



## U VISA POLICY REPORTING GUIDE

Our [reporting found that law enforcement agencies](#) are blocking immigrants from applying for a special visa designed for crime victims. In order for victims to apply for the U visa, they need a law enforcement agency to sign a “certification” form that confirms they were helpful in an investigation.

We decided to look into the top 10 states with the largest immigrant populations. Four of those states – California, New Jersey, Illinois and Washington – already have mandates that require law enforcement agencies to review these requests. So we contacted more than 100 agencies in the other six states: New York, Massachusetts, Georgia, Virginia, Florida and Texas.

We have direct reporting from those states that can help you with your story. If your region wasn’t covered by our reporting, we have resources below that can help you recreate our investigation in your area.

This is a guide for how to put it all together. You’ll want to talk to immigration attorneys and officials at your local law enforcement agencies. You’ll want to put in public records requests to understand how often an agency receives, approves and denies requests for certification. You’ll want to find a story of an immigrant whose denial is questionable.

In 12 states, this shouldn’t be an issue. Arkansas, California, Connecticut, Delaware, Illinois, Louisiana, Maryland, Montana, Nevada, North Dakota, Washington and New Jersey have laws or directives that compel agencies to cooperate. However, it could still be worthwhile to find out if your local department is following those directives.

### **How the U visa works:**

Created 20 years ago by Congress, the [U visa](#) gives temporary status to immigrant crime victims who are helpful in a law enforcement investigation or prosecution. It’s also a crime fighting tool for police because it encourages undocumented residents to call law enforcement without the fear of being deported.

In order to apply for this relief, victims need an investigating agency to sign a “certification.” These certifications [look like this](#).

In order to sign, agencies have to consider two things: whether the victim is a victim of a “qualifying” crime (listed in the links below), and whether the victim was or is likely to be helpful in an investigation or prosecution. Note that this includes helping with the detection of a crime, such as someone calling 911 or filing a police report.

### **Important links to bookmark:**

[The U visa regulations in the Federal Register](#) – These regulations make it clear that Congress created the U visa specifically to help police do their jobs.

**Key passage:** *“In passing this legislation, Congress 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. See BIWPA, sec. 1513(a)(2)(A). Congress also sought to encourage law enforcement officials to better serve immigrant crime victims.”*

[The USCIS certification guide](#) – Although there is no federal law that compels police agencies to certify U visas, this resource guide suggests that certifications are a best practice.

**Key passages:** *“Certifying agencies are not required to have an internal policy or procedure before they can sign a U visa certification. However, USCIS encourages you to develop a policy and train relevant personnel in your agency on that policy to promote consistency and transparency and improve the quality of certifications.”*

*“Signing may strengthen your agency’s ability to investigate and prosecute serious crimes, and may encourage victims to report crimes committed against them and to participate in the investigation and prosecution of those crimes.”*

Finally, here is a [law enforcement certification toolkit](#) created by the National Immigrant Women’s Advocacy Project.

### **How to begin your reporting:**

- Talk to immigration advocates and lawyers in your area about the certification procedures for local law enforcement agencies.
  - How receptive are local agencies to U visa certifications?
  - What kinds of policies, if any, do agencies have in place?
  - Do they have examples of cases that qualified but weren’t certified by law enforcement?

- Reach out to your local agencies and ask how they handle certification requests. Remember that police departments, sheriff's offices and prosecutor's offices can all sign.

### **Questions you can ask agencies:**

1. Does your agency review any U visa certification requests that it receives?
2. If yes, what is your process for reviewing certification requests?
3. What factors do you consider when determining if you will sign the request?
4. How many requests did your agency receive in 2018, and how many of those were ultimately approved?

### **What to look for in agency responses:**

- If an agency says it doesn't review requests, you have a story. Why are they refusing to participate in a program that was created for law enforcement? It's possible the response you'll receive is: We defer all cases to the DA's office. But keep in mind that unsolved cases aren't forwarded to prosecutors. So if a police department declines to sign those requests, it leaves those victims without any other options for certification.
- If an agency says it considers factors beyond the type of crime and the victim's helpfulness, that's also a likely story. Agencies often consider factors that just aren't in federal guidelines: things like the solvability of a crime, the victim's injuries and whether an arrest was made. Ask agencies why they are considering factors that don't appear in the visa program's federal guidelines.
- If an agency's approval rate for certifications is below 50 percent, it may be denying cases that qualify for the U visa. You should submit a more comprehensive public records request to understand what kind of cases **are being denied**. (see next section for suggestions).

### **What to ask for in your public records requests:**

- Copies of any policies or procedures that outline the agency's process in reviewing U visa certification requests.
- Copies of any and all Supplement B (U visa certification) forms, and accompanying attachments (including but not limited to, police reports and any other investigative records), approved by the agency in 2018.
- Copies of any and all Supplement B (U visa certification) forms, and accompanying attachments (including but not limited to, police reports and any other investigative records), denied by the agency in 2018.

**What to look for when you're looking at certification requests:**

- Each request should include some version of the following: the [Supplement B form](#), relevant police reports and the decision letter that goes out to the victim.
- Apply the federal criteria to each case. Was the crime a “qualifying crime”? Do the police reports corroborate the victim’s “helpfulness”? Helpfulness can be something as simple as reporting a crime or calling 911, or more involved cooperation like looking at mug shots or testifying in court.
- Was the victim uncooperative? If yes, that’s a valid reason for a certification denial.
- Do the letters offer an explanation for denials? If they don’t, it’s worth questioning the agency about it.