

To: Harris County Commissioners Court

Through: Jim Bethke, Director, Justice Administration Department
..prepared

Prepared By: Ana Yanez Correa, Deputy Director, Justice Administration Department

Subject: REPORT: U-Visa: A Critical Tool for Law Enforcement to Support Survivors of Crime and Build Community Resiliency
..end

Project ID (If applicable):

Purpose and Request:

..title
 Transmittal of a memo regarding the current policies related to the completion of Form I-918B and recommendations at the federal, state, and local levels.
..end

Background and Discussion:

On November 10, 2020, Commissioners Court approved a motion made by Commissioner Garcia for the Justice Administration Department (JAD) to draft a plan for the drafting of a model procedure for law enforcement agencies for processing requests for the completion of Form I-918 Supplement B and the promotion of said procedure to local law enforcement agencies. This memo provides an update to Commissioners Court regarding the status of this request.

Fiscal Impact:

n/a

| Fiscal Summary | | | |
|---|-----------------|---------------------------|--|
| Expenditures | FY 20-21 | FY 21-22 Projected | Future Years Projected [3 additional years] |
| Service Impacted: <i>[Please provide service or division where expenditure will be used]*</i> | | | |
| Existing Budget | | | |
| Additional Appropriation Requested | | | |
| Total Expenditures | | | |
| Funding Sources | | | |
| Existing Department Budget | | | |
| Please Identify Funding Source (General Fund, PIC, Special Revenue, Grant, Etc.) | | | |
| [INSERT FUNDING SOURCE HERE]* | | | |
| Total Sources | | | |

Alternatives:

n/a

Alignment with Strategic Objective:

This item aligns with the JAD strategic objectives of better understanding the needs of survivors of crime and any service gaps that exist; and increasing transparency, accountability, public trust, and confidence in Harris County's justice system.

Attachments:

Supporting Analysis of U-Visa Policies Memorandum to Commissioners Court.



JUSTICE ADMINISTRATION DEPARTMENT



REPORT

U-Visa: A Critical Tool for Law Enforcement to Support Survivors of Crime and Build Community Resiliency

March 30th, 2021



ACKNOWLEDGMENTS

The **Justice Administration Department** would like to thank the following individuals in no particular order, for taking the time to share their perspectives, provide information, or feedback on the report: Deputy Oscar Cisneros, Crime Victim Liaison, Criminal Investigation Bureau, Harris County Sheriff's Office; Ms. Celeste Byrom, Director of Victim Services Division, Harris County District Attorney's Office; Ms. Katharina Dechert, Legal Advocate, Tahiri Justice Center; Lieutenant Julie Pleasant, Victim Services, Criminal Investigations Command, Houston Police Department; Ms. Amy Smith, Deputy Director, Harris County Domestic Violence Coordinating Council; Ms. Andrea Guttin, Legal Director, Houston Immigration Legal Services Collaborative; Mr. Steve Willard, Associate Management Analyst, San Diego Police Department; Public Information Officer, Austin Police Department; Ms. Alba Ibarra, Sheriff's Information Bureau, Los Angeles County Sheriff's Department; Constable, Precinct Two Jerry Garcia; Constable Precinct One Alan Rosen; Lieutenant Shane Rigdon, Constable, Precinct One; Assistant Chief Manuel Quintanilla, Constable Precinct Two; Ms. Barbara McInnis, Coordinator, Crime Victim Assistance Unit, Constable Precinct Five; Mr. Jason Finnen, Chief Deputy, Constable Precinct Eight; Deputy Melissa Mendieta, Constable Precinct Six; Mr. John Hecker, Assistant Chief Deputy, Constable Precinct Four; Ms. Anita Gupta, Immigrant Legal Resource Center; Mr. Victor Senties, Public Affairs, Houston Police Department; Officer Ralph Pantoja, Houston Police Department; Ms. Chisom Onyenezi, Policy Advisor, Office of Commissioner Adrian Garcia, Precinct Two; Mr. Jay Aiyer, First Assistant, County Attorney's Office, Ms. DeAnne Lin, Deputy Division Director, County Attorney's Office and Ms. Zoraida Arias, U-Visa/T-Visa Program Manager, King County Sheriff's Office.

We would like to extend thanks to all our colleagues at the **Justice Administration Department** who contributed to this report, including Dr. Veronkyia James, Jim Bethke JD, Lindsey Linder JD, Dr. Matthew Sweeney, Dr. Colin Cepuran, Dr. Ana Yáñez-Correa, Marissa Bosley and Edrius Stagg for research and drafting; Kristina Vera Robertson for layout and design; and Laura Lucas for dissemination.

To find this report online, please go to (<https://jad.harriscountytx.gov>)

OUTLINE

- I. PURPOSE OF REPORT**
- II. SUMMARY OF FINDINGS**
- III. ORIGINS AND PURPOSE OF U-VISA**
- IV. ELIGIBILITY REQUIREMENTS**
- V. WHAT IS HAPPENING IN THE UNITED STATES?**
 - a. Current Acceptance Cap and Long Waiting Times
 - b. Fear of Deportation
 - c. Lack of Language Accessibility
 - d. Lack of Uniformity
- VI. WHAT IS HAPPENING IN OTHER JURISDICTIONS?**
 - a. California
 - i. Los Angeles Sheriff Department (LASD)
 - ii. Los Angeles District Attorney's Office (LADA)
 - iii. San Diego Police Department (SDPD)
 - b. Washington State
 - i. Seattle Police Department (SPD)
 - ii. King County Sheriff's Office (KCSO)
- VII. WHAT IS HAPPENING IN TEXAS?**
 - a. Austin Police Department (APD)
 - b. Travis County Sheriff's Department (TCSO)
 - c. Travis County District Attorney's Office (TCDAO)
 - d. Dallas County District Attorney's Office (DCDAO)
 - e. Dallas Police Department (DPD)
 - f. Fort Bend County
 - g. Galveston County
- VIII. WHAT IS HAPPENING IN HARRIS COUNTY?**
 - a. Victim Service Providers
 - i. Tahirih Justice Center
 - ii. Houston Immigration Legal Services Collaborative (HILSC)
 - b. District Attorney's Office Approach
 - c. Law Enforcement Agencies Approach
 - i. Harris County Sheriff's Department (HCSO)
 - ii. Houston Police Department (HPD)
 - iii. Harris County Constables
 - 1. Constable Precinct One
 - 2. Constable Precinct Two
 - 3. Constable Precinct Three
 - 4. Constable Precinct Four
 - 5. Constable Precinct Five
 - 6. Constable Precinct Six
 - 7. Constable Precinct Seven
 - 8. Constable Precinct Eight
- IX. CURRENT CHALLENGES**
 - a. Statute of Limitations
 - b. Inconsistencies and contradictions
 - c. Data challenges
- X. SOLUTIONS/RECOMMENDATIONS**
 - a. Federal Action
 - i. Next Steps
 - b. State Action
 - i. Next Steps
 - c. Local Action
 - i. Next Steps
- XI. APPENDICES**
 - a. Appendix A: Form I918, Supplement B
 - b. Appendix B: List of Qualifying Criminal Activities
 - c. Appendix C: List of Service Providers
 - d. Appendix D: U-Visa Certification Review Protocol (HCDAO)
 - e. Appendix E: U-Visa Certification Sample Model Policy
- XII. REFERENCES**

I. PURPOSE OF REPORT

On November 10, 2020, Commissioners Court approved a motion made by Commissioner Garcia for the **Justice Administration Department** (JAD) to produce a plan for the drafting of a model procedure for law enforcement agencies for processing requests for the completion of Form I-918B, and the promotion of said procedure to local law enforcement agencies. To fulfill the Commissioners Court request, JAD has written this report which includes the following:

- The origins and purpose of the U nonimmigrant status (U) Visa (i.e., U-Visa) and eligibility requirements, including completion of Form I-918, Supplement B (i.e., Form I-918B);
- An examination of what is currently happening nationwide concerning U-Visas and certification procedures;
- A discussion of certification policies in other jurisdictions within Texas;
- An analysis of what is currently happening in Harris County from the perspective of victim service providers and the current policies of local law enforcement agencies;
- Recommendations for best practices at the federal, state, and local levels; and
- A proposed U-Visa model policy based on our findings that has been reviewed and approved by the County Attorney's Office.

II. SUMMARY OF FINDINGS

- The U-Visa process has several significant issues at the federal level.
 - United States Citizenship and Immigration Ser-

vices (USCIS) cannot issue more than 10,000 visas per fiscal year. This has led to significant delays in processing, resulting in a years-long backlog of applications.

- USCIS does not issue explicit guidelines on certifying applications to applicable agencies, resulting in similar jurisdictions having completely different policies, creating unnecessary barriers to applying for the U-Visa.
- USCIS does not explicitly state that Judges and District Attorneys can certify U-Visa applications, instead of focusing on Law Enforcement Agencies, reducing national comprehension of the purpose and applicability of the U-Visa.
- There is no standard Texas-wide certification process or guidance for Law Enforcement Agencies. This results in Agencies and Departments across the state having vastly different certification procedures and processes.
- There is no standard Harris County certification process or guidance for U-Visa Certifiers. As a result, the Harris County District Attorney, the Harris County Sheriff's Office, and the eight Constables Precincts have different practices regarding U-Visa Certification.
 - Some Departments have specific policies on U-Visa Certification, but other Departments do not have a policy or rely on an ad-hoc procedure for U-Visa Certification. This results in problems providing an accurate total of certification requests, acceptances, and denials for Harris County. Therefore, this makes it difficult to assess the number of U-Visa applicants and holders' overall population accurately.
- JAD's recommendations include actions at the Federal-, State-, and Local-levels to offer a top-down and bottom-up approach to addressing the needs

of immigrants impacted by certain crimes and their dependents.

- Federal-Level Solutions include removing or **vastly increasing the cap on the issuance of U-Visas** per year and increasing USCIS’s guidance to Law Enforcement Agencies, District Attorneys, and Judges.
- State-Level Solutions include requiring Law Enforcement Agencies, District Attorneys, and Judges to have **training and knowledge** on the **U-Visa certification**, assigning a dedicated employee to handle U-Visa Certifications, and including U-Visas in Victim Services documentation.
- Local-Level Solutions include the adoption and implementation of the proposed Model U-Visa Policy (**Appendix E**) for Harris County law enforcement, assigning a U-Visa Certifier in each department, and providing contact information for that person on departmental websites and Victim Services information.

III. ORIGINS AND PURPOSE OF U-VISA

The passage of the Victims of Trafficking and Violence Protection Act in 2000 established the U nonimmigrant status (U) Visa (i.e., U-Visa).¹ Congress reauthorized the Act in 2003, 2005, and 2008 through the Trafficking Victim Protection Reauthorization Act.² The Act protects survivors of certain qualifying crimes (e.g., domestic violence, felonious assault, trafficking, sexual exploitation) from deportation. This protection encourages immigrant crime victims to report criminal victimizations to law enforcement, thus providing law enforcement a vital tool for detecting, investigating, and prosecution of serious criminal activity.³ A U-Visa can provide a victim, witness, or a bystander of a crime legal immigration status^A for up to four years while participating in the legal proceedings.⁴ After the third year, a U-Visa holder can apply for lawful permanent residency in the United

States.⁵ A U-Visa recipient can receive derivative visas for immediate family to comply with broader immigration policy goals.^B The issuance of the U-Visa encourages crime reporting and increases trust between immigrants and law enforcement.⁶ U-Visa recipients report that the status is central to their well-being: they identify it as a “transformative and life-changing experience.”⁷ Without the ability to obtain a U-Visa, crucial witnesses for the prosecution of crime would be lost.

IV. ELIGIBILITY REQUIREMENTS

An individual must meet several eligibility requirements to receive a U-Visa. These eligibility requirements are adjudicated by the United States Citizenship and Immigration Services (USCIS). Only USCIS can approve or deny an applicant’s U-Visa application. An applicant must provide supporting evidence proving that he/she is a survivor of a “qualifying criminal activity”^C and has suffered substantial physical or mental harm resulting from this victimization.^D Further, the applicant must assist law enforcement or the district attorney in the detection, investigation, and/or prosecution of the crime and be admissible to the United States.⁸ An applicant will not receive U nonimmigrant status if they do not provide USCIS with additional proof of their eligibility in addition to Form I-918B. A signed I-918B does not convey any immigration status. Individuals must submit Form I-918, Supplement B (i.e., Form I-918B, or “law enforcement certification”). **Appendix A: Form I918-B** contains a copy of this form and a weblink to the application. Although known as the “law enforcement certification,” “prosecutors, judges, or any agency authorized to investigate the criminal activity”⁹ may also certify the form. Depending on the requirements of certain agencies, either applicants, their legal counsel or the department’s designee completes either the U-Visa Application or a department supplied alternative and receive a certification from law enforcement to confirm the victim is helpful in the investigation or prosecution of the criminal activity before submitting it to USCIS. The application requires supporting documentation, such as medical records to show that the survivor suffered substantial harm.

