



JUSTICE ADMINISTRATION DEPARTMENT



REPORT

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

October 12th, 2021



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

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I. PURPOSE OF REPORT

On November 10, 2020, Commissioners Court approved a motion made by Commissioner Adrian Garcia instructing the Justice Administration Department (JAD) to produce a model policy for law enforcement agencies to use when processing Form I-918B (i.e., U-Visa certification) requests and promoting said procedure to local law enforcement agencies. To fulfill this request, JAD has written this report which includes the following content:

- The origins and purpose of the U nonimmigrant status (U) Visa (i.e., U-Visa) and eligibility requirements, including the 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 occurring in Harris County from the perspective of victim service providers regarding the implementation of current policies by local law enforcement agencies;
- Recommended improvements based on best practices at the federal, state, and local levels; and
- A proposed U-Visa model policy for consideration. This policy has been reviewed and approved by the County Attorney's Office (CAO).

II. SUMMARY OF FINDINGS

- The U-Visa process has several significant issues at the federal level.
 - United States Citizenship and Immigration Services (USCIS) cannot issue more than 10,000 visas per fiscal year per 8 C.F.R. § 214.14(d)(1) (2007). This has led to significant delays in pro-

cessing, 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.
- Much of the information USCIS produces regarding certifications focuses on law enforcement agencies (e.g., police departments). Thus, many do not realize other entities can also complete U-Visa certifications (e.g., Judges, District Attorneys, school resource officers (SROs), child and adult protective services, or the Equal Employment Opportunity Commission). This reduces national comprehension of the purpose and applicability of the U-Visa.
- Texas lacks a statewide standardized process or guidance for U-Visa Certifiers. 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 others 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, it is difficult to accurately assess the number of U-Visa applicants and holders' overall population.
- 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 **completely removing the cap on the issuance of U-Visas** per year, removing the six-month expiration on applications, and increasing awareness and understanding of the U-Visa program.
- *State-Level Solutions* include requiring Law Enforcement Agencies, District Attorneys, and Judges to receive **training on the U-Visa certification**, enacting state-level legislation similar to other states (i.e., California and Washington) to make the certification process more uniform and including U-Visa information in Victim Services documentation.
- *Local-Level Solutions* include all Harris County law enforcement adopting and implementing the proposed Model U-Visa Policy (**Appendix E**), assigning a U-Visa Certifier in each department and providing contact information for that person on departmental websites and in Victim Services information, training those individuals who can be certifiers, but do not realize this (e.g., school police officers, probation/parole, judges), and partnering with survivors of crime advocacy groups.

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 survivors of crime to collaborate with law enforcement without fear of deportation. This collaboration is critical to law enforcement's ability to detect,

investigate, and prosecute serious criminal activity.³ A qualifying individual (e.g., victim, witness, or bystander of a crime) receives a U-Visa^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 The immediate family of a U-Visa recipient can receive derivative visas 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 victimization.^D Further, the applicant must assist law enforcement or the district attorney in detecting, investigating, and/or prosecuting the crime and be admissible to the United States.⁸ Individuals must submit Form I-918, Supplement B (i.e., Form I-918B, or “law enforcement certification”) with their U-Visa application. **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.

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 An applicant will not receive U nonimmigrant status if they do not provide USCIS

^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).

with additional proof of their eligibility in addition to Form I-918B. **A signed I-918B does not convey any immigration status.** According to USCIS, the certifying agency, not the survivor or their legal counsel, should complete Form I-918B to confirm the applicant has been a survivor of a qualifying criminal activity and is helpful in the investigation or prosecution of this.¹¹ The applicant must comply with all application requirements which include submitting supporting documentation, such as medical records showing that the survivor suffered substantial harm. Supplement B attests to the petitioner as a victim of criminal activity and their helpfulness in investigating or prosecuting the crime. 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.”**¹²

V. 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.”¹³ 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 second 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.¹⁴ However, the operation of the U-Visa program has significant issues, including the following:

- **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.¹⁵ In the average year, USCIS receives five times more applications for U-Visas than the agency is eligible to issue. This shortage of visas results in long waiting periods, averaging between 5 to 10 years, to receive a decision. **Figure 1** shows all the requests, approvals,

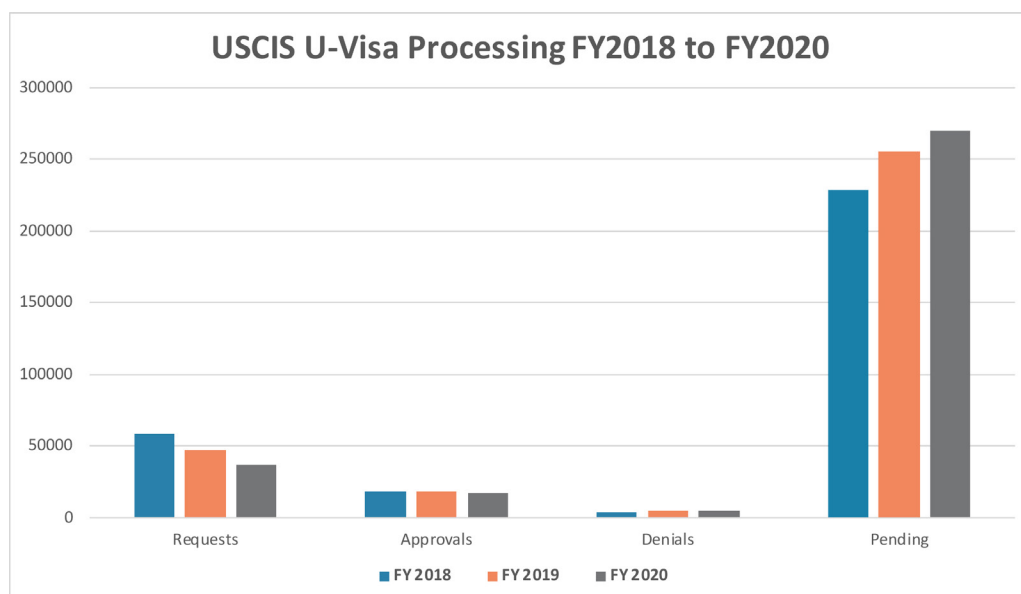


Figure 1: U-Visa Processing for F.Y. 2018, F.Y. 2019, and F.Y. 2020.

Source: USCIS, 2021

^E “By statute [8 C.F.R. § 214.14(d)(1) (2007)], 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>).

denials, and pending applications for F.Y. 2018, F.Y. 2019, and F.Y. 2020.

