

AOM CHAPTER O-222

U-VISA

I. Introductory Discussion

The Northampton Police Department recognizes that a victim's cooperation, assistance, and safety are essential to the effective detection, investigation, and prosecution of crimes. Victims who fear deportation, however, will be unlikely to come forward and cooperate and assist in investigation efforts.

In 2000, Congress created the U-Visa within the Violence Against Women Act. The aim of the U-Visa is to encourage immigrant victims to report criminal activity and seek law enforcement assistance. The U-Visa provides a specific avenue through which immigrant crime victims who cooperate with law enforcement can obtain lawful immigration status and protection against deportation.

The U-Visa encourages immigrant victims of crime to report criminal activity without the fear of detention or deportation. The Northampton Police Department will assist immigrant victims of crime with their U-Visa applications when they are found to be cooperating with the detection, investigation, or prosecution of criminal activity.

II. Definitions

U-Visa: A visa issued by the United States Citizenship and Immigration Service (USCIS) conferring legal status for up to four years to an immigrant who meets the following statutory requirements:

1. They have suffered substantial physical or mental abuse as a result of having been a victim of a listed criminal activity;
2. They possess information concerning such activity;

3. They have been helpful, are being helpful, or are likely to be helpful in the investigation or prosecution of a crime; and
4. They have been the victim of a criminal activity that occurred in the United States or violated the laws of the United States.

To be eligible for a U-Visa, the applicant must submit an application packet that includes a certification from a certifying official or agency that they have been, are being, or are likely to be helpful in the detection, investigation, or prosecution of a qualifying criminal activity.

U-Visa Certification Requirement: A sworn statement (USCIS Form I-918 Supplement B) that affirms the immigrant victim's past, present, or future helpfulness in the detection, investigation, or prosecution of certain qualifying criminal activity.

Designated Certifying Officials: A law enforcement official who is authorized to issue a U-Visa certification that verifies an immigrant victim's past, present, or future helpfulness in the detection, investigation, or prosecution of certain qualifying crimes. All Lieutenants, as well as the Detective Bureau Sergeant, are designated as certifying officials.

Qualifying Criminal Activity: U-Visa qualifying criminal activity includes, but is not limited to: 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, solicitation to commit any of the above mentioned crimes, or *any similar activity* in violation of federal, state, or local criminal law. The attempt or conspiracy to commit any of the above crimes also qualifies.

The term *any similar activity* accounts for the wide variety of state and federal criminal laws that may have names different from the criminal activity listed above but are comparable in nature and elements to the aforementioned criminal activity.

III. Procedure:

- A. When an investigator encounters an immigrant victim of crime who has filed a police report, and it is determined that they are willing to assist – or have assisted or cooperated – with the detection, investigation, or prosecution of qualifying criminal activity, they should inform the immigrant victim of the U-Visa application process.
- B. The U-Visa certification may be issued at any time after detecting a qualifying criminal activity and the investigator has determined that the victim is being or will be helpful in the investigation. The investigation need not be complete prior to issuing the certification. The law was designed to assist victims at very early stages of crime detection and investigation.
- C. The U-Visa Certification Form (USCIS Form I-198 Supplement B) needs to be completed and signed by a Lieutenant or the Detective Bureau Sergeant. It should provide specific details about the nature of the crime being detected, investigated, or prosecuted. It should also describe the petitioner's helpfulness in the case. **The officer who signs the certification does not confer any immigration status upon the victim**, but rather enables the victim to meet one of the eligibility requirements in the victim's application to USCIS.
- D. [The investigator should work with the victim to complete the U-Visa application (USCIS Form I-198 "Petition for U Nonimmigrant Status")]. The U-Visa Certification Form (USCIS Form I-198 Supplement B) which has been completed and signed by a certifying official should be given to the victim. A U-Visa Certification is required to complete the application process. The victim will then submit the completed application packet and supporting documents to

the Victims and Human Trafficking Unit of USCIS, location in Vermont.

- E. A victim who received a certification and was granted a U-Visa has an ongoing obligation to provide assistance. Certifying officials may notify USCIS directly for cases in which victims are no longer helpful. However, such notification is appropriate only when the victim's lack of cooperation is not reasonable.

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