^A The status provides authorization to live and work in the United States while the case goes through the justice system.

^B Derivative meaning that their eligibility for legal residence is derived from the holder of the U-Visa (Morando Lakhani, 2014).

^C There are currently twenty-nine categories of crime that are considered “qualifying”. Refer to **Appendix B** which provides the complete list of qualifying criminal activities.

^D “USCIS decides what qualifies as ‘substantial’ harm on a case-by-case basis” (Jameson, T. (n.d.). “Both direct and indirect victims can qualify for U Nonimmigrant Status (U Visa).” Retrieved from [https://www.nolo.com/legal-encyclopedia/both-direct-indirect-victims-can-qualify-u-nonimmigrant-status-u-visa.html#:~:text=Who%20Qualifies%20as%20a%20Bystander,having%20witnessed%20the%20criminal%20activity](https://www.nolo.com/legal-encyclopedia/both-direct-indirect-victims-can-qualify-u-nonimmigrant-status-u-visa.html#:~:text=Who%20Qualifies%20as%20a%20Bystander,having%20witnessed%20the%20criminal%20activity;); see also Department of Homeland Security [DHS], 2019).

Supplement B attests to the petitioner as a victim of criminal activity and their helpfulness in the investigation or prosecution of the crime. Congress has designated certain government agencies as certifying agencies. These agencies include persons who investigate and prosecute criminal activity to complete and sign Form I-918B.¹⁰ Although applicants must have a signed Form I-918B to apply for a U-Visa, “the certification alone does not provide sufficient evidence of U nonimmigrant status.”¹¹

IV. WHAT IS HAPPENING IN THE UNITED STATES?

“Congress created [the U-Visa] with the dual purpose to encourage crime victims to cooperate and aid law enforcement, and to provide humanitarian relief for survivors of violent crime.”¹² On paper, the U-Visa has two intentions. The first is to facilitate the investigation and prosecution of violent crime in the United States. The sec-

ond is to protect survivors from deportation as they assist law enforcement or the district attorney. In doing so, the U-Visa enables survivors to obtain employment authorization and provides a potential pathway to secure lawful permanent resident status after three years. The policy’s success has led some scholars to advocate for its implementation in other countries.¹³ However, the operation of the U-Visa program has significant issues.

- a. **Current Acceptance Cap and Long Waiting Times:** Congress will not allow USCIS to issue more than 10,000 U-Visas per fiscal year (October to September).^E However, the number of legitimate applicants USCIS receives per year far exceeds this statutory limit. At the end of Fiscal Year (F.Y.) 2020, there were 270,074 applications pending USCIS action.¹⁴ On average, USCIS receives five times more applications for U-Visas than the agency is eligible to issue. As a result, applicants wait,

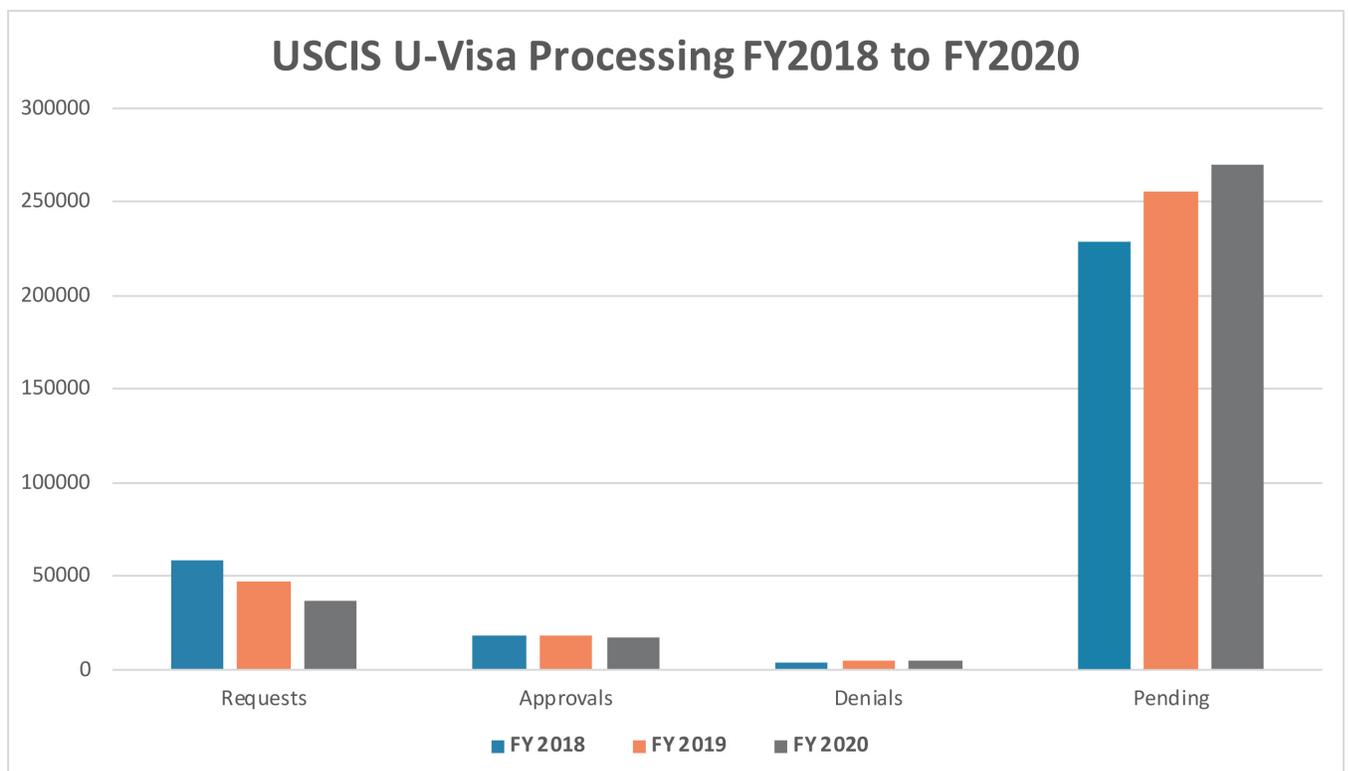


Figure 1: U-Visa Processing for F.Y. 2018, F.Y. 2019, and F.Y. 2020.

Source: USCIS, 2021

^E “By statute, the number of individuals issued principal U-1 visas or provided U-1 nonimmigrant status in any fiscal year (October to September) cannot exceed 10,000” (USCIS, 2020, p. 2). USCIS does still adjudicate cases after this cap has been reached. The cases that qualify for approval beyond the 10,000 per year are given “conditional approval” and “work authorization is based on ‘deferred action’ until U-Visas become available.” There is no cap on derivative U-Visas (e.g., family members, spouses, etc.) (USCIS, <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes/victims-of-criminal-activity-u-nonimmigrant-status>).

on average, 5 to 10 years to receive a decision. **Figure 1** shows all the requests, approvals, denials, and pending applications for F.Y. 2018, F.Y. 2019, and F.Y. 2020.

- b. **Fear of Deportation:** Potential applicants may be anxious about applying due to the legitimate and widespread fear of deportation. Therefore, undocumented persons are anxious about cooperating with state and local law enforcement institutions. Since an applicant can wait five to ten years for a decision from USCIS, this fear is genuine because Immigration and Customs Enforcement (ICE) can deport a person with a pending application.¹⁵
- c. **Lack of Language Accessibility:** Another barrier in the application process is widespread language difficulties—law enforcement is under no obligation to, and may not, provide Spanish or indigenous language translation.¹⁶
- d. **Lack of Uniformity:** Researchers note that “...the lack of uniformity in U certification policy and practice by law enforcement agencies appears to undermine the intent of the U nonimmigrant visa.”¹⁷ USCIS does not require law enforcement to certify U-Visa applications, even if they are victims or singular witnesses in serious criminal activity. Therefore, some applicants may never receive a certification even after full participation in trials.¹⁸ There remains a lack of uniformity in U-Visa certification policies across departments, even within states.¹⁹ The lack of a unifying policy has created inconsistencies and disparities in the treatment of survivors of crime. Some survivors reported that certain departments refuse to accept or certify U-Visa applications,²⁰ despite public policies advocating for immigrant survivors. These situations undermine the survivor’s trust in law enforcement. However, some states (discussed below) have enacted laws mandating law enforcement officials to certify applications if the individual is eligible, establish procedures for responding to a certification request, and clarify a law enforcement agencies’ role in this process.²¹

V. WHAT IS HAPPENING IN OTHER JURISDICTIONS?

The following discusses what some jurisdictions have done to assist survivors of crime better and make the U-Visa process a little easier for them. California’s approach to the U-Visa is often cited as one of the better state-level policies. Although not perfect, California has made the process of applying for a U-Visa much easier on survivors than in other jurisdictions. Washington state also passed legislation to improve the certification process, reduce inconsistencies, and better support immigrant crime survivors. Due to this, we focused on what some agencies in these states are doing regarding U-Visa certifications.

- a. **California** has improved law enforcement’s fulfillment of U-Visa applications’ role through state-level policy reform (via S.B. 674). In the state, the applicant is presumed “helpful” unless they “refused or failed to provide information and assistance reasonable [sic] requested by law enforcement.”²² While this standard remains relatively high, it remains a step forward, arguably the largest taken in the United States.
- b. **California** also strengthened law enforcement’s role in their use of the U-Visa process with Assembly Bill (A.B.) 917, which took effect January 2020. The bill “reduces the timeline for the certification process.”²³ California law mandates that, when conditions are met, agencies submit certifications within 30 days (unlike federal law, which provides discretion to agencies to determine if and when certifications are completed).²⁴ Additionally, California provides that Form I-918 B can be signed in lieu of charges being filed, if the investigation is over and/or if no prosecution or conviction occurred.
 - i. **Los Angeles Sheriff’s Department (LASD).**²⁵ LASD had no information on their website concerning U-Visas; however, they did provide their policy upon request. The LASD policy mirrors

California legislation, including the “presumption of helpfulness.”²⁶

ii. **Los Angeles District Attorney’s Office (LADA).** LADA has information concerning their policy posted on their website under “U-Visa Certification Special Directive.” Similar to LASD, their approach adheres to California legislation. Additionally, a link is provided for U-Visa/T-Visa Assistance Agencies to aid survivors with completing their application.

iii. **San Diego Police Department (SDPD).** SDPD has no information about the U-Visa on their website. However, SDPD did provide their policy and data upon request.²⁷ SDPD has no cut-off time for when victimization occurs and when they will sign a certification. However, if enough time has passed and the records are purged, SDPD cannot verify it.^F The request, per California law, needs to be completed within 30 days or seven (7) days if the survivor is pending deportation. SDPD still completes requests even if charges have been filed with the District Attorney. In 2019, SDPD received 129 requests, approved 79, denied 33, and 17 were “other.”^G In 2020, 89 requests were received, 62 approved, 23 denied, and 4 “other.”²⁸

a. **Washington state** enacted Substitute House Bill (S.H.B.) 1022 in 2018 establishing the Safety and Access for Immigrant Victims Act (RCW 7.98.020) requiring certifying agencies to complete and sign certifications unless the survivor “unreasonably refuses to provide information and assistance,”²⁹ if reasonably requested to do so. It also requires the certifying agency to process the certification within 90 days, or if the survivor is in removal proceedings, within fourteen (14) days. A current investigation, the filing of charges, and prosecution or conviction are also not required.³⁰ Additionally, this bill requires that an agent of a certifying agency perform outreach to crime survivors and inform them of the certification

process. Documentation of the number of requests, the number of certifications signed, the number denied, and the number of certifications withdrawn must be reported to the “office of crime victims advocacy on an annual basis.”³¹

i. **Seattle Police Department (SPD).** SPD has a policy posted on their website that states they will respond to requests for certification according to SHB 1022. SPD provides information on its website for whom survivors should contact concerning their application, where to get legal assistance with completing their application, and a checklist. This is presented in seven other languages besides English.

ii. **King County Sheriff’s Office (KCSO).** A policy posted on their website states that they will process all requests within 90 days unless the survivor is in removal proceedings. If this is the case, then certification processing is fourteen (14) days. There is a link to USCIS and information concerning the U-Visa program. KCSO further includes a mailing address, phone number, and email for the U-Visa/T-Visa Program Manager. There were also links in seven other languages besides English. KCSO is currently working on resources for best practices for certifying agencies in Washington state and looks forward to collaborating with JAD on these.