- **Fear of Deportation:** Potential applicants may be anxious about applying due to the legitimate and widespread fear of deportation. Therefore, undocumented persons are apprehensive 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 Immigrations and Customs Enforcement (ICE) can deport a person with a pending application.¹⁶ While recent initiatives have been undertaken to offer work permits to “bona fide”^F applicants, medium-term uncertainty around immigration policy, coupled with the possibility that Harris County residents and/or law enforcement may not be aware of this policy change, makes the fear of deportation likely still a salient issue.
- **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.¹⁷
- **Lack of Uniformity:** Researchers note “...the lack of uniformity in U certification policy and practice by law enforcement agencies appears to undermine the intent of the U nonimmigrant visa.”¹⁸ USCIS does not require law enforcement to certify U-Visa applications, even if applicants are victims or singular witnesses of serious criminal activity. Therefore, some applicants may never receive a certification even after full participation in trials.¹⁹ There remains a lack of uniformity in U-Visa certification policies across departments, even within states.²⁰ The lack of a unifying policy has created inconsistencies and disparities in the treatment of survivors of crime. Some survivors reported that departments refuse to accept or certify U-Visa applications,²¹ despite public policies advocating for immigrant survivors.

- Additionally, U-Visa certifications are only valid for six (6) months and must be received by USCIS within this time frame. However, sometimes, six months pass before the survivor can submit their U-Visa application, or the original certification form might be destroyed through no fault of the survivor (e.g., fire destroyed the form). Re-certification needs to be completed if more than six months pass. However, some departments only re-certify on a case-by-case basis, while others will not re-certify at all. These situations undermine the survivor’s trust in law enforcement and put an undue burden on survivors to prove why their re-certification is necessary. 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 law enforcement agencies’ role in this process.²²

VI. WHAT IS HAPPENING IN OTHER JURISDICTIONS?

The following discusses what some jurisdictions have done to assist survivors of crime better, and simplify their U-Visa application process. 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 for survivors than in other jurisdictions. Washington state also passed legislation to improve the certification process, reduce inconsistencies, and support immigrant crime survivors better. Due to this, we focused on what some agencies in these states are doing regarding U-Visa certifications.

- **California** has improved law enforcement’s fulfillment of U-Visa applications’ role through state-level policy reform (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.”²³ While this standard remains rel-

^F In June 2021, the current federal administration created a new policy for U-Visa applicants which would give them a 4-year renewable work permit. USCIS will review applications and if these are given a “bona fide” determination, these applicants will receive deferred action and a work permit (up to 4 years which is also renewable) and protection from deportation. This applies to all pending U-Visa petitions, as well as any that are submitted on or after June 14, 2021 (Law, 2021, <https://cis.org/Law/USCIS-Creates-New-Illegal-Alien-Work-Permit-Program>). However, the USCIS website had no information on this policy change as of July 20, 2021.

atively high, it is a step forward, arguably the largest taken in the United States. California also strengthened law enforcement's role in the U-Visa process with Assembly Bill (A.B.) 917, which took effect in January 2020. The bill "reduces the timeline for the certification process."²⁴ California law mandates that, when conditions are met, agencies complete certifications within 30 days (unlike federal law, which provides discretion to agencies to determine if and when certifications are completed).²⁵ Additionally, California provides that Form I-918B can be signed in lieu of charges being filed if the investigation is over and/or if no prosecution or conviction occurred.

- **Los Angeles Sheriff's Department (LASD).**²⁶ 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."²⁷
- **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.
- **San Diego Police Department (SDPD).** SDPD has no information about the U-Visa on their website. However, SDPD did provide its policy and data upon request.²⁸ 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.⁶ 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."^H In 2020, 89 requests were received, 62 approved, 23 denied, and 4 "other."²⁹

- **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,"³⁰ 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.³¹ 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 on an annual basis to the "office of crime victims advocacy."³²
- **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.
- **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.

⁶ The exception to this applies 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

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

VII. WHAT IS HAPPENING IN TEXAS?

As of March 2020, there was no Texas state law filed regarding U-Visa certification.³³ The Texas legislature did not have any legislation on U-Visa policies under consideration or passed during the latest legislative session. No federal law mandates law enforcement agencies to complete certification forms even if survivors assist in the investigation or prosecution of a case.³⁴ The following Texas jurisdictions were chosen either because they are also large municipalities and their counties (e.g., Austin and Travis County) within the state are similar to Harris County or because they are counties that border Harris County (e.g., Fort Bend County). The following discusses the policies of these jurisdictions concerning U-Visa certifications.

- **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 supply a copy of their policy and data for 2019 and 2020. “APD’s decision to provide an applicant with Certification is entirely discretionary.”³⁵ 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.”³⁶ However, requests may still be referred to other agencies if APD determines it will not issue the certification. **Figure 2** shows their data regarding certifications for 2019 and 2020.

