Office will only consider *issued* charges, not referred charges, in determining if the applicant is the victim of a qualifying crime. If the criminal charges referred from an investigating agency meet the requirements for a qualifying crime, but the charges issued by the DA's Office do not, then the applicant should request certification from the investigating agency.
      - However, if a qualifying criminal charge was issued by the DA's Office but during the course of prosecution, that charge was amended or dismissed, the applicant may still request certification from the DA's Office.
  - Reviewing Requests for Juvenile Court Cases
    - Due to confidentiality, the DA's Office cannot share supplemental documentation, including police reports and petitions, with the applicant or their immigration attorney.

#### Resources

- [U Visa Law Enforcement Certification Resource Guide for Federal, State, Local, Tribal, and Territorial Law Enforcement](#), Department of Homeland Security  
[Protecting the Homeland: Toolkit for Prosecutors](#)