VII. WHAT IS HAPPENING IN TEXAS?

As of March 2020, there was no Texas state law filed regarding U-Visa certification.³² At the time of writing, the Texas legislature does not have any legislation on U-Visa policies under consideration. No federal law mandates law enforcement agencies to complete certification forms even if survivors assist in the investigation or prosecution of a case.³³ The following discusses the policies of some other Texas jurisdictions concerning U-Visa certifications.

^F Exception to this is if the survivor had previously obtained a certified copy of the police report and can provide this with their request. Then information can be verified, and the request will be processed.

^G “Other” are instances where it was determined that the incident occurred outside SDPD jurisdiction (SDPD, personal communication, March 3, 2021).

a. **Austin Police Department (APD):** The Austin Police Department has brief information concerning T-Visas (like the U-Visa, but exclusively for trafficking survivors) on their website. However, this information only explains what the T-Visa is and does not explain how to apply or provide links to applications. APD has no contact information to discuss requirements and/or the process for completing a T-Visa application. Upon request, APD did provide a copy of their policy and data for 2019 and 2020. “APD’s decision to provide an applicant with Certification is entirely discretionary.”³⁴ Their policy requires survivors to cooperate with the investigation and prosecution. The APD U-Visa Certification Review team will consider all requests, and a recommendation for approval or denial will be made no more than 90 days from receipt. A Lieutenant will make the final

decision based on the Review Team’s recommendations, and the “decision will be final and not subject to appeal.”³⁵ However, requests may still be referred to other agencies if APD determines it will not issue the certification. **Figure 2** provides data.

b. **Travis County Sheriff’s Office (TCSO):** On their main website, there is a link to victim services, which has a link for “U-Visa Info.” This provides information concerning the U-Visa and how one can find out more regarding application completion. The webpage contains resources about the U-Visa in English, Spanish and Vietnamese and a link to immigration resources. JAD contacted Victim Services on March 2, 2021, but no response has been received at the time of writing.

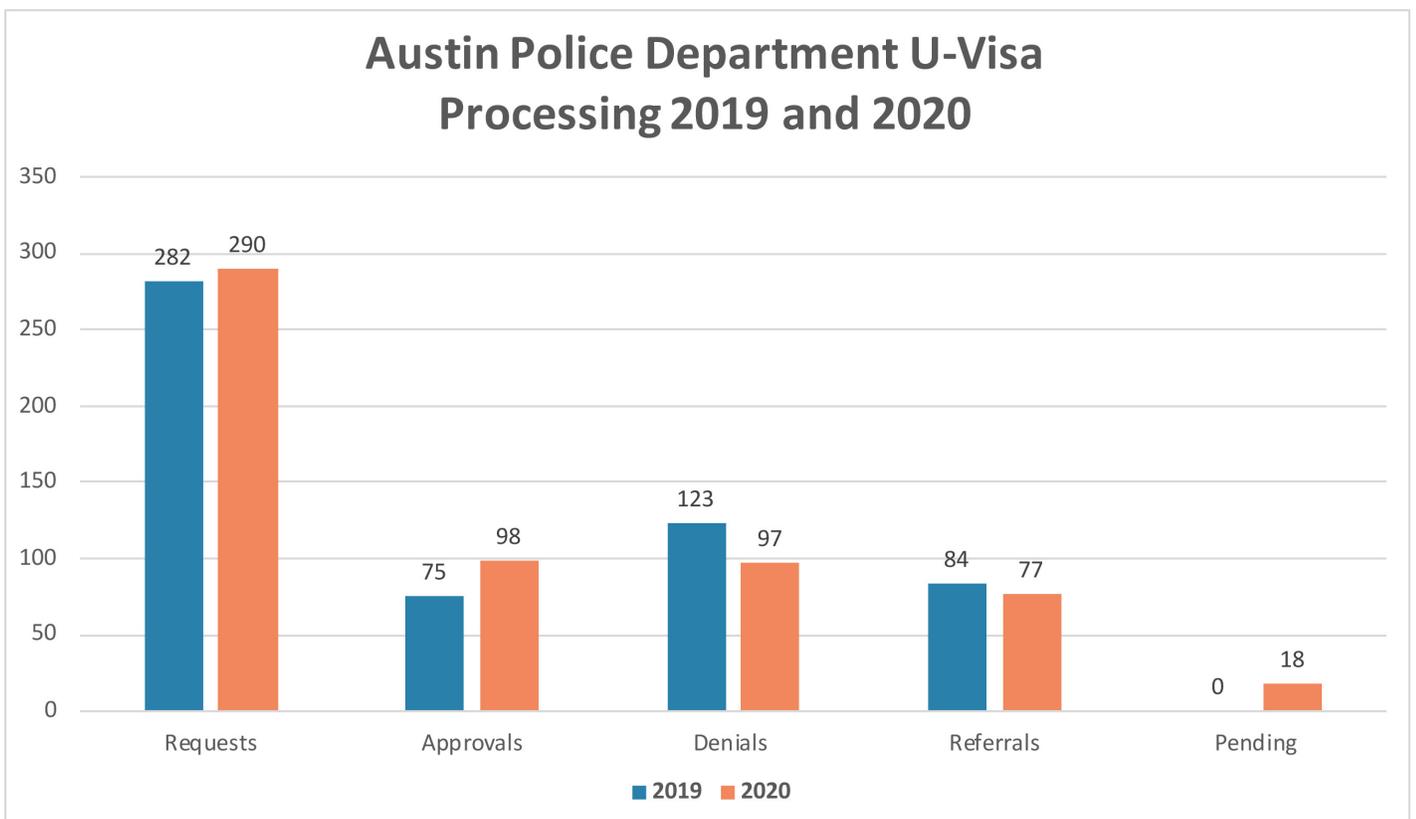


Figure 2: U-Visa Processing by Austin Police Department, 2019 and 2020.

Source: Austin Police Department, personal communication, March 3, 2021.^H

^H For 2020, there were 18 pending U-Visa certifications. No information was provided on pending certifications for 2019 (APD, personal communication, March 3, 2021).

- In 2017, the Sheriff printed a pamphlet on the U-Visa to educate the community and assuage their fears of reporting crime to law enforcement due to immigration status.³⁶
 - From 2013 to 2017, they had 162 U-Visa requests.¹
 - 2013: 36
 - 2014: 41
 - 2015: 39
 - 2016: 41
 - 2017: 37
- c. **Travis County District Attorney’s Office (TCDAO):** “[They] started a more formal program in which undocumented victims and witnesses are given letters from the prosecutor’s office to carry with them... [explaining] they are victims or key witnesses in the prosecution of an ongoing case.”³⁷ These are for survivors/witnesses to present to law enforcement or ICE officials if questioned about immigration status. However, there is no guarantee that ICE will honor these letters, and these do not offer the holder legal immigration status or “have any legal authority whatsoever” (p. 1). No other information concerning their certification policies was available.
- d. **Dallas County District Attorney’s Office (DCDAO):** A policy, updated in 2019, is posted on their website. They use discretion to certify U-Visa requests on a case-by-case basis. DCDAO does not provide any information on a statute of limitation used or processing times for requests. It also does not provide guidance about making exceptions for “reasonable” failure to cooperate/assist in compelling circumstances (e.g., threats from the perpetrator, homelessness, etc.). They will only certify one time, without exception for compelling circumstances in which another certification may be needed (e.g., certification expires through no fault of survivor, like illness or theft/damage to their home’s contents). They will only certify cases where they can confirm the survivor is currently or is likely to help in the investigation or prosecution of a crime.³⁸
- e. **Dallas Police Department (DPD):** They consider certifying applicants’ requests that meet the statutory eligibility requirements (e.g., a victim of qualifying criminal activity) and where the offense is under the jurisdiction of DPD. An application must be made within one year of the criminal offense. If the statute of limitations of the crime has not expired, requests may still be considered if “the petitioner establishes that he or she has significant information leading to the identification of the perpetrator”³⁹ of the crime. If charges were filed, requests are referred to the Dallas County District Attorney’s Office. “The Dallas Police Department will not certify those indirect victims of offenses with deceased victims resulting from murder or manslaughter or offenses with a victim younger than 21 years of age that has become incompetent or incapacitated as a direct result of the offense committed against the victim.”⁴⁰ No information is provided on how long requests take to process or data concerning the number of requests received, approvals, and denials.
- f. **Fort Bend County:** The District Attorney’s Office will certify the applicant’s request but does not identify a deadline. Law enforcement departments in the county “will not certify or do not certify very often.”⁴¹ No information is posted on the District Attorney’s nor the Sheriff’s website. The Victim Services Liaison of the District Attorney’s Office was contacted for information, but no response has been received at the time of writing.
- g. **Galveston County:** Galveston Police Department has its policies online; however, no specific U-Visa policy was included. The only material presented is that victim information handouts will be available and current, including a “notice regarding U-Visa and T-Visa application processes.”⁴² No information on the U-Visa process was provided on the District Attorney’s nor the Sheriff’s website.

¹ Only information on these years was available. No information on denials or acceptances was provided (Newton, 2017).

VIII. WHAT IS HAPPENING IN HARRIS COUNTY?

Victim service providers report that Harris County has experienced an increase in demand for U-Visas over the last four years. However, due to a decrease in capacity to help survivors apply for U-Visas, individuals seeking help have been turned away. Service providers have also seen an increased time from application to decision on U-Visas (e.g., the average is 7-10 years) and are reporting that they are just now seeing approval of U-Visas that were applied for in Spring 2016.^J Service providers (i.e., Tahirih Justice Center and Houston Immigration and Legal Services Collaborative [HILSC]) also mentioned the current lack of consistency across departments and contradictions of what a specific organization says their policy is and what survivors experience. For example, the Houston Police Department (HPD) said exceptions to the statute of limitations are made. **Still, many service providers reported that they appealed decisions, and the department did not make exceptions.**

- a. **Victim Service Providers:** Although victim service providers cannot sign certification forms, they can help survivors request certifications from the correct agency according to that agency's specific policy and preferences (e.g., D.A.'s office). Some providers offer referrals to legal services, while others provide actual legal services to survivors for little to no cost. Below are providers that supplied information on how agencies currently handle U-Visa certifications within Harris County. They are not the only service providers that assist survivors with U-Visas, but these organizations provided the most comprehensive information due to their work with survivors and/or agencies that process these certifications. (Refer to Appendix C: List of Service Providers for a list of all service providers in the Houston/Harris County area who assist immigrants, including survivors of crime).

Tahirih Justice Center

- Tahirih provides "a broad range of direct legal and social services, policy advocacy, and training and

education to protect immigrant women and girls fleeing violence."⁴³ Tahirih does not charge for its legal services.

- Based on their experience, they reported that since 2018 about 10 percent of the U-Visa certifications requested from an agency in Harris County were denied.⁴⁴
 - These were all appealed, and 25 percent of the time, these appeals were successful.⁴⁵
- They are unable to take all the cases that come to them for assistance, "about 25% of those were potentially eligible for a U-Visa [sic] but for local law enforcement policies limiting u certifications [sic]."^K
- Tahirih provided similar information on policies of local agencies as those offered directly by the agencies.⁴⁶

Houston Immigration Legal Services Collaborative (HILSC)⁴⁷

- HILSC advocates "for immigrant inclusion, equity, and justice by uniting and strengthening diverse allies, developing holistic immigration legal services, and supporting the creative initiative through principled, values-based collaboration."⁴⁸
- HILSC is made up of over fifteen (15) immigration legal service providers, many of which are a part of its Crime Victims Working Group, which meets regularly to discuss trends and advocates for better local policies for immigrant survivors of crime. HILSC itself does not provide direct services to clients.
- They stated there needs to be a better, consistently used model policy for law enforcement.
- They also suggested that law enforcement officers need education on what U-Visa certification entails (i.e., it does not automatically grant a visa/citizenship).
 - Moreover, trainings should include school police departments who can sign U-Visa certifications.