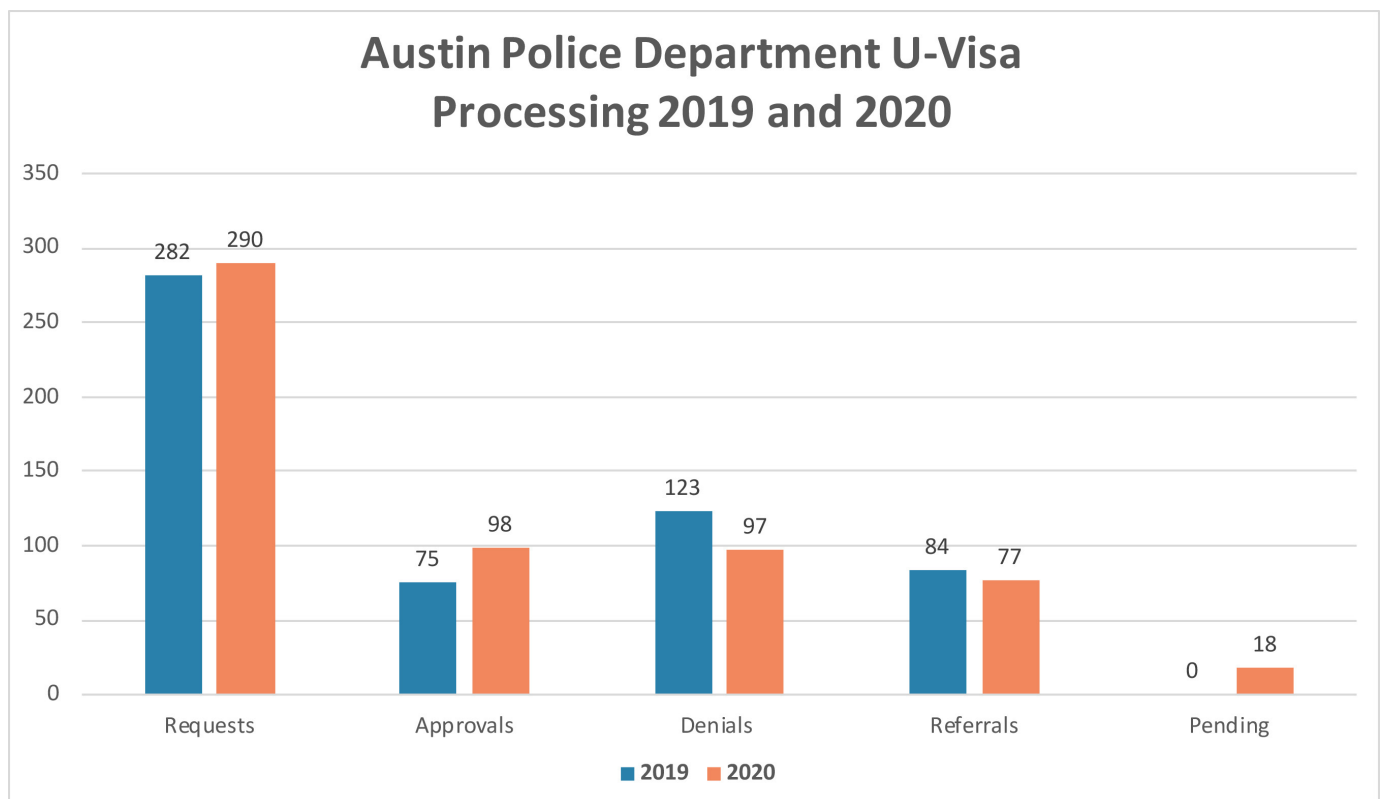


Figure 2: U-Visa Processing by Austin Police Department, 2019 and 2020.
Source: Austin Police Department, personal communication, March 3, 2021.¹

¹ For 2020, there were 18 pending U-Visa certifications. No information was provided on pending certifications for 2019 (APD, personal communication, March 3, 2021).

- **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 web page contains resources about the U-Visa in English, Spanish, and Vietnamese and links to immigration resources. JAD contacted Victim Services on March 2, 2021, but no response was received at the time of initial writing. However, a response was received on March 31, 2021, whereby TCSO supplied their policy.

- If the qualifying activity was investigated by TCSO and the survivor(s) qualifies for certification per USCIS policy, then TCSO will certify the request.

- The certification is processed within 30 days of receipt.

- No information was provided on whether there is a statute of limitations for approvals or whether they consider survivors’ criminal history when completing certifications.

- No data on requests, approvals, or denials were given.

- In 2017, the Sheriff printed a pamphlet on the U-Visa to educate the local immigrant community and assuage their fears of reporting crime to law enforcement due to immigration status.³⁷

- From 2013 to 2017, they had 162 U-Visa requests.^J

- 2013: 36
- 2014: 41
- 2015: 39
- 2016: 41
- 2017: 37

- **Travis County District Attorney’s Office (TCDAO):** According to the Texas District & County Attorney’s Association (2017), “[The Travis County District At-

torney’s Office] 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.” (p. 1)³⁸ 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.

- **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 re-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 investigate or prosecute a crime.³⁹

- **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 more than a year has transpired, and if the statute of limitations of the crime per the penal code 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”⁴⁰ of

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

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."⁴¹ No information is provided on how long requests take to process or data concerning the number of requests received, approvals, and denials.

- **Fort Bend County:** The District Attorney's Office will certify the applicant's request, but does not identify a deadline for completing these. As presented at the 44th Annual Conference on Immigration and Nationality Law (2020), law enforcement departments in the county "will not certify or do not certify very often."⁴² There is no information posted on the District Attorney's or the Sheriff's website. The Victim Services Liaison of the District Attorney's Office was contacted for information, but no response was received at the time of initial writing. However, JAD and a representative from the Fort Bend County District Attorney's Office met on May 3, 2021, to discuss their policy. They do not have an official policy, but they discussed their current procedures in processing certification requests. Their procedures are trying to be consistent with the best practices for prosecutors with U-Visa certification processing presented by Fair and Just Prosecution.⁴³
 - The Fort Bend District Attorney's Office will certify requests they receive even if charges have not been filed in the case. Survivors can request a certification be completed by the police agency they reported to (e.g., Sugar Land Police Department) or the District Attorney's Office.
 - Most requests do come from lawyers, but they do not require an attorney to complete certifications.

- If requests match the requirements per USCIS, they will complete a certification. Most times, denials occur due to the criminal activity experienced by the survivor not qualifying per USCIS criteria.
 - They do not have a statute of limitation, but they do record if the case has been resolved and what date this occurred on the certification.
 - There is also no time limit on when requests are processed, but these are completed as soon as possible.
 - If a certification is no longer valid (e.g., more than six months pass after certification), they will typically re-certify.
 - They do not run or even look at criminal history since "this does not impact certifications." Since USCIS will take into consideration criminal history when adjudicating, they believe there is no reason to consider it for certifications.
 - Fort Bend County District Attorney's Office had 40 certifications and two denials in 2019; 29 certifications and one denial in 2020, and 12 certifications to date (May 3, 2021) in 2021.
- **Galveston County:** Galveston Police Department displays 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."⁴⁴ No information on the U-Visa process was provided on the District Attorney's nor the Sheriff's website.

VIII. WHAT IS HAPPENING IN HARRIS COUNTY?

Victim service providers report that Harris County has experienced increased 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.^K 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, but **many service providers reported that they appealed decisions, and the department did not make exceptions.**

- **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 several 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.”⁴⁵ 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.⁴⁶

- These were all appealed, and 25 percent of the time, these appeals were successful.⁴⁷
- 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].”^L
- Tahirih provided similar information on policies of local agencies as those offered directly by the agencies.⁴⁸
- **Houston Immigration Legal Services Collaborative (HILSC)⁴⁹**
 - 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.”⁵⁰
 - HILSC itself does not provide direct services to clients. HILSC is made up of over fifteen (15) immigration legal service providers, many of which are a part of its Crime Victims Working Group (CVWG), which meets regularly to discuss trends and advocates for better local policies for immigrant survivors of crime.
 - 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, training should include school police departments who can sign U-Visa certifications.
 - Additionally, they suggested that information regarding agency policy must be disseminated to practicing attorneys, both non-profit and private.

^K 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)

^L 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).

- At times, there were discrepancies 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.
- An additional point of emphasis: 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 takes to complete certifications.
 - The number of requests and denials of U-Visas in the County and per agency.
- **Finally, they emphasized that 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 acknowledges 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.⁵¹
- **They recommend that the federal cap be eliminated.**
- Advocates also have noticed they receive **very few referrals from child-serving agencies or law enforcement in Harris County for minors** that might be eligible for immigration relief separate

from their birth parents.

