

## **Everything You Wanted to Know About “U” Visa Non-Immigrant Status Certifications (And Have Been Asking)**

The U.S. Citizenship and Immigration Services (USCIS) has issued its final ruling that grants immigrant benefits to certain victims of crimes who agree to assist law enforcement (and government) officials to investigate or prosecute criminal activity.

“U” Visa Non-Immigrant Status is set aside for victims of crimes who have suffered mental or physical abuse because of the crime and who not only have information regarding the activity, but also are willing to assist law enforcement and government officials in the investigation of the criminal activity. USCIS can grant up to 10,000 U-Visas each year authorizing the holder to remain in the United States for up to four years.

Congress created the “U” non-immigration classification with the passage of the victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women’s Protection Act) in October, 2000. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes, while offering protection to victims of such crimes. The legislation also helps law enforcement agencies to better serve immigrant crime victims.

### **Q. How does one become eligible for “U” non-immigration status?**

A. There are four requirements:

1. The applicant must have suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity.
2. He/she has information concerning that criminal activity
3. He/she has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the crime
4. Criminal activity must have violated the laws of the United States or occurred in the U.S.

### **Q. What qualifies as a “criminal activity”?**

A. Qualifying criminal activity includes but is not limited to: murder/manslaughter; domestic violence; sexual assault and/or exploitation; torture; extortion; witness tampering; obstruction of justice; false imprisonment; kidnapping; peonage; human trafficking/slave trading; female genital mutilation; or an attempt or conspiracy to commit any of these crimes

### **Q. What are the procedures to request “U” non-immigrant status?**

A. Foreign-born victims must complete and file a Petition for “U” Non-immigrant Status (Form I-918). The form requests information regarding the applicant’s eligibility for such status, as well as admissibility to the United States. “U” non-immigrant status does not require the foreign-born victim’s physical presence in the United States; rather the foreign-born victim can apply for “U” non-immigrant status from inside or outside the United States.

## **“U” Non-Immigration Status Certification**

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#### **Q. Can any foreign-born person say that he/she is a victim and be granted this “U” visa status?**

A. No. The petition for “U” non-immigration status must be filed by the foreign-born victim and also contain a certification of helpfulness from a certifying agency. This means the victim must provide a “U” Non-Immigration Status Certification (Form I-918, Supplement B) from a federal, state, or local law enforcement official that demonstrates that the petitioner “has been helpful, is being helpful, or is likely to be helpful” in the investigation or prosecution of a criminal activity. Further, either the head of the agency or a supervisor designated with the authority to issue certifications on behalf of the agency must sign the certification. In addition to law enforcement entities, other certifying agencies include child protective services, the Equal Opportunity Commission, and the Department of Labor since they have criminal investigative jurisdiction within their respective areas of expertise.

#### **Q. Can family members of the applicant apply for “U” non-immigrant status?**

A. No, only the foreign-born victim can apply for “U” non-immigrant status; family members can’t apply on their own behalf. However, the victim can petition on behalf of qualifying family members. If the victim is less than 21 years old, qualifying family members include the victim’s spouse, children, unmarried siblings under 18, and parents. If the victim is 21 years old, qualifying family members include the spouse and children of the victim. The qualifying family member must also be admissible to the United States.

#### **Q. How long can someone maintain the “U” non-immigrant classification?**

A. “U” non-immigrant status can’t exceed four years; however, extensions are permitted upon certification of the certifying agency that the foreign-born victim’s presence in the U.S. is required to assist in the investigation or prosecution of a qualifying criminal activity. Further, the victim can apply for permanent residence if he/she has been physically present in the U.S. for a continuous period of at least three years since the date of admission as a “U” non-immigrant AND the certifying agency determines that the individual’s continued presence in the country is justified on humanitarian grounds to ensure continuation of a cohesive family, or is otherwise in the best interest of the public.

#### **Q. Are there fees associated with this “U” non-immigrant certification application process?**

A. No. The program involves the personal well-being of a few applicants and petitioners and USCIS’ decision to waive the petition fee reflects the humanitarian purposes of the statutes. Therefore, no fee will be charged for filing Form I-918 or for derivative “U” non-immigrant status for qualifying family members. However, petitioners must pay the established fee for biometric services for each person ages 14-79 included in the application. The biometric services fee is currently \$80.00 per person. Applicants who are financially unable to pay the biometric services fee may submit an application for a fee waiver.