^J Texas applications have to be filed with the Nebraska Service Center; see also <https://egov.uscis.gov/processing-times> for up to date information on processing times (HILSC, personal communication, March 19, 2021)

^K This also does not consider cases that involve more than one agency and where the survivor was able to get a certification from one, but not another (e.g., both HCSO and DA's office contacted for certification, and received certification only from DA).

- Information needs to be disseminated to practicing attorneys, both non-profit and private, regarding agency policy.
 - There were discrepancies at times from what members of HILSC’s Crime Victims Working Group understood a certifying agency’s policy to be compared to what the agency stated directly.
 - Judges need training on U-Visa certifications. Many judges are unaware they can sign certifications.
 - They expressed that there should be better data tracking and/or policies to:
 - Use data to track policies within Harris County and to compare policies to other counties within Texas.
 - Determine the length of time local law enforcement take to complete certifications.
 - The number of requests and denials of U-Visas in the County and per agency.
 - There needs to be more training on how to interact with survivors, and this needs to be “trauma-informed” since survivors feel they have nowhere to go because they are not listened to. Trauma-informed care realizes the widespread impact of trauma, recognizes the signs and symptoms, and responds to these to better support survivor needs. The principles of trauma-informed care establish the survivor’s safety, build trust, and promote survivor-centered evidence-based care, which is sensitive to the trauma endured and the survivor’s identity and background.⁴⁹
 - They reiterated that the federal cap be increased.
- b. District Attorney’s Office Approach:** Since Form I-918B is used to prove that a survivor is cooperating with the investigation and/or prosecution of certain qualifying crimes, the District Attorney’s Office is a certifying agency. In 2018, the Harris County District Attorney’s Office (HCDAO) engaged Houston Immigration Legal Services Collaborative (HILSC) in a dialogue regarding U-Visa policies. Prior to the current policy, HCDAO had no formal policy that articulated criteria for consideration and certifications were completed based on the office’s discretion.⁵⁰
- In 2019, the District Attorney’s Office published a new policy, which resulted directly through the collaboration between HCDAO and HILSC. (Refer to Appendix D: U -Visa Certification Review Protocol (HCDAO) for a copy of the current policy). This, along with the practice employed by the Harris County Sheriff’s Office (HCSO), are currently the best practices in Harris County concerning certifications.
 - The DA will certify a Form I-918B if someone is a victim of a qualifying crime within the past five (5) years,^L and they are cooperating or cooperated with a prosecution.
 - There has been an increase in requests between 2019 and 2020. **Figure 3** provides data for these two years.
 - **2019: 492 requests^M**
 - 199 certifications (40.4%)
 - 37 referrals (7.5%)
 - 119 denials^N (24.2%)
 - 135 still pending at the end of 2020 (27.4%)
 - **2020: 557 requests⁵¹**
 - 315 certifications (56.6%)^O
 - 63 referrals (11.3%)
 - 97 denials (17.4%)
 - 44 due to time limits (45%)^P
 - 23 due to non-cooperation of the complainant (23.7%)
 - 11 due to not being a qualifying crime per USCIS (11.3%)
 - 11 because the complainant was not a survivor (11.3%)
 - 8 denied due to criminal history (8.25%)^Q
 - 82 still pending at the end of 2020 (14.7%)

^L This statute of limitation is not absolute. There are and have been exceptions to certifications issued if the case happened outside of this five (5) year limit. If there is a compelling reason to certify if the case is outside this limit, the DA’s office will still potentially certify. Every case is taken on an individual basis (HCDAO personal communication, December 18, 2020 and February 26, 2021).

^M The statistics pre-date the change in the DA’s U-Visa policy which broaden certification criteria

^N These were not broken down in categories like the 2020 data.

^O 15 of these were recertifications (2nd signed certification)

^P This was with the option to submit additional information, such as a sworn affidavit, which could then result in approval

^Q The DA previously used criminal history as a significant reason to disqualify, however, they intentionally moved away from that as a disqualifier. Now their policy is “[t]he nature of the applicant’s criminal history. Crimes will be considered on a case-by-case basis by taking into account the nature and facts of the offense, how remote in time the offense was, and the threat posed to public safety” (HCDAO, personal communication, February 26, 2021). Most offenses will not disqualify individuals, but these eight (8) were denied based on criminal history (e.g. previous domestic violence charge). However, this is the least used reason to deny certification.

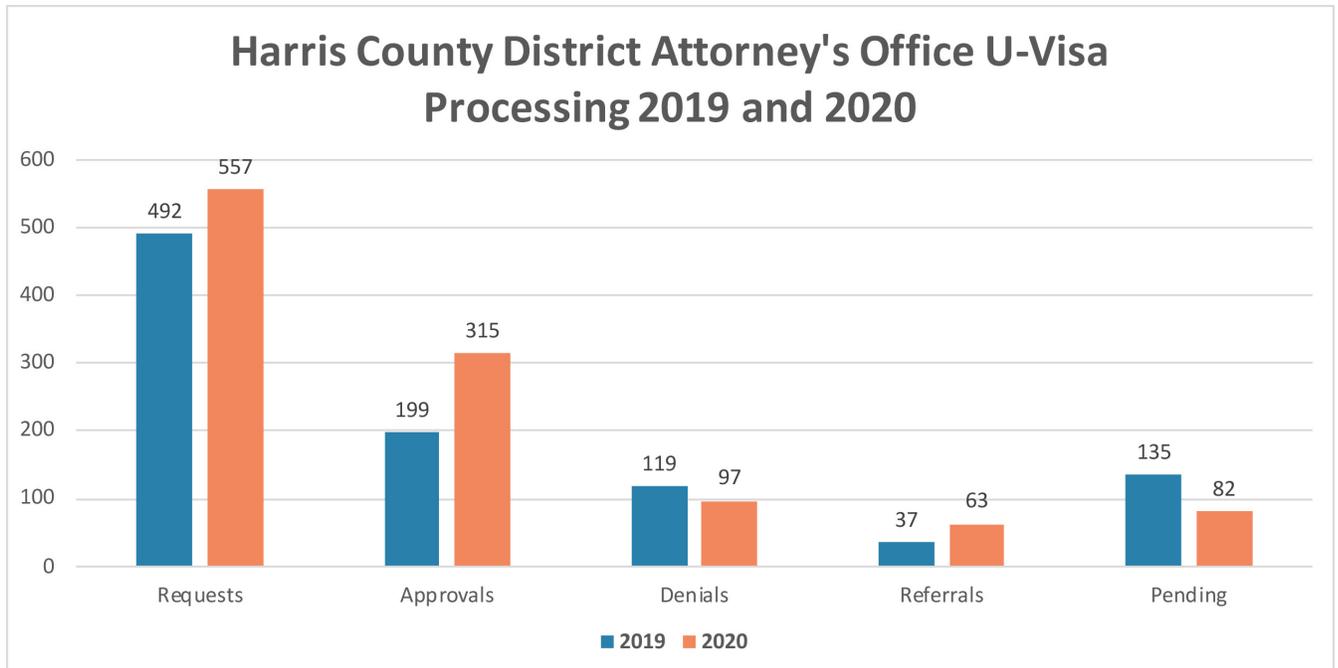


Figure 3: Harris County District Attorney’s Office (HCDAO) U-Visa processing 2019 and 2020.
Source: HCDAO, personal communication, February 26, 2021, and March 5, 2021

- The DA’s office will complete certifications requested by a survivor or a lawyer on behalf of a survivor. However, they suggest survivors use an attorney to make sure form completion is correct, so USCIS does not deny the application for minor mistakes.
- As soon as an application is submitted, the DA begins the certification process if charges have been filed. If the office has not filed charges, the request is sent to the law enforcement agency handling the investigation (e.g., HCSO).
 - The DA’s office aspires to complete certifications within 30 days of receiving the request. However, sometimes these take longer to gather more information or take a second look for exceptions (e.g., a case that occurred six years ago). Some certifications are completed within a week; some take up to 6 months to complete.
- Denials can occur if the applicant has a criminal history, including a violent crime. However, some cases

can still be certified even if there is a criminal history background and are considered on a case-by-case basis.

- c. **Law Enforcement Agencies Approach:** In addition to the District Attorney’s Office, law enforcement departments in Harris County are the primary certifying agencies. However, policies vary from department to department.
 - i. **Harris County Sheriff’s Department (HCSO)**
 - There is currently no formal policy or standard operating procedure (SOP) associated with processing U-Visa requests.^R Even though there is no formal policy or SOP, how Deputy Cisneros currently processes certifications is one of the better practices currently occurring in Harris County.
 - JAD plans to work with HCSO to codify Deputy Cisneros’ current approach to support survivors into a formal departmental policy.

^R This is how these are currently processed by HCSO (HCSO, personal communication, December 7, 2020 and March 8, 2021).

- Although service providers indicated that HCSO also has a statute of limitations for certifications (similar to the DA's office), HCSO stated that they do not have a cut-off for how long-ago a victimization occurred to complete a certification. However, the length of time between incident and application does increase the likelihood that HCSO cannot verify the application information.
- HCSO requires an attorney to submit the certification paperwork to them, and these are received via mail and email.
- Although they do not have a deadline for processing requests, they want to process these as quickly as possible and attempt completions within a week of receipt.
- If a suspect is arrested or charged, the certification is referred to the DA for completion.
- Denials generally occur because the individual was not a victim of a qualifying crime (as required by USCIS), there is no case number provided, or no record of the name in a criminal case file (so no way to verify information).
- HCSO has sees an average of 35-40 U-Visa requests a month. **Figure 4** provides data for 2019 and 2020.
 - In 2019, there were 337 requests⁵²
 - 171 certifications (50.7%)
 - 35 denials (10.4%)
 - 115 referrals (e.g., to DA) (34.1%)
 - 0 repeat petitions

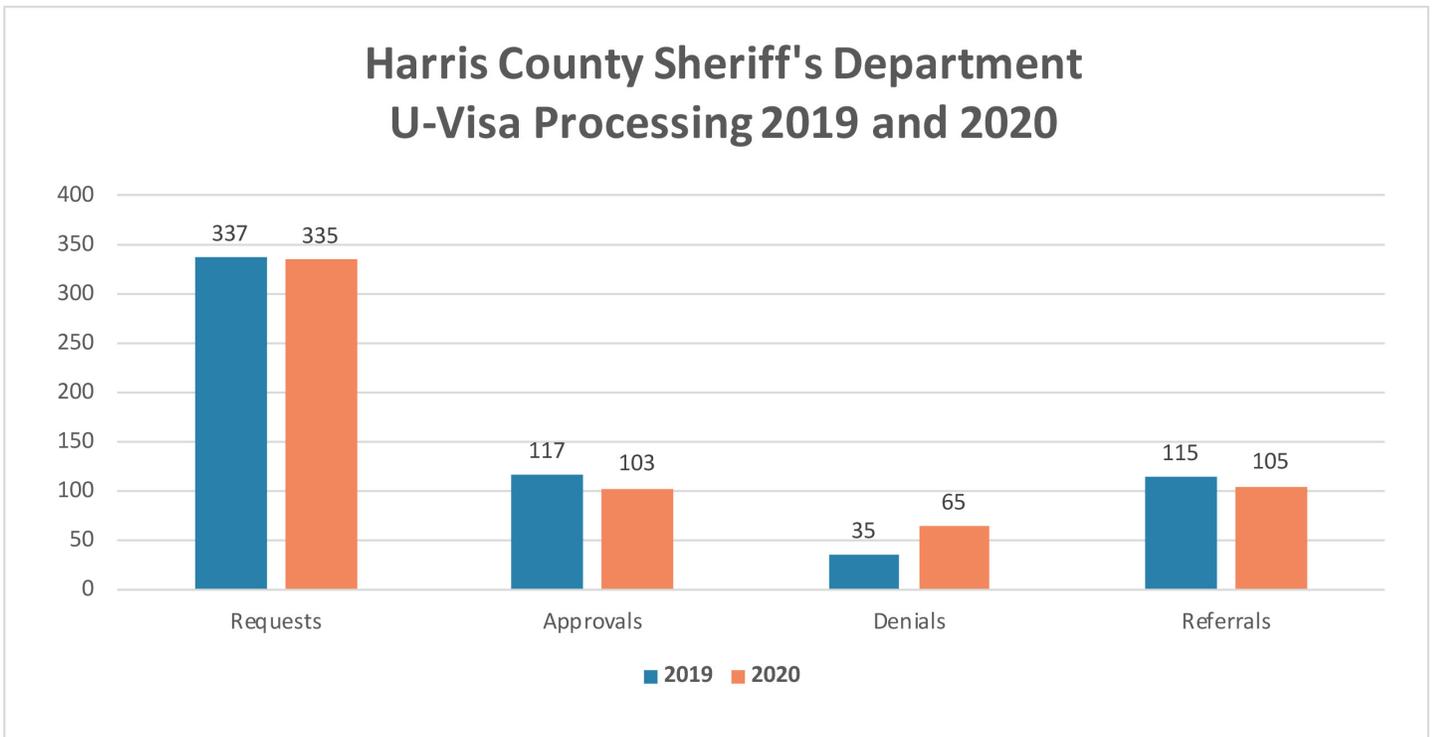


Figure 4: Harris County Sheriff's Office (HCSO) U-Visa Processing for 2019 and 2020.