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.⁵²

- 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 this 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 HCDAO will certify Form I-918B if someone is a victim of a qualifying crime within the past five (5) years,^M and they are cooperating or cooperated with the prosecution.
- There has been an increase in requests between 2019 and 2020. **Figure 3** provides data for these two years.
 - **2019: 492 requests^N**
 - 199 certifications (40.4%)
 - 37 referrals (7.5%)
 - 119 denials^O (24.2%)
 - 135 still pending at the end of 2019 (27.4%)
 - **2020: 557 requests⁵³**
 - 315 certifications (56.6%)^P
 - 63 referrals (11.3%)
 - 97 denials (17.4%)
 - 44 due to time limits (45%)^Q

^M 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).

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

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

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

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

- 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%)^R
 - 82 still pending at the end of 2020 (14.7%)
- The HCDAO 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 HCDAO 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 HCDAO 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 but not limited to violent crime(s). However, some cases can still be certified even if there is a criminal history background and are considered on a case-by-case basis.

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.

- **Harris County Sheriff’s Department (HCSO)**
 - There is currently no formal policy or standard operating procedure (SOP) associated with processing U-Visa requests.⁵ Even though there is no formal policy or SOP, how Deputy Cisneros currently

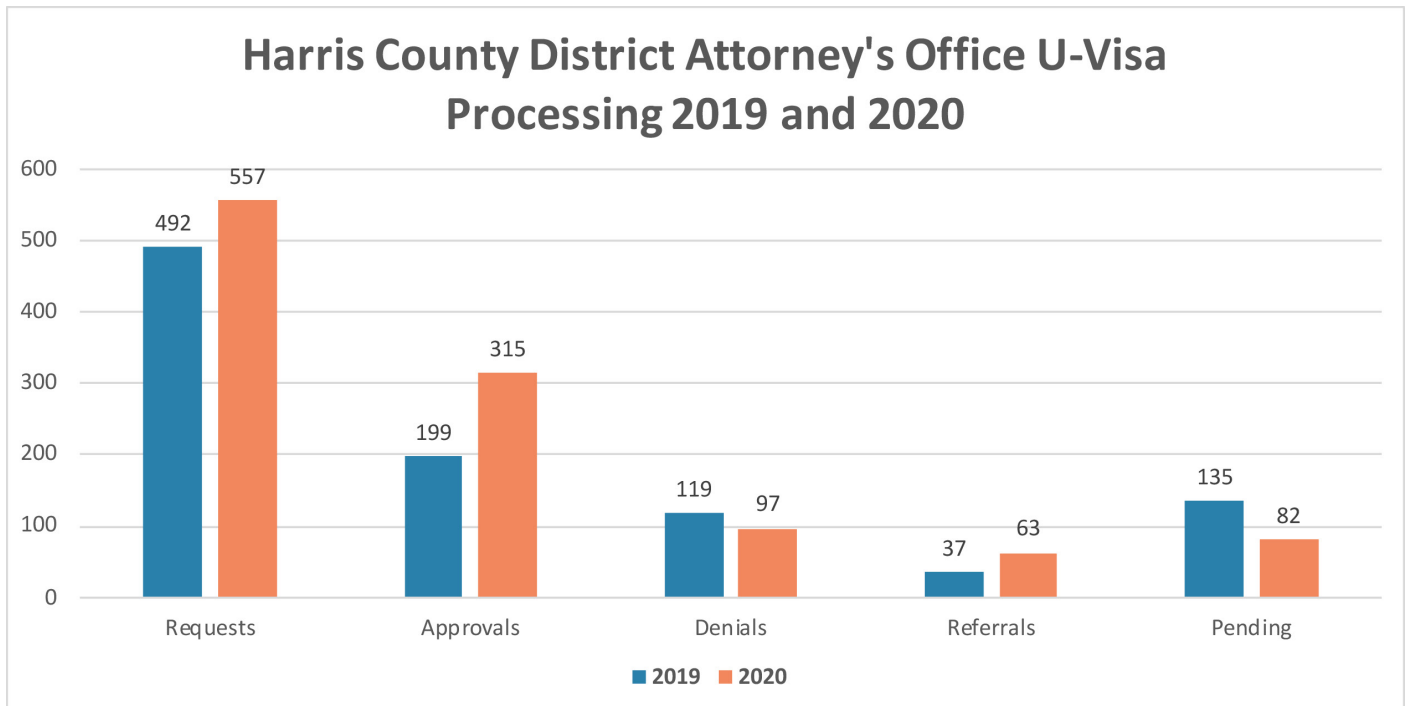


Figure 3: Harris County District Attorney’s Office (HCDAO) U-Visa processing 2019 and 2020.

Source: HCDAO, personal communication, February 26, 2021, and March 5, 2021

^R 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.

⁵ This is how certifications are currently processed by HCSO (HCSO, personal communication, December 7, 2020 and March 8, 2021).

processes certifications (as discussed below) is one of the better practices occurring in Harris County at this time.

- 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 sees an average of 35-40 U-Visa requests a month. **Figure 4** provides data for 2019 and 2020.
 - In 2019, there were 337 requests⁵⁴
 - 171 certifications (50.7%)
 - 35 denials (10.4%)
 - 115 referrals (e.g., to DA) (34.1%)
 - 0 repeat petitions
 - In 2020, there were 335 requests^T
 - 103 certifications (30.7%)
 - 65 denials (19.4%)
 - 105 referrals (31.3%)
 - 15 repeat petitions (4.48%)