Source: HCSO, Personal Communication, March 8, 2021.^T

⁵ The numbers do not equal up, which was acknowledged by HCSO. Deputy Cisneros, who currently handles U-Visa certifications took over in August of 2020 and has since started to maintain more accurate data collection concerning these. However, there is some missing data from late 2019 and early 2020. There was no data provided on pending certifications (HCSO, personal communication, March 8, 2021).

^T Numbers do not equal up (see note above).

◦ In 2020, there were 335 requests⁵

- 103 certifications (30.7%)
- 65 denials (19.4%)
- 105 referrals (31.3%)
- 15 repeat petitions (4.48%)

ii. **Houston Police Department (HPD)**⁵³

- HPD does have a statute of limitations for when the victimization occurred and whether they will process certification requests. This is dependent on the statute of limitation of the crime in the penal code.
- HPD will only accept requests through the mail with a receipt to show evidence of submission. Survivors can submit certifications and if they do not have an attorney, HPD will prescreen the application and provide the applicant with a form with information about legal resources to utilize to make sure survivors can take advantage of legal services, if needed.
- HPD has seen an increase of U-Visa requests at the start of the COVID pandemic and an average influx around November and December 2020.
- HPD does consider the criminal history of survivors and puts it in the U-Visa application. A criminal record is not an automatic disqualification, but they will not certify a person with a past violent criminal arrest.
- On average, they receive 1200-1500 requests per year.^u

◦ In 2020, there were 1301 requests.

- 808 of these were approved (62.1%)^v

iii. **Harris County Constables:** There is significant variation between the Constable Precincts on how they handled U-Visa certifications. Some Precincts have not created policies, others have specific policies they follow, while others plan to create policies. Additionally, Precincts gather little to no data concerning their processing of U-Visa certifications.

1. Constable Precinct One⁵⁴

- According to Constable Rosen, the Precinct is waiting on a response from the Department of Homeland Security on additional data and specific requirements to inform their policy.
- They have also met with HPD and HCSO for input and guidance on policy creation.

2. Constable Precinct Two⁵⁵

- Precinct Two is in transition, and Constable Garcia has expressed and demonstrated his commitment to reviewing all current internal policies.
- When approached by JAD with questions about policies, Constable Garcia explained that his Precinct did not have a written policy regarding U-Visa certifications.
- Constable Garcia asked JAD to write a brief report with information concerning U-Visas and policies. Constable Garcia, along with Assistant Chief Manuel Quintanilla, worked with JAD to draft a Precinct Two U-Visa model policy. During this process, JAD was able to make the policy more clear for staff, how departments could promote the existence of the U-Visa program, made suggestions on developing victim services material to help staff interact with survivors of crime, and better partner with other outside agencies serving survivors.
- Constable Garcia plans to use the U-Visa policy found in Appendix E. This policy was reviewed and approved by the County Attorney's Office (CAO) and is the policy we strongly recommend other agencies adopt as well.

3. Constable Precinct Three

- After contacting Precinct Three, dispatch informed JAD that currently, there is no policy or person dedicated to U-Visa certifications. This could be that they don't have enough requests to warrant a policy.

4. Constable Precinct Four⁵⁶

- After speaking with Assistant Chief Deputy John Hecker, we learned that Precinct Four certifies U-Visa requests, regardless of if the department filed charges against a defendant.

^u HPD did not give exact data on requests received and/or denials. They stated that an open records request should be completed to gather this data. A request was submitted, and two more emails were sent to receive this data, but at the time of this writing no information has been received.

^v The HPD contact who provided the 2020 data was emailed twice to get additional information, but no response was received by the time of writing (HPD, personal communication, March 4, 2021).

- All requests are received via U.S. mail or FedEx from a law firm, but survivors could request certification too.
- The department does not compile data on requests received, acceptances, or denials.
 - Denials only occur if the applicant does not meet USCIS criteria (e.g., not a survivor of a qualifying crime).
- Requests are processed within 30 days, if not sooner.
- There is no statute of limitation for victimization used; however, the information on the date of victimization is included on the paperwork sent to USCIS.

5. Constable Precinct Five⁵⁷

- After speaking with Ms. Barbara McInnis of the Crime Victim Assistance Unit, we learned that Precinct Five relies on a statute of limitations of the crime committed per the penal code. Still, ultimate determination is from the Captain who signs off on the certification. The policy originated from conversations with HPD and the Harris County District Attorney's Office (HCDAO).
- The Precinct received minimal requests for certifications.
 - For the last 4 years, a total of six (6) applications were completed.
- The Precinct refers survivors to victim service providers and agencies that can assist them in completing the application and certification form.
- The Precinct attempts to process certifications within 30 days of receipt.

6. Constable Precinct Six⁵⁸

- After speaking with Deputy Melissa Mendieta, we learned that certifications have only been submitted via mail by lawyers assisting survivors.
- Between 2017 and 2019, there have been five (5) certification requests received.
 - Three (3) certified.

- Two (2) denied for not meeting the criteria (e.g., not a qualifying crime) and/or the application was incomplete.
- No certification requests were received in 2020, and none received so far in 2021.
- There is no set timeline to process requests, but attempts are made to complete these within the same week, if not the same day.
- The Precinct does not have a statute of limitation for when victimization occurred.

7. Constable Precinct Seven

- Unfortunately, we were not able to contact a team member from Precinct Seven. We will continue to try to make contact. We do know that they have a designated team member supporting survivors, Deputy Venita Gatson.

8. Constable Precinct Eight

- After speaking with Chief Deputy Jason Finnen, we learned that Precinct Eight does refer some certifications to HCDAO for approval, if "we know the person is undocumented and has assisted with a case or were themselves a victim."⁵⁹
- Requests are received by mail or fax and processed within a matter of days.
- Data on requests, acceptances, and/or denials are not maintained.
- The Precinct reviews requests on a case-by-case basis, and no statute of limitation is applied.

IX. CURRENT CHALLENGES

Similar to the challenges with the U-Visa program occurring on the federal level, there are local-level challenges concerning certifications.

- Statute of limitations.** Although not all agencies employed a statute of limitation for when the victimization occurred, some (e.g., HPD) did.^w Victim service

^w HCDAO also has a statute of limitations of five (5) years, however, they will review requests outside this time limit on a case-by-case basis and these can still be approved.

providers suggest that the best way to assist survivors is to eliminate this time restriction. They stated that it is the “most harmful” and “doesn’t help survivors” since it penalizes those who may have just become aware of the U-Visa program even though their victimization occurred outside this statute of limitation. Some individuals may have been victimized prior to the creation of the U-Visa. Having a time restriction automatically disqualifies them from applying, even though legislation and accompanying regulations did not intend that to be the case. Additionally, survivors of severe violence often have urgent and complex needs (e.g., safety concerns) that are a priority and may take a long time before being able to provide material assistance or request certification. By the time these issues and needs are dealt with, the time limit to request a certification may have passed.

b. **Inconsistencies and contradictions.** There were many inconsistencies and contradictions between what a specific agency (e.g., HPD) says their policy is and what victim service providers say they have experienced when requesting certifications. For example, HPD noted that they could make exceptions to the statute of limitation, but service providers reported that they appealed decisions and no “exceptions” occurred. Collaboration is helpful to foster communication between service providers and certifying agencies, but collaboration will not solve the issues of inconsistencies.

◦ **Determination of “helpfulness”.** A challenge indicated by victim service providers was how agencies interpret “helpfulness.” There is a wide interpretation of helpfulness both from agency to agency, as well as from case to case. Sometimes being “helpful” is making a report and answering the phone when the agency calls; other times, agencies require the survivor to be proactive with following up with their case even if there has been no progress made in the case by detectives/investigators. Like that in the California legislation, a presumption of helpfulness would help with not getting certifications denied because the victim’s attempts at cooperation were not answered,

not recorded, or were not considered “helpful enough” by the agency.

c. **Data challenges.** Not all agencies keep data concerning U-Visa certifications. Several of the Constable Precincts reported that they had no data or did not keep data concerning these. Additionally, there is inconsistent data collection with departments. For example, HCSO did have data, but this data was incomplete. They are attempting to keep better records, but there was no data for late 2019 or early 2020. Additionally, some agencies keep data on acceptances, denials, and referrals, but do not have pending information or detailed information on denial reasons. There should be consistent records kept on the number of requests received by each agency, acceptances, referrals, denials, and the reasons for denials (e.g., not a qualifying crime).

X. SOLUTIONS/ RECOMMENDATIONS

Although policies can be changed at the local and state level to be more survivor-focused and make the process easier to navigate, they will not alleviate the national challenges. Harris County and/or Texas can have the country’s best policies, but it will amount to little change for survivors seeking U-Visas unless improvements are made at the federal level. However, there are still recommendations for action that all government levels can implement to make the U-Visa process easier for survivors and work as intended-- to assist law enforcement and protect survivors. The following has these recommendations broken down in federal, state, and local actions.

a. **Federal Action:** On the Federal level, Congress and/or Executive Action should do the following:

- **Increase or Eliminate the current limitation on U-Visas.** The current cap is 10,000 per fiscal year. However, this has resulted in massive backlogs and long processing times for U-Visa applicants. Local advocates voiced this concern. However, even if the cap was 100,000 per fiscal

year, “there would still be a line” to get U-Visa applications approved.⁶⁰

° Recently, with the change of the federal administration, there is potential for change to U-Visa policies. Under the proposed new immigration bill, the “number of these visas is expected to increase from 10,000 to 30,000.”⁶¹ At this time, this bill is still working its way through Congress. Even if approved, there are still significant U-Visa application backlogs, which an increase of 20,000 visas will not resolve. Even so, Congress should expand the cap to more than the proposed 30,000. The best action would be to eliminate any cap on the number of U-Visas approved each year and grant as many as USCIS receives from qualifying individuals.

- Employment authorization should be made available to survivors while their applications are pending. The ability to work is a major contributor to a survivor’s ability to move forward in safety and dignity. Work authorization would help avoid homelessness, limit opportunities for revictimization, and benefit the community as a whole. Employment authorization also allows the survivor to have recognized identification and apply for a driver’s license as well. The positive impact of having ID and the ability to work for an immigrant survivor cannot be understated.
- It is recommended to increase funding to the Department of Homeland Security, specifically USCIS, to help address the current backlog and to implement automation to improve the processing time for U-Visa applications. This would help with both the backlog of existing applications and the long processing time.
- It is recommended that the Department of Homeland Security increase education and awareness in the public and attorney advocates by implementing a social media campaign.⁶²

Many advocates and those in law enforcement indicated that many survivors are unaware of the U-Visa program even though they might qualify. More education on this program and the necessary qualifications need to be made public.

- Information on the U-Visa program, and application materials, need to be available in more languages than English. Currently, the application is only available in English on the USCIS website. For many immigrants, English is not their native language and having information only in English presents a barrier to learning about the program and completing the paperwork necessary. **Initially, the information should be delivered in Spanish but expanded to include many more languages on the USCIS website.**
- If survivors are waiting for a U-Visa application to be fully processed, **deportation proceedings should not be initiated.** Currently, during the wait time for a U-Visa application to process (7-10 years), a survivor can still be put through deportation proceedings and potentially deported from the country. Survivors should not fear deportation while waiting for their application to be approved by USCIS. If deportation proceedings have already been initiated, they should be halted to allow sufficient time for USCIS to adjudicate the application. This is in the best interest of the survivor and better use of limited government resources.
- Expand the list of qualifying crime categories. Currently, there are twenty-nine categories of crime that are considered “qualifying.” (Refer to **Appendix B** for the complete list). However, these are categories of crimes and not specific criminal code violations. Congress could still expand the list to include other crimes that should be considered qualifying due to the impact on the survivor.

- A final recommendation is to mandate law enforcement agencies to complete certification forms for all survivors (and bystanders) of qualifying crimes. As of right now, there is no federal mandate for law enforcement agencies to complete these forms.
 - i. **Next Steps:** The following are the next steps to implement these recommendations at the federal level.
 - JAD will speak with Commissioners Court members and Intergovernmental Affairs (IGA) about reaching out to Congress to urge them to amend pending federal legislation to expand the U-Visas cap.
 - This report will be disseminated to advocacy groups working to advance federal legislation that impacts immigrants, particularly survivors of crime.
 - JAD will speak with Ender Reed, Director of Intergovernmental Affairs (IGA), and Commissioners Court members to see if they are willing to ask the current federal administration to amend existing policies concerning the U-Visa program to incorporate our recommendations.
- b. **State Action:** On the State level, the Texas legislature should enact laws that make it easier for survivors of crime by doing the following:
 - Using California and Washington state legislation as a guide, the state should consider legislation that affords a “presumption of helpfulness” on the part of survivors who request U-Visa certification.
 - The legislature should also consider legislation that allows Form I-918B to be signed even if charges are not filed, if the investigation is over, and/or no prosecution or conviction occurred.
- It is also recommended that there be increased training for law enforcement officers to understand their role in certification and the process. There is currently a lack of understanding among law enforcement on what occurs after signing Form I-918B, which can result in agencies refusing to sign certifications even if an applicant qualifies. For example, HILSC suggested making a brochure with information about U-Visas to distribute to agencies, and educating law enforcement on the process and outcome of certification.⁶³ Training will allow for a better understanding of the U-Visa and law enforcement’s role in the process. Uniform training will also assist in alleviating discrepancies across jurisdictions.⁶⁴
- Additionally, funding should be provided for victim service providers and law enforcement agencies to have designated individuals to complete certifications to limit inconsistencies and changes to informal policies.
 - i. **Next Steps:** The following are the next steps to implement these recommendations at the state level.
 - JAD will ask that Commissioners Court support any policies that could strengthen how U-Visa certifications are handled throughout the state.
 - If given approval, JAD will coordinate with Ender Reed, Director of IGA, to determine if any piece of legislation currently proposed could be amended to incorporate improvements to U-Visa policies.
 - If there is no proposed legislation that can be amended this legislative session, then next session, a proposal for improvements to the Harris County legislation agenda will be added.

c. **Local Action:** While the federal policies on U-Visas create significant barriers to assisting survivors of crime, local jurisdictions can establish equitable best practices to help. (See **Appendix E** for an example model policy adapted using parts from HCSO, HCDAO, LASD, the National Immigrant Women’s Advocacy Project’s (NIWAP) sample policy, and input from the Immigrant Legal Resource Center [ILRC], Constable Precinct Two Jerry Garcia, and HILSC). The following recommendations should be adopted on a local level:

- Harris County Sheriff’s Office and Harris County District Attorney’s Office (HCDAO) have strong local practices for completing U-Visa certifications.
 - While the HCDAO has a five-year statute of limitations, they do have exceptions. Alternatively, HCSO has no statute of limitations. **Victim advocates suggest no “time limit” between victimization and certification requests to assist all survivors who would qualify for a U- Visa.**⁶⁵
- There should be **more collaboration and cooperation between agencies and between agencies and victim service providers.** There were contradictions expressed between agency policy and what service providers indicated they had experienced. If there was increased collaboration between agencies, this might not be the case. Similar to how HILSC worked with HCDAO, other agencies should work with victim services providers and vice-versa to inform policies. In addition to collaboration, there should be a recognition and strategy to be activated to aid with an appeal when a process is not complied with.
- Certification **should not be** denied due to lofty expectations of survivors.^x There should also be an opportunity for a survivor to overcome a finding of unhelpfulness by demonstrating compelling circumstances that prevented them from providing assistance or that the lack of assistance was

reasonable. The Department of Homeland Security (DHS) even recommends promoting a **“victim-centered approach”** that is **“trauma-informed.”** ⁶⁶ “This approach includes practices to minimize victimization and additional trauma, and equally values the identification and stabilization of victims, including providing immigration relief, and the investigation and prosecution of perpetrators of serious crimes.”⁶⁶ This includes helping a survivor feel safe, stable, and secure, to encourage survivors to come forward to assist in the investigation, and prosecution of crime. There should be a **“presumption of helpfulness”** by law enforcement rather than requiring survivors to “prove” their helpfulness.

- **Survivors should be able to request certification by law enforcement without utilizing an attorney.** HCSO requires requests to come from attorneys; however, they even suggested it would be easier for survivors if they did not need to use an attorney for a request if desired. HCDAO does not require requests to come from attorneys, but they suggest a survivor have an attorney review the form to prevent USCIS from automatically denying the request due to irregularities.
 - However, even if using an attorney, survivors should not be charged for the application. It should be completed Pro Bono because of the trauma they have experienced.⁶⁷
- Criminal and immigration history **should not be** an automatic disqualifier in U-Visa certifications. Victim service advocates recommend that criminal and immigration history should not be considered at all for certifications. USCIS will consider the applicant’s history when adjudicating the application. Agencies can consider criminal history on a case-by-case basis. The law enforcement certification simply serves as a statement that the person was a victim of a qualifying crime and was reasonably helpful in the investigation or prosecution of that crime. However, more consensus building needs to be

^x Survivors may miss a meeting or a phone call, but still assist in the prosecution of the perpetrator. In these instances, a minor “mistake” should not be the basis for denying their request for certification.

completed between victim service providers and law enforcement in this area.

- Additional funding should be provided to victim service providers and law enforcement to complete certifications. Due to increased demand, service providers have had to turn away individuals. Additional funding could increase these providers' capacity, allowing them to work more fully with survivors seeking assistance.
- Agencies should provide U-Visa certification information in their victim services packet that is given to all crime victims. Information on U-Visa certification needs to be posted on agency websites. The contact information of those who certify and/or assist survivors needs to be readily available with phone numbers and email addresses.^Y
- Besides providing information readily on agency websites, this information needs to be delivered in several languages. Most times, if there is information on websites, it is primarily in English, sometimes also in Spanish. There are immigrant survivors whose primary language is Vietnamese, Chinese, Swahili, etc. A good example is the Seattle PD website which has information in seven (7) languages for immigrants.
 - i. **Next Steps:** The following are the next steps for the U-Visa policy and the promotion of said policy in Harris County.
 - JAD will coordinate internally on the viability of having a Harris County reporting dashboard similar to the one utilized by Washington State.⁶⁸
 - JAD will schedule meetings with all the law enforcement agencies and go over our recommendations, and model U-Visa policy.

- JAD will distribute recommended policy and implementation guide to all law enforcement agencies and ask if they would be willing to consider adopting this policy. JAD plans to work with local agencies:
 - To amend their victim services packets to reflect any change in policies;
 - To address concerns with any challenges with the implementation of the policy, including internal trainings; and
 - To assist them with keeping track of data regarding U-Visa certifications.

<https://app.smartsheet.com/b/publish?EQBCT=8b-24ccbd665b44f8b3c5265176b449ad>

^Y Even when departments provide phone numbers to call, this still assumes a survivor can make a phone call without the perpetrator's knowledge. This may not be feasible for all survivors, especially those who are in abusive relationships or being trafficked. The easiest way to contact someone may be through a weblink/email rather than calling and then possibly being on hold or transferred several times to speak to the correct officer/division.

XI. APPENDICES

a. Appendix A: Form I918, Supplement B

See <https://www.uscis.gov/sites/default/files/document/forms/i-918supb.pdf> for a copy of Form I918, Supplement B, which is also provided below.



Supplement B, U Nonimmigrant Status Certification
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-918
OMB No. 1615-0104
Expires 04/30/2021

| For USCIS Use Only | Remarks |
|-----------------------------|---------|
| | |

▶ **START HERE - Type or print in black or blue ink.**

Part 1. Victim Information

1. Alien Registration Number (A-Number) (if any)
▶ A-

| | | | | | | | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
 - 2.a. Family Name (Last Name)
 - 2.b. Given Name (First Name)
 - 2.c. Middle Name
- Other Names Used** (Include maiden names, nicknames, and aliases, if applicable.)
- If you need extra space to provide additional names, use the space provided in **Part 7. Additional Information.**
- 3.a. Family Name (Last Name)
 - 3.b. Given Name (First Name)
 - 3.c. Middle Name
 4. Date of Birth (mm/dd/yyyy)
 5. Gender Male Female

Part 2. Agency Information

1. Name of Certifying Agency
- Name of Certifying Official
- 2.a. Family Name (Last Name)
 - 2.b. Given Name (First Name)
 - 2.c. Middle Name
 3. Title and Division/Office of Certifying Official

Name of Head of Certifying Agency

- 4.a. Family Name (Last Name)
- 4.b. Given Name (First Name)
- 4.c. Middle Name

Agency Address

- 5.a. Street Number and Name
- 5.b. Apt. Ste. Flr.
- 5.c. City or Town
- 5.d. State 5.f. ZIP Code
- 5.g. Province
- 5.h. Postal Code
- 5.i. Country

Other Agency Information

6. Agency Type
 Federal State Local
7. Case Status
 On-going Completed
 Other
8. Certifying Agency Category
 Judge Law Enforcement Prosecutor
 Other
9. Case Number
10. FBI Number or SID Number (if applicable)

Part 3. Criminal Acts

If you need extra space to complete this section, use the space provided in **Part 7. Additional Information**.

1. The petitioner is a victim of criminal activity involving a violation of one of the following Federal, state, or local criminal offenses (or any similar activity). (Select all applicable boxes)

- Abduction
- Abusive Sexual Contact
- Attempt to Commit Any of the Named Crimes
- Being Held Hostage
- Blackmail
- Conspiracy to Commit Any of the Named Crimes
- Domestic Violence
- Extortion
- False Imprisonment
- Felonious Assault
- Female Genital Mutilation
- Fraud in Foreign Labor Contracting
- Incest
- Involuntary Servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of Justice
- Peonage
- Perjury
- Prostitution
- Rape
- Sexual Assault
- Sexual Exploitation
- Slave Trade
- Solicitation to Commit Any of the Named Crimes
- Stalking
- Torture
- Trafficking
- Unlawful Criminal Restraint
- Witness Tampering

Provide the dates on which the criminal activity occurred.

2.a. Date (mm/dd/yyyy)

2.b. Date (mm/dd/yyyy)

2.c. Date (mm/dd/yyyy)

2.d. Date (mm/dd/yyyy)

3. List the statutory citations for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

4.a. Did the criminal activity occur in the United States (including Indian country and military installations) or the territories or possessions of the United States? Yes No

4.b. If you answered "Yes," where did the criminal activity occur?

5.a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute? Yes No

5.b. If you answered "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

6. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the petitioner named in **Part 1**. Attach copies of all relevant reports and findings.

7. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

Part 5. Family Members Culpable In Criminal Activity

1. Are any of the victim's family members culpable or believed to be culpable in the criminal activity of which the petitioner is a victim? Yes No

If you answered "Yes," list the family members and their criminal involvement. (If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**)

- 2.a. Family Name (Last Name)
- 2.b. Given Name (First Name)
- 2.c. Middle Name
- 2.d. Relationship
- 2.e. Involvement

- 3.a. Family Name (Last Name)
- 3.b. Given Name (First Name)
- 3.c. Middle Name
- 3.d. Relationship
- 3.e. Involvement

- 4.a. Family Name (Last Name)
- 4.b. Given Name (First Name)
- 4.c. Middle Name
- 4.d. Relationship
- 4.e. Involvement

Part 6. Certification

I am the head of the agency listed in **Part 2.** or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in **Part 1.** is or was a victim of one or more of the crimes listed in **Part 3.** I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.