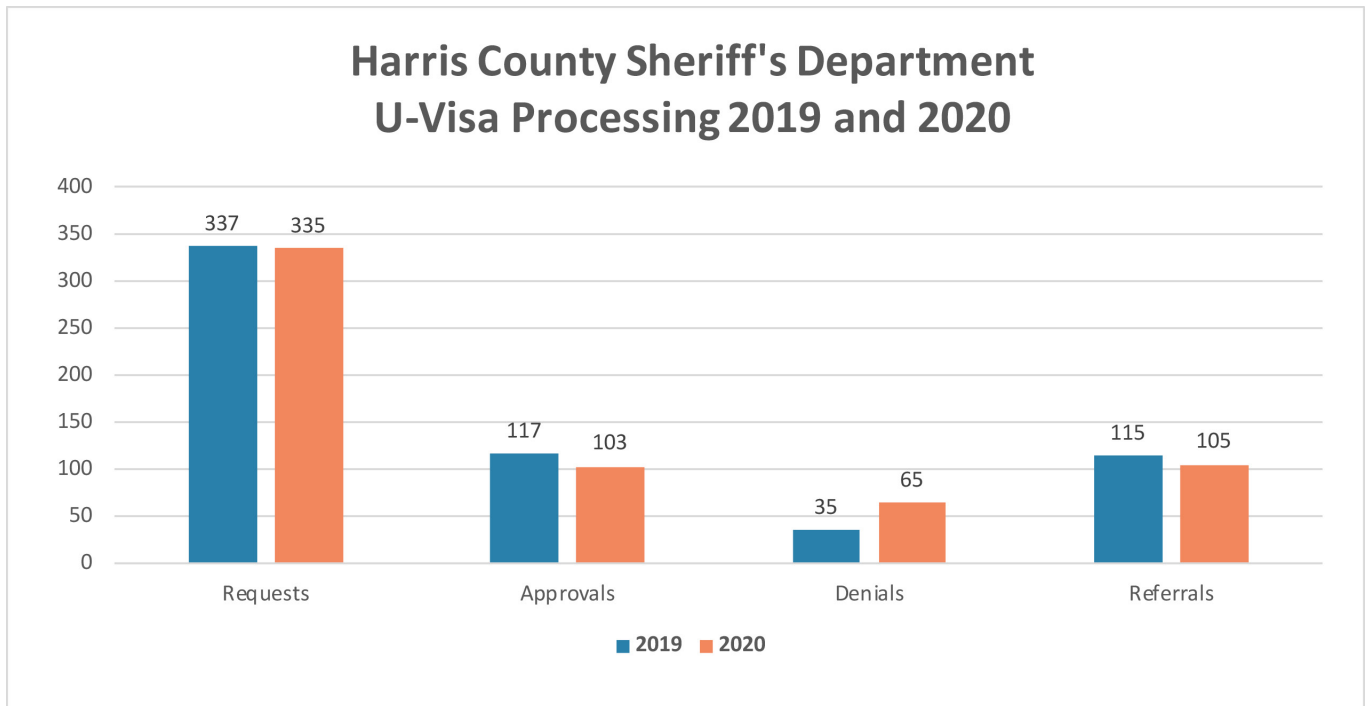


Figure 4: Harris County Sheriff’s Office (HCSO) U-Visa Processing for 2019 and 2020.
Source: HCSO, Personal Communication, March 8, 2021.^U

^T 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).

^U Numbers do not add up (see note above).

- **Houston Police Department (HPD)**⁵⁵
 - 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 ensure survivors can take advantage of these services if needed.
 - HPD has seen an increase in 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 HPD will not certify a person with a past violent criminal arrest.
 - On average, they receive 1200-1500 requests per year.^v
 - In 2020, there were 1301 requests.
 - Approvals: 809 (62.1%)
 - Disapprovals: 492 (37.8%)^w
- **Pasadena Police Department**
 - Their policy states that “there is no requirement that...assistance result in a successful prosecution.”⁵⁶
 - No information was provided on whether they refer certifications where charges have been filed to the District Attorney’s Office.
 - No information was provided in the policy about considering the criminal history of the survivor; however, it does say that the **department will use its discretion when reviewing requests.**
- However, “[if] a case has been reviewed twice and not signed, it will not be reviewed again.”⁵⁷
- Pasadena Police Department “will **not review cases older than 2 years** from the date of the offense.”⁵⁸
- The department will also **only sign a certification form one time** (i.e., no re-certification if the original certification expires or is destroyed through no fault of the survivor).
- No data on requests, certifications, or denials were available.
- **Harris County Constables:** There is significant variation between the Constable Precincts on how they handle 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.
- **Constable Precinct One**⁵⁹
 - 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.
 - Per Constable Rosen, the Constables are very near to adopting a policy.
- **Constable Precinct Two**⁶⁰
 - 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 currently have a written policy regarding U-Visa certifications.

^v At the time of initial writing, no information had been received. However, data from an open record request was provided on March 25, 2021 and this is included in the 2020 data in this report. No information for 2019 was provided.

^w 65 of these were referrals to other agencies. No other information on the denials was provided (HPD, personal communication, March 25, 2021).

- Constable Garcia asked JAD to write a brief memo with information concerning U-Visas and policies. Constable Garcia and Assistant Chief Manuel Quintanilla worked with JAD to draft a Precinct Two U-Visa model policy. During this process, JAD made the policy clearer for staff, explained how departments could promote the existence of the U-Visa program, make 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.
- **Constable Precinct Three**
 - After contacting Precinct Three, dispatch informed JAD that there is no policy or person dedicated to U-Visa certifications. This could be because they do not have enough requests to warrant a policy.
- **Constable Precinct Four**⁶¹
 - 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.
 - 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.
- **Constable Precinct Five**⁶²
 - 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, the 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 receives 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.
- **Constable Precinct Six**⁶³
 - 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) were 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.

- **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.
- **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.”⁶⁴
 - 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.^x Victim service 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 before 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 com-

plex needs (e.g., safety concerns) that are a priority and may take a long time before providing material assistance or requesting certification. By the time these issues and needs are dealt with, the time limit to request a certification may have passed.

- **Inconsistencies and contradictions.** Many inconsistencies and contradictions exist 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 and 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 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.
- **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

^x 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.

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).

- **Challenges with juveniles.** Youth are often unaware of the immigration process and relief available under the U-Visa program. In order to qualify for a U-Visa, the youth bears a similar legal burden as an adult: 1) The child suffered substantial physical or mental abuse as a result of having been a victim of a “qualifying criminal activity”; 2) The non-citizen child possesses information concerning the criminal activity; and, 3) the non-citizen child has been or is likely to be helpful to a local law enforcement official, judge, prosecutor, or other such authority who is investigating or prosecuting the criminal activity. A parent, guardian, or next friend can possess this information and provide the required assistance in place of the youth. If a youth is disconnected from family or the victim of child abuse or neglect, they might still be eligible for relief under U-Visa. In order to ensure a child’s right to adjust his/her status as protected, child-serving agencies should be trained on the U-Visa process and policy to assist youth with immigration needs.

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 could have the country’s best policies, but it would 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 are recommendations which

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:** On the Federal level, Congress and/or Executive Action by the President should do the following:
 - **Eliminate the current limitation on U-Visas:** The current cap is 10,000 visas per fiscal year [8 C.F.R. § 214.14(d)(1) (2007)]. 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.⁶⁵
 - 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.”⁶⁶ 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. 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 prevent homelessness, limit opportunities for revictimization, and benefit the community. Employment authorization also allows the survivor to have recognized identification and apply for a driver’s license. The positive impact of having an ID and the ability to work for an immigrant survivor cannot be understated.

- At initial writing, this was a federal recommendation. Since then, the current federal administration created a new policy in June 2021 for U-Visa applicants, which would give them 4-year renewable work permits.⁶⁷ Anyone who applies for a U-Visa is now eligible for these work permits. “The new policy will...give all [immigrants] with a pending U visa petition the ability to work lawfully for years before USCIS substantively reviews the petition for statutory eligibility.”⁶⁸ USCIS will review applications, and if these are given a “bona fide determination,” applicants will receive deferred action and a work permit (for up to 4 years which is renewable) and protection from deportation.⁶⁹ This will apply to all pending U-Visa petitions and any submitted on or after June 14, 2021.⁷⁰
- **Increase Funding to Address Backlog and Automate Processes:** It is recommended to increase funding to the Department of Homeland Security (DHS), specifically USCIS, to help address the current backlog and implement automation to improve the processing time of U-Visa applications. This would help with both the backlog of existing applications and the long processing times.
- **Educate the Public and Attorney Advocates to Increase Awareness:** It is recommended that the Department of Homeland Security increase education and awareness in public and with attorney advocates by implementing a social media campaign.⁷¹ Advocates and law enforcement officials indicated that many survivors are unaware of the U-Visa program even though they might qualify. Additionally, many law enforcement agencies are unaware of what certification entails (e.g., it does not grant any immigration status to survivors). More education on this program and the necessary qualifications needs to be made public.
- **U-Visa Program Materials Need Multilingual Availability:** 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. English is not the native language for many immigrants and having information only in English presents a barrier to learning about the program and completing the necessary paperwork. Initially, the information should be delivered in Spanish but expanded to include many more languages on the USCIS website.
- **Restrict Deportations During Application Processing:** 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, twenty-nine categories of crime are considered “qualifying.” (Refer to **Appendix B** for the complete list). However, these are categories of crimes and not specific criminal code violations. Congress should still expand the list to include other crimes that would be considered qualifying due to the impact on the survivor.
- **Mandate Certifications for Qualified Persons:** 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. As a result, law enforcement agencies can currently use their discretion to refuse to certify even survivors who meet all the requirements for certification. If there was a federal mandate to complete certifications for qualifying survivors, law enforcement agencies could no longer refuse to sign these.

- **Next Steps for Federal Recommendations:** 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 eliminate 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 the Intergovernmental Affairs (IGA) director, 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.

- **State-Level Solutions:** On the State level, the Texas legislature should enact laws that make it easier for survivors of crime by doing the following:

- **Establish a “Presumption of Helpfulness” Clause:** 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.

- **Enable Certification for All Victims:** 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, especially since there is no federal requirement for these to occur for certification.

- **Require Training on U-Visa Certification for Law Enforcement:** 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.⁷²

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.⁷³

- **Fund Victim Services Providers and Law Enforcement Agencies to Appoint Certifiers:** 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.

- **Next Steps for State Recommendations:** 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 the Director of IGA, to determine if a proposal for improvements to the Harris County legislation agenda will be added for the next session.

- **Local-Level Solutions:** While the federal policies on U-Visas create significant barriers to assisting survivors of crime, local jurisdictions can establish equitable best practices to help.^Y Policies should not have any additional requirements apart from those that USCIS requires. Certification only attests that the individual has been a victim of a qualifying crime and has been or is likely to be helpful to law enforcement concerning this crime. Beyond this, it is USCIS's role to adjudicate the merits of a petition and determine if an applicant will be awarded a U-Visa as a result.⁷⁴ According to Fair and Just Prosecution (2020), "policies that impose additional requirements for certification may improperly prevent eligible applicants from receiving U visas, and are likely to chill immigrants' willingness to report crimes and undermine the ability of law enforcement to ensure public safety."⁷⁵ The following recommendations should be adopted on a local level:

- **Certifying Authorities Should Not Have Time Limits for Certification:** Agencies should not impose any time limit since "U visa regulations do not set a specific statute of limitations for signing the Form I-918B, or require that a case must have progressed to a certain stage (e.g., prosecution or conviction)."⁷⁶

- HCSO and HCDAO have strong local practices for completing U-Visa certifications.
- While the HCDAO has a five-year statute of limitations, they do have exceptions. 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.⁷⁷

- **Increase Collaboration and Cooperation Between Certifying Agencies and Victim Services Providers:** There should be more collaboration and cooperation between agencies and victim service providers. There

were contradictions expressed between agency policy and what service providers indicated they had experienced. If there was an 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.

- **Certifying Agencies Need Realistic Expectations of Survivors:** Certification should not be denied due to lofty expectations of survivors.^Z There should also be an opportunity for a survivor to overcome a finding of unhelpfulness by demonstrating compelling circumstances that prevented them from assisting 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." "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."⁷⁸ 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

^Y 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 Fair and Just Prosecution, and input from the Immigrant Legal Resource Center (ILRC), Houston Immigration Legal Services Collaborative's (HILSC) Crime Victims Working Group, and Constable Precinct Two Jerry Garcia.

^Z Survivors may miss a meeting or a phone call, but still assist in the investigation and prosecution of the perpetrator. In these instances, a minor "mistake" should not be the basis for denying their request for certification or have them be considered "unhelpful."

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.⁷⁹
- **Certifying Agencies Should Not Consider Criminal or Immigration History:** Criminal and immigration history should not be considered when completing U-Visa certifications. Victim service advocates recommend that criminal and immigration history should not be considered for certifications since USCIS will consider the applicant's history when adjudicating the application. Past criminal conduct or convictions should not preclude someone from receiving a U-Visa certification since this does not grant the applicant a U-Visa, and USCIS will ultimately decide whether this will be granted.⁸⁰ The law enforcement certification simply serves as a statement that the person was a victim of a qualifying crime and was reasonably helpful in investigating or prosecuting that crime.
 - Per the Department of Homeland Security (2019): "a criminal history does not automatically render a victim ineligible."⁸¹ As a result, criminal and/or immigration history should not be considered when completing U-Visa certifications as USCIS will complete a background check and be the ultimate decider of whether the applicant will receive a U-Visa or not.
 - According to HILSC (2021), "[it] is in the public interest that U visa certification requests be signed for all eligible victims, regardless of their past. USCIS, not the certifying law enforcement agency, is the ultimate decision-maker on whether the

applicant is eligible to be granted a U visa."⁸²

- **Agencies Should Recertify Survivors:** If the survivor remains cooperative, certifying agencies should affirmatively approve another U-Visa certification (i.e., re-certify) if the initial certification is no longer available or valid.
 - Certifications are only valid for six (6) months; however, sometimes, there are compelling circumstances where a victim needs to get a re-certification. Certifications may expire through no survivor's fault due to illness, safety concerns, or theft/damage. "Agencies that refuse to certify or demand high proof for a case-by-case decision to recertify will penalize survivors who have no choice but to center their physical needs and safety first."⁸³
- **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 Include U-Visa Information in Victim Services Packets:** 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.^{AA}
- **Victim Service Information Should be Multilingual:** Besides providing information readily on agency websites, this information must be delivered in several languages. If there is information on websites, it is primarily

^{AA} 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.