1. Signature of Certifying Official (sign in ink)
2. Date of Signature (mm/dd/yyyy)
3. Daytime Telephone Number
4. Fax Number

b. Appendix B: List of Qualifying Criminal Activities⁶⁹

- Rape
- Torture
- Human Trafficking
- Incest
- Domestic Violence
- Sexual Assault
- Abusive Sexual Contact
- Prostitution
- Sexual Exploitation
- Female Genital Mutilation
- Stalking
- Being Held Hostage
- Obstruction of Justice
- Perjury
- Peonage

- Involuntary Servitude
- Slave Trade
- Kidnapping
- Abduction
- Unlawful Criminal Restraint
- False Imprisonment
- Blackmail
- Extortion
- Manslaughter
- Murder
- Felonious Assault
- Fraud in Foreign Labor Contracting
- Witness Tampering
- Other Related Crimes^z

^z This includes activity where the elements of the crime are substantially similar. These are categories of crimes and not specific crimes; various federal, state, and local statutes can fall into these general categories. These also include an attempt, conspiracy, or solicitation to commit any of the qualifying crimes and other related crimes (DHS, 2019).

c. Appendix C: List of Service Providers

- **BakerRipley at Ripley House**
6535 Rookin St. Houston, Tx 77074
(346) 867-3871
<http://www.bakerripleyimmigration.as.me/schedule.php>
- **Boat People SOS**
11360 Bellaire Blvd, Suite 910, Houston, Tx 77072
(281) 530-6888
<http://www.bpsos.org/>
- **Catholic Charities Cabrini Center**
2707 North Loop West, Ste 300, Houston, Tx 77008
(713) 874- 6570
<https://www.catholiccharities.org/>
- **Memorial Assistance Ministries (MAM)**
1625 Blalock Road, Houston, Tx 77080
(713) 468-4516
<https://www.mamhouston.org/legal>
- **Galveston-Houston Immigrant Representation Project (GHIRP)**
PO Box 130601, Houston, Tx 77219
(713) 561-3059
<https://www.ghirp.org/>
- **Justice for Our Neighbors (JFON)**
2220 Broadway St, Houston, Tx 77012
(713) 454-6470
<http://www.jfonhouston.org>
- **Tahirih Justice Center**
1717 St. James Place Ste 450, Houston, Tx 77056
(713) 496-0100
<https://www.tahirih.org>
- **South Texas College of Law: Randall O Sorrels Legal Clinic**
1303 San Jacinto Street Houston, Tx 77002
(713) 646-2990
<http://www.stcl.edu/academics/legal-clinics/special-focus-clinics/>
- **University of Houston Law Center – Civil Practice Clinic**
4604 Calhoun Rd Houston, Tx 77204
(713) 743-2094
<http://www.law.uh.edu/clinic/immi>
- **Kids In Need of Defense (KIND)**
(only assists those under 18)
1303 San Jacinto St, 9th Floor, Houston, Tx 77002
(832) 779-4030
<https://www.supportkind.org>
- **YMCA International Services**
6671 Southwest Fwy, Ste 250, Houston, Tx 77074
(713) 758-9261
<https://www.ymcahouston.org/locations/ymca-international-services>

d. Appendix D: U -Visa Certification Review Protocol (HCDAO)⁷⁰

Taking into account victims' rights and the interests of justice, the following protocol shall be used when reviewing applications for U-Visa Certification:

All applications should be sent to the attention of the U-Visa Coordinator at the Harris County District Attorney's Office:

U-Visa Coordinator

Harris County District Attorney's Office
500 Jefferson, Suite 600
Houston, Texas 77002
uvisacertificationre@dao.hctx.net

Upon receipt of an application for U-Visa Certification, an email (or mailed confirmation in the absence of email address information) will be sent to the applicant or applicant's attorney confirming receipt of the certification request.

Following the notification, the U-Visa Coordinator will do a preliminary screening of the certification request by reviewing the following criteria:

- Was the applicant a crime victim who is eligible for a U-Visa under the federal guidelines?
- Did the crime occur within the past 5 years?
- Was a criminal case filed with the District Attorney's Office?
- Was the applicant cooperative with prosecution efforts?
- Does the applicant have a clear criminal history (prior history related to an applicant's immigration status and/or removal history will not be considered)?

If the answer to ALL of the above questions is "yes" then the U-Visa Coordinator will automatically certify the applicant's application.

If the answer to ANY of the above questions is "no" then the U-Visa Coordinator will forward the certification request to the Director of Victim Services for a secondary review. The Director will take into consideration the following criteria when making a decision regarding the certification request:

- The nature of the crime
- The nature of the applicant's cooperation with prosecution
- The availability of documentation demonstrating the applicant's cooperation with the prosecution
- The nature of the applicant's criminal history. Crimes will be considered on a case-by-case basis by taking into account the nature and facts of the offense, how remote in time the offense was, and the threat posed to public safety.
- Any sworn and notarized document provided by the applicant in support of their certification request

Once a decision has been made regarding the certification request, the U-Visa Coordinator will promptly notify the applicant or applicant's attorney of that decision by email or mail. Decisions will be made as soon as possible, but generally within 30 days of receiving the request for certification.

If an applicant is certified by the Harris County District Attorney's Office while the underlying criminal case is still pending, and the applicant subsequently becomes uncooperative with prosecution efforts, the U-Visa Coordinator will immediately notify the Director of Victim Services and will file an updated form revoking the certification by the Harris County District Attorney's Office.

e. Appendix E: U-Visa Certification Sample Model Policy
(reviewed and approved by the County Attorney’s Office)

| | |
|--|---|
| | DEPARTMENT |
| | GENERAL ORDERS, POLICIES, AND PROCEDURES |
| | Enforcement Operations |
| | Specialized Situations and Services |

| Department | Date of Issue | Page | Number |
|---|---------------|-----------------|--------|
| Subject: CERTIFICATION OF U-VISA NON- IMMIGRANT STATUS (FORM I-918, SUPPLEMENT B) | | BY AUTHORITY OF | |

i. Purpose

The purpose of this General Order is to establish guidelines and procedures for officers who receive requests for a U-Visa Certification (Form I-918, Supplement B). This General Order also specifies the certifying supervisor who will sign Form I-918, Supplement B.

ii. Definitions

- **“Qualifying criminal activity”** is defined by statute to be “activity involving one or more of the following or any similar activity in violation of federal, state, or local criminal law.” The statute also includes the attempt, conspiracy, or solicitation to commit any of the crimes listed:

| | | |
|--|---|--|
| <ul style="list-style-type: none"> • Abduction • Abusive sexual contact • Blackmail • Domestic violence • Extortion • False imprisonment • Felonious assault • Unlawful criminal restraint • Being held hostage • Incest | <ul style="list-style-type: none"> • Involuntary servitude • Kidnapping • Manslaughter • Murder • Obstruction of justice • Peonage • Female genital mutilation • Prostitution • Stalking • Rape | <ul style="list-style-type: none"> • Sexual assault • Sexual exploitation • Slave trade • Torture • Trafficking • Perjury • Witness tampering • Other related crimes |
|--|---|--|

- “Any Similar Activity” refers to other criminal activity when the similarities are substantial, and the nature and elements of the criminal activity are comparable.
- The “U-visa” is the common name for the U nonimmigrant status.
- Signing Form I-918B (i.e., “law enforcement certification” **does not** grant the applicant a U-Visa. It is one piece of an applicant a survivor needs to submit to USCIS who will make the ultimate determination of granting a U-Visa or not.

iii. Policy

- a. It is the policy of this department to assist immigrant crime victims with their U-visa applications
- b. It is the policy of this department that a U-Visa request shall be reviewed, certified, or denied by the department which investigated the incident except for those investigations that are transferred to a specialized unit (e.g., Human Trafficking Unit, Domestic Violence Unit, etc.). Those requests shall be reviewed and certified or denied by the specialized unit. When a U-Visa request is made, the detective supervisor, U-Visa coordinator, or designee shall review the request and certify or deny the request based on USCIS criteria. Each request shall be reviewed on an individual basis by confirming the following information:
 1. Applicant was a victim of “qualifying criminal activity” (see definitions below).
 2. The individual has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity (or is exempt), and has complied with all reasonable requests to assist law enforcement—the victim’s helpfulness in the investigation of the case.
 3. The information listed on the form is accurate to the best of your knowledge.
 4. The certifying official:
 - has direct knowledge of the information listed (or has reviewed relevant records);
 - confirms that the victim is complying with reasonable requests for assistance; and
 - communicates with USCIS if the victim unreasonably refuses to assist in the investigation or prosecution and the agency needs to withdraw or disavow a previously signed Form I-918B.

iv. Procedure

Before completing a Form I-918, Supplement B (a request for a U-visa certification), the certifying official shall have verified the following:

- a. The noncitizen was or is a
 1. **Direct Victim:**
 - a victim of a criminal activity (listed in Part III-A above) that took place in the United States or its territories or occurred outside the United States but violates U.S. extraterritorial law; or
 2. **Indirect Victim:**
 - the spouse or under-21-year-old child of a victim who is deceased because of murder or manslaughter, or who is incompetent or incapacitated; or
 - the parents and unmarried under-18-year-old siblings of an under-21-year-old victim who is deceased because of murder or manslaughter, or who is incompetent or incapacitated.

3. **Bystander:**

- An individual who was not the direct target of a crime, but who nevertheless suffered “unusually direct injury” as a result of the qualifying crime. Though a bystander/witness victim requires an “unusually direct injury” for the purposes of DHS adjudicating U-Visa status, **determination of harm is not required for purposes of issuing a U-Visa certification.** USCIS will make the ultimate determination of whether the applicant suffered an “unusually direct injury” as a result of a qualifying crime.
- b. Was the criminal case handled by this agency?
1. If not, refer to the agency handling/investigating the case.
 2. Either the agency investigating the case or the agency prosecuting the case (i.e., Harris County District Attorney’s Office) **may sign the certification** if requested by the survivor or their legal counsel.
- c. The applicant has been, is being, or is likely to be helpful in the investigation.
1. It is the department’s policy to presume the helpfulness of the applicant.
 - i. The applicant is helpful if they possess information about a qualifying criminal activity; and/or
 - ii. Demonstrate cooperation during the detection or investigation of said activity, even if the investigation is not completed.
 - iii. If the victim has not refused or has not failed to provide information and/or assistance reasonably requested by law enforcement, the victim is considered helpful.
 - iv. Victims are not required to show documentary proof of their cooperation as part of their initial request for certification. To qualify for a U-Visa, the victim will need to provide evidence to USCIS as part of their application.
 - v. Victims threatened by further acts of violence or who can show evidence of other compelling circumstances (such as homelessness, illness, etc.) that prevented cooperation may be able to prove that their decision to stop providing assistance (or inability to) was **not** unreasonable and, therefore, remain eligible for a U-Visa certification.
 - d. If a victim is willing to assist—or has assisted or was helpful—with detection, investigation, prosecution, conviction, or sentencing or criminal activity, a U-Visa certification shall be provided. The agency shall sign a certification even if the incident report is not available (though additional documentation may be required to verify if the applicant was a victim of a qualifying crime and was reasonably helpful, i.e., copy of police report), the investigation is closed, charges for the qualifying crime are never filed before the court, the charges are dropped, no conviction resulted, or the case is incomplete, as long as the victim was **reasonably** helpful in the investigation and/or prosecution of the offense.
 - e. Harm or injury can be noted by the certifier. **If the certifier cannot determine whether there was harm or injury, they can still sign the U-Visa certification, as the applicant seeking the U-Visa will have to independently show harm (psychological or physical) to USCIS.** If harm is not noted in any records related to the qualifying criminal activity, this should not preclude signing a U-Visa certification.