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.

- **Training should be provided to the juvenile defense bar on the U-Visa process and eligibility.** The Managed Assigned Counsel Office (MAC) should have a dedicated staff member with immigration expertise that could act as a consultant to the juvenile defense bar. **School Resource Officers, Department of Juvenile Probation, and Department of Family Services Case Workers should also receive training on U-Visas.**
- **Next Steps for Local Recommendations:** The following are the next steps for the U-Visa policy and promoting said policy in Harris County.
 - Request Commissioners Court to approve the model policy that was developed with the assistance of and approval of the Harris County Attorney's Office.
 - JAD plans to work with HCSO to codify the model policy in Appendix E, which includes much of Deputy Cisneros' current approach to support survivors into a formal departmental policy.
 - Continue to work with Constable Jerry Garcia of Precinct 2, who had already adopted the model policy, and help him develop public education material that will let survivors of crime know about his policy and other critical resources they can go to.
 - JAD will schedule meetings with all law enforcement agencies, and go over the model U-Visa policy after Commissioners Court approval.
- JAD will distribute the recommended policy and implementation guide to all law enforcement agencies and ask if they would 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 training; and
 - To assist them with keeping track of data regarding U-Visa certifications.
- JAD will partner with willing law enforcement agencies and victim service providers to help conduct education about U-Visa and certification policies and encourage their dissemination via outreach and information sharing.

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

Appendix B: List of Qualifying Criminal Activities⁸⁴

- 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^{BB}

^{BB} 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).

Appendix C: List of Service Providers

- **BakerRipley at Ripley House**
6535 Rookin St, Houston, Tx 77074
(346) 867-3871
<http://www.bakerripley.org>
- **Boat People SOS**
11360 Bellaire Blvd, Ste 910, Houston, Tx 77072
(281) 530-6888
<http://www.bpsos.org>
- **Catholic Charities Cabrini Center**
5599 San Felipe St, Ste 300, Houston, Tx 77056
(713) 595- 4100
<https://www.catholiccharities.org>
- **Memorial Assistance Ministries (MAM)**
1625 Blalock Rd, 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 St, 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>

Appendix D: U -Visa Certification Review Protocol (HCDAO)⁸⁵

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.

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

Reminders:

1. USCIS will be the ultimate decider of whether an applicant is eligible for a Visa. By signing the certification form you are merely attesting to 1) the applicant being a victim of a qualifying criminal activity; 2) that the applicant was helpful, is helpful or will be helpful in the investigation or prosecution of this crime.
2. If you need information about completing a U-Visa certification form or training on U-Visa certification, you can refer to the Law Enforcement Resource Guide at https://www.uscis.gov/sites/default/files/document/guides/U_Visa_Law_Enforcement_Resource_Guide.pdf or you can contact USCIS at: 240-721-3333 or at T_U_VAWATraining@uscis.dhs.gov

	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 Official who will sign Form I-918, Supplement B.

II. Definitions

A. “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 below:

- | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- B. “Any Similar Activity” refers to other criminal activity when the similarities are substantial, and the nature and elements of the criminal activity are comparable.
- C. The “U-visa” is the common name for the U nonimmigrant status.
- D. Signing U.S. Citizenship and Immigration Services’ (USCIS) Form I-918B (Supplement B, U Nonimmigrant Status Certification) does not grant the applicant a U visa or any status in the United States currently. It is one piece of an application a survivor needs to submit to USCIS, the agency that will make the ultimate determination of granting a U visa or not.
- E. Any certifying official may sign Form I-918B. The U visa regulation defines a Certifying Official as “[t]he head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency; or [a] federal, state, or local judge.”^{cc}

III. Policy

- A. It is the policy of Harris County to assist immigrant crime victims with their U visa applications. U visas:
 - 1. Strengthen law enforcement’s ability to detect, investigate, and prosecute serious crimes, such as domestic violence, sexual assault, and human trafficking;
 - 2. Encourage victims to report crimes committed against them and participate in the investigation and prosecution of those crimes, even if victims lack lawful immigration status; and
 - 3. Offer protections to victims of qualifying crimes in keeping with the humanitarian interests of the United States.
- B. When a U visa request is made the Certifying Official 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. The individual is a victim of a qualifying criminal activity;
 - 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;
 - 3. The information listed on the form is accurate to the best of your knowledge; and
 - 4. You have direct knowledge of the information listed (or have reviewed relevant records).

^{cc} 8 C.F.R. § 214.14(a)(3)

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 II-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, **the certifying official does not need to make the determination** of “unusually direct injury” when completing Form I-918B; the applicant will need to provide it elsewhere with their application. 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. The Certifying Official may be from the agency investigating the case or the agency prosecuting the case (i.e., Harris County District Attorney’s Office). Either may serve as the certifying agency or Certifying Official if requested by the survivor or their legal counsel. For instance, even if no charges have been filed, the District Attorney’s Office can still sign the certification (they can consult the agency to which the victimization was reported to verify case facts). Further, if charges have already been filed and the case is in progress, the law enforcement agency which took the report [e.g., HCSO, Constables] can still sign the certification. Judges are also able to sign certifications. Additionally, the case does not need to be successfully prosecuted nor does the person who committed the crime need to be apprehended, since the outcome of a case is not pertinent to U visa certification.