- f. Criminal history will not, in and of itself, be basis for a denial of a certification request:
 1. The nature of the applicant’s criminal history will be considered on a case-by-case basis by taking into account the nature and facts of the offense, how remote in time the offense was, and the threat posed to public safety;
 2. Furthermore, the agency shall not request additional information from the victim that is not relevant to the U-Visa certification request.
- g. Statute of Limitations: A certification can be issued any time after the criminal activity occurred. There are no time limits. Statutes of limitation are not a consideration when determining eligibility for U-Visa certification.
- h. The request can be submitted by the applicant or by a referring legal entity (such as a private attorney or non-profit organization). It is not required that an applicant use an attorney, but it is highly recommended to make sure the application will be accepted by USCIS.
- i. The request for certification shall be completed within 30 days from the time it was presented to the originating department.
 1. If the applicant is in immigration removal proceedings, the request shall be completed **within 14 days**.
 2. If the application is detained or there are other compelling circumstances, the request shall be completed within **7 days**.
- j. U-Visa certifications are only valid for six (6) months, and compelling circumstances may arise that require a victim to obtain another U-Visa certification when the initial certification is no longer available or valid. The agency shall examine the circumstances on a case-by-case basis and provide another U-Visa certification when it is necessary and in the public interest.
- k. The agency will sign the most recent version of Form I-918, Supplement B, which shall be obtained from the United States Citizenship and Immigrant Services website in recognition that USCIS frequently changes the form without sufficient notice to the public.
- l. The agency shall send a written notification of its certification decision to the victim and immigration counsel and, in the case of denials, state the findings and detailed reasons for the denial. Victims may request reconsideration of a denied certification at any time. Such requests will be reviewed by an appeals committee composed of subject matter experts and shall not be routed back to the initial decision-maker.
- m. The certifying official may contact the VAWA Unit of the U.S. Citizenship and Immigration Services to report the U-visa applicant’s failure to continue cooperating with the department only when the failure to cooperate is considered unreasonable. To determine whether failure to cooperate is unreasonable, officials should review and consider the victim’s history of abuse and victimization, and any threats the victim has experienced or is experiencing, as well as any other relevant factors or compelling circumstances.
- n. When a request is made, the U-Visa coordinator, detective supervisor, or their designee shall complete a U-Visa tracking sheet which will allow for data on the number of requests, acceptances, denials, and other pertinent information to be collected monthly and such anonymous aggregate data shall be publicly available upon request.

v. **Implementation Process**

- a. Department policy requires its members to distribute to any crime victim an informational packet describing victim services available, including those for immigrant crime survivors (i.e., U-Visa). The agency should not inquire about or assume immigration status when distributing packets; it shall make this information available to all victims.
- b. The Department shall designate a U-Visa Certifier and provide that person or unit's contact information, including phone number and email on the Departmental website or any location where the Department has information for Victim Services, including updating written materials.



XII. REFERENCES

- ¹ United States Customs and Immigration Services [USCIS]. (2020). *U Visa Demographics. March 2020: Analysis of Data through F.Y. 2019*. Retrieved from https://www.uscis.gov/sites/default/files/document/reports/U_Visa_Report_-_Demographics.pdf
- ² Permenter, M. (2015). Understanding U-Visas. *Texas District & County Attorney's Association*. Retrieved from <https://www.tdcaa.com/journal/understanding-u-visas>
- ³ USCIS, 2020
- ⁴ Permenter, 2015
- ⁵ Permenter, 2015
- ⁶ Permenter, 2015; USCIS, 2020
- ⁷ Rajaram, S. S., Barrios, A., Novak, E., & Rogers, J. (2020). "It has given me life." Latinas and the U-Visa: A Qualitative Study. *Gender Issues*, 37(2), p. 193. <https://doi.org/10.1007/s12147-019-09243-1>
- ⁸ USCIS, 2020
- ⁹ Arruela, G., Perez, C. Valenzuela, A., Zurita, K., & Diaz, S. (2014). *Unequal Protection: Disparate Treatment of Immigrant Crime Victims in Cook, the Collar Counties & Beyond*. *DePaul University Asylum & Immigration Law Clinic, DePaul University College of Law*, p. 9 Retrieved from <https://law.depaul.edu/about/news/Documents/unequal-protection---disparate-treatment-of-immigrant-crime-victims-in-cook-the-collar-counties-and-beyond-pdf>
- ¹⁰ Immigrant Legal Resource Center (2016). "U-Visa Basics for Law Enforcement." Retrieved from https://www.ilrc.org/sites/default/files/resources/u_visa_basics_for_law_enforcement.pdf
- ¹¹ Arruela et al., 2014, p. 6
- ¹² Kamhi, A. & Lakhani, S. (2020). "A Guide to State Laws on U-Visa and T Visa Certifications." *Immigrant Legal Resource Center*, p. 1. Retrieved from https://www.ilrc.org/sites/default/files/resources/u_visa_and_t_visa_pa-04.2020.pdf
- ¹³ Rodriguez Schlegel, B. (2011). Immigration, Crime, and Public Perception: Victimization Legislation in the United States and Canada—Can the U-Visa Serve as a Model? *Hastings International & Comparative Law Review*, 34(1), 203–222.
- ¹⁴ United States Customs and Immigration Services. (2021). *Form I-918, Petition for U nonimmigrant Status, by Fiscal Year, Quarter, and Case Status (Fiscal Year, 2020, 4th Quarter, Jul 1-Sep 30, 2020)*. Retrieved from https://www.uscis.gov/sites/default/files/document/reports/1918u_visastatistics_fy2020_qtr4.pdf
- ¹⁵ Asad, A. L. (2020). Latinos' deportation fears by citizenship and legal status, 2007 to 2018. *Proceedings of the National Academy of Sciences*, 117(16), 8836–8844. <https://doi.org/10.1073/pnas.1915460117>; Brabeck, K. M., & Guzmán, M. R. (2009). Exploring Mexican-Origin Intimate Partner Abuse Survivors' Help-Seeking Within Their Socio-cultural Contexts. *Violence and Victims*, 24(6), 817–832. <https://doi.org/10.1891/0886-6708.24.6.817>; Prieto, G. (2018). *Immigrants under threat: Risk and resistance in deportation nation*. New York University Press.
- ¹⁶ Morando Lakhani, S. (2014). From Problems of Living to Problems of Law: The Legal Translation and Documentation of Immigrant Abuse and Helpfulness. *Law & Social Inquiry*, 39(3), 643–665.

- ¹⁷ Arruela et al., 2014, p. 6
- ¹⁸ Abreu, J., Fowler, S., Holtsberry, N., Klein, A., Schroeder, K., Lopez, M., Weisman, D., Levin, C., & Pendleton, G. (2019). Visa denied: The political geography of the U-Visa: Eligibility as a matter of locale. UNC School of Law Immigration/Human Rights Policy Clinic and ASISTA. <https://law.unc.edu/wp-content/uploads/2019/10/uvisafullreport.pdf>; Kahmi & Lakhani, 2020.
- ¹⁹ Abrue, et al., 2019; Arruela et al., 2014
- ²⁰ Abrue, et al., 2019; Arruela et al., 2014
- ²¹ Kahmi & Lakhani, 2020
- ²² Lopez-Cooper, Y. (2017). ¿En Qué Te Puedo Ayudar? When is a Crime Victim Helpful? Using California’s Immigrant Crime Victims Equity Act (Senate Bill 674) to Define the U-Visa’s Helpfulness Requirement. California Western Law Review, 53, p. 164.
- ²³ Medrano, E. (2020). “Update to Information Bulletin No. 2015-DLE-04: New and Existing State and Federal Laws Protecting Immigrant Victims of Crime.” California Department of Justice, Division of Law Enforcement, p. 1. Retrieved from https://oag.ca.gov/sites/all/files/agweb/pdfs/info_bulletins/2020-dle-01.pdf
- ²⁴ Medrano, 2020.
- ²⁵ Kahmi & Lakhani, 2020.
- ²⁶ Los Angeles County Sheriff’s Department. (LASD). (2016). Field Operations Directive.
- ²⁷ San Diego Police Department (SDPD), personal communication, March 2, 2021 and March 3, 2021
- ²⁸ SDPD, personal communication, March 3, 2021.
- ²⁹ Substitute House Bill [SHB] 1022. 2018. 65th Legislature, Washington State. Retrieved from <http://lawfilesexext.leg.wa.gov/biennium/2017-18/Pdf/Bills/House%20Passed%20Legislature/1022-S.PL.pdf#page=1>
- ³⁰ SHB 1022; RCW 7.98.020
- ³¹ SHB 1022; RCW 7.98.020 ; King County Sheriff’s Office, personal communication, March 23, 2021
- ³² Kahmi & Lakhani, 2020
- ³³ Department of Homeland Security. (2019). U-Visa Law Enforcement Resource Guide. Retrieved from https://www.dhs.gov/sites/default/files/publications/19_0731_uscis_u-visa-law-enforcement-resource-guide.pdf; Kahmi & Lakhani, 2020
- ³⁴ Austin Police Department. (2020). General Orders. Retrieved from https://www.austintexas.gov/sites/default/files/files/Police/General_Orders.pdf
- ³⁵ APD General Orders, 2020
- ³⁶ Newton, N. (2017, August 17). Travis County Sheriff educates immigrant community on U Visa program. Fox 7 Austin. Retrieved from <https://www.fox7austin.com/news/travis-county-sheriff-educates-immigrant-community-on-u-visa-program>

- ³⁷ Morris, M. & Sepulveda, L. R. (2017). With the Immigration and Customs Enforcement's recent crackdown on illegal immigrants, many crime victims are scared. Here's how one prosecutor office continues seeking justice when victims and witnesses are hesitant to come forward. Texas District & County Attorney's Association, p. 1. Retrieved from <https://www.tdcaa.com/journal/a-new-ice-age>
- ³⁸ Dallas County District Attorney's Office. (2019). Dallas County District Attorney's Office U Visa Nonimmigrant status certification policy. Retrieved from https://www.dallascounty.org/Assets/uploads/docs/district-attorney/policies/U-Visa-Policy-Signed_rev0919.pdf
- ³⁹ Dallas Police Department. (2017). Dallas Police Department U Visa nonimmigrant state certification policy, p. 1-2. Retrieved from <https://dallaspolice.net/divisions/PublishingImages/resource/victimServices/U%20Visa%20Policy%20English.pdf>
- ⁴⁰ Dallas Police Department, 2017, p. 2
- ⁴¹ <https://texaslawhelp.org/article/u-visas-answers-common-questions>; see also https://utcle.org/elibrary/download/practice_area_id/20/a/50441/p/1
- ⁴² https://www.galvestontx.gov/DocumentCenter/View/11232/317-Victim_and_Witness_Assistance
- ⁴³ <https://www.tahirih.org/>
- ⁴⁴ Tahirih Justice Center, personal communication December 17, 2020
- ⁴⁵ Tahirih Justice Center, personal communication December 17, 2020
- ⁴⁶ Tahirih Justice Center, personal communication December 17, 2020
- ⁴⁷ HILSC, personal communication, November 20, 2020
- ⁴⁸ <https://www.houstonimmigration.org/about-us>
- ⁴⁹ <https://www.acesaware.org/treat/principles-of-trauma-informed-care>; <https://www.traumainformedcare.chcs.org/what-is-trauma-informed-care>
- ⁵⁰ HCDAO, personal communication, December 18, 2020
- ⁵¹ HCDAO, personal communication, February 26, 2021; March 5, 2021
- ⁵² HCSO, personal communication, March 8, 2021
- ⁵³ HPD, personal communication, January 5, 2021
- ⁵⁴ Constable, Precinct One, personal communication, February 27, 2021
- ⁵⁵ Constable Precinct Two, personal communication, March 2, 2021 and March 18, 2021
- ⁵⁶ Constable Precinct Four, personal communication, March 5, 2021
- ⁵⁷ Constable Precinct Five, personal communication, March 2, 2021

- ⁵⁸ Constable Precinct Six, personal communication, March 5, 2021
- ⁵⁹ Constable Precinct Eight, personal communication, March 5, 2021
- ⁶⁰ HCDAO, personal communication, December 18, 2020
- ⁶¹ Soto, L. (2021, January 20). What President Joe Biden’s immigration bill means and the impact to undocumented families in Arizona. ABC 15 Arizona News. <https://www.abc15.com/news/state/what-president-joe-bidens-immigration-bill-means-and-the-impact-to-undocumented-families-in-arizona>; see also Madan, M. (2021, January 20). Here’s what you need to know about Biden’s new immigration bill. Miami Herald. <https://www.miamiherald.com/news/local/immigration/article248630565.html>
- ⁶² United States Council on Human Trafficking (2020). “Annual Report”. Retrieved from <https://www.state.gov/wp-content/uploads/2020/07/United-States-Advisory-Council-on-Human-Trafficking-2020-Annual-Report.pdf>
- ⁶³ HILSC, personal communication, November 20, 2020
- ⁶⁴ Arruela et al., 2014
- ⁶⁵ HCDVCC, personal communication, November 23, 2020
- ⁶⁶ Department of Homeland Security, 2019; see also Department of Homeland Security Blue Campaign, <https://www.dhs.gov/blue-campaign/law-enforcement>
- ⁶⁷ Constable Precinct Six, personal communication, March 5, 2021
- ⁶⁸ King County Sheriff’s Office, personal communication, March 23, 2021
- ⁶⁹ DHS, 2019; USCIS, <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes/victims-of-criminal-activity-u-nonimmigrant-status>
- ⁷⁰ HCDAO, personal communication, December 18, 2020 and February 26, 2021