C. The applicant has been, is being, or is likely to be helpful in the investigation.

1. It is Harris County’s policy to presume the helpfulness of the applicant. The policy of presumption of helpfulness means that, in the absence of contradicting evidence, the victim’s helpfulness is presumed.
 - i. The applicant is helpful if they possess information about a qualifying criminal activity; and/or
 - ii. Demonstrates 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 certification request to the agency. 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, further threats made against them, or trauma) 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 or the parent, if the victim is a child (child is defined as someone under 21 years of age)^{DD}, especially a non-verbal child, is willing to assist—or has assisted or was helpful—with detection, investigation, prosecution, conviction, or sentencing of a 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 Certifying Official, however this agency **should not** assess whether an injury rises to the level of “substantial” when deciding to certify. **If the Certifying Official 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 and immigration history **will not** be considered when deciding whether to certify.
1. USCIS will assess this history when adjudicating the case, thus it is not necessary for the certifying agency to consider criminal or immigration history;
 2. Furthermore, the agency shall not request additional information from the victim that is not relevant to the U visa certification request.
- G. A certification can be issued **any time after the criminal activity occurred**. U visa regulations and USCIS allow for certification at any time following the victimization., so **no time limit(s) should be imposed for signing certifications.**
- H. The applicant can submit the request or a referring legal entity (such as a private attorney or non-profit organization) can do so.^{EE}
- 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.**

^{DD} 8 C.F.R. § 214.14(a)(14)(i)

^{EE} It is not required that an applicant use an attorney, **but it is highly recommended** to increase the likelihood the application will be accepted by USCIS. In Harris County, law enforcement can refer victims without attorneys to a free immigrant resource hotline that can connect them with non-profit services: 1-833-468-4664. More information at <https://www.houstonimmigration.org/hotline>

- 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. If the initial certification is no longer valid, the agency **shall approve another U-visa certification** (i.e., re-certify) at the request of the victim. The presumption of helpfulness remains upon recertification.
- 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 (<https://www.uscis.gov/I-918>), 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. A supervisor of the Certifying Official shall review all reconsideration requests.
- 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 Certifying Official 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 and submitted to JAD monthly so that such anonymous aggregate data can 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 Certifying Official 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.

Appendix F: Letter from HILSC Concerning Changes to Model Policy

HOUSTON IMMIGRATION
LEGAL SERVICES COLLABORATIVE
Organizational address | 515 Post Oak Blvd #1000, Houston, TX 77027

Director Jim Bethke,
Deputy Director Ana Yanez Correa, and
Veronyka James, Ph.D.
Harris County Justice Administration Dept.
1115 Congress, 6th Floor
Houston, TX 77002

April 22, 2021

Dear Justice Administration Department,

Thank you for meeting with us on March 30 to present your office's findings in the report *U Visa: A Critical Tool for Law Enforcement to Support Survivors of Crime and Build Community Resiliency*. We know that Harris County and the Justice Administration Department is committed to helping immigrant victims and we appreciate the opportunity to give recommendations for improvement to the current Harris County U visa model policy, outlined in Appendix E of the report presented before Harris County Commissioners Court.

Members of the Houston Immigration Legal Services Collaborative (HILSC) serve Houston's low-income immigrant community. HILSC's Crime Victims Working Group is made up of immigration legal services non-profits, immigrant victims services organizations, and law school clinicians with long-standing expertise in U visas, T visas, and VAWA. We believe that a good policy will increase trust in law enforcement and encourage victims to cooperate quickly and fully.

HILSC proposes the following changes to the County's model U visa policy:

1. Recommend that the certifying agency sign U visa certification forms for victims regardless of their criminal legal history.

Immigrant victims of crime may have past criminal conduct or convictions. Sometimes, these stem from the crime they have been a victim of - such as the coercion of victims of domestic violence into crimes like prostitution, theft, or drug-related crimes. Other times, they may be a result of an immigrant's status or experience, such as needing to use false documents in order to work or the use of drugs or alcohol as a coping mechanism for past trauma. These crimes should not preclude someone from receiving a U visa certification. The HILSC crime victims working group proposes that the model policy direct that all eligible certifications be signed as soon as they are requested, including for victims with non-violent criminal conduct or convictions in the past.

USCIS may deny a U visa petition for a variety of reasons related to inadmissibility, including if the victim's criminal history warrants such a decision. USCIS denials may occur in cases where a victim has multiple arrests, convictions, or has a serious or violent criminal arrest record. As your report highlights, a signed U visa certification form alone **does not** grant the applicant a U visa. It is one piece in what USCIS considers in making the ultimate decision of granting a U visa or not. The burden of proof falls on the applicant and their legal

representative to show to USCIS through evidence that they are eligible for the U visa, including any evidence against inadmissibility due to past criminal legal history. It is in the public interest that U visa certification requests be signed for all eligible victims, regardless of their past. USCIS, not the certifying local law enforcement agency, is the ultimate decision maker on whether the applicant is eligible to be granted a U visa.

Additionally, the [rights of crime victims in Texas](#) are guaranteed to *all* victims under Texas law regardless of their immigration legal status and their own criminal legal history. This is from the universal understanding that victims have the right to information, resources, or financial assistance to be safe in the aftermath of the crime and to encourage greater victim participation in the apprehension and prosecution of criminals. For the same reasons, it is in the public interest that U visa certifications also be viewed within the holistic view of crime victim rights as a resource that is critical for victims/survivors to live in safety.

2. Recommend that the certifying agency affirmatively approve another U visa certification (re-certify) where the initial certification is no longer available or valid, if the victim remains cooperative.

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 valid. For example, the certification may expire through no fault of the survivor due to illness or theft/damage to their home's contents.

As shown in your findings, victims who cannot hire a private attorney face long waitlists to access free immigration counsel given the limited capacity of legal service providers in our area. Organizations with already limited capacity face additional pressures in submitting complete applications within the timeframe, while balancing high caseloads, prioritizing cases in detention or in removal proceedings, and working with the survivor to collect the evidence needed in a case to meet USCIS's high burden of proof for eligibility. Likewise, survivors have the right to change their immigration counsel and may run out of time to find new representation before their certification expires.

In the memo, JAD outlined the many challenges that immigrant survivors face if local law enforcement agencies place a statute of limitations on certification. These same challenges exist with the expiration of certification forms and law enforcement agencies that refuse to recertify. Additionally, survivors of severe violence often have urgent and complex needs (e.g. safety concerns) that may arise during this time. These needs take priority in the life of a survivor and may take a long time before a victim is again ready to provide the material assistance needed to complete their U visa application before the certification expires. By the time these issues and needs are dealt with, the certification may have expired. Agencies that refuse to certify or demand high proof for a case-by-case decision to recertify, will penalize survivors who have no choice but to center their physical needs and safety first. As with initial certifications, there should be a presumption of the victim's helpfulness upon recertification.

HILSC requests that these changes be implemented to the written Sample Model Policy and reflected in any subsequent policy recommendations to law enforcement agencies on U Visa certifications. HILSC's Crime Victims Working Group would be happy to provide trainings on issues facing immigrant victims to your department and to staff in other law enforcement agencies in our region. We are always happy to continue having conversations and working together to help immigrant victims of crime and reimagining safety for our community.

Thank you very much for your time and for your consideration of these proposals. If you would like to discuss any of this further, please feel free to contact me at 713-775-2588 or at andrea@houstonimmigration.org.

Sincerely,



Andrea Gutin
Legal Director
Houston Immigration Legal Services Collaborative

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ORDER OF COMMISSIONERS COURT
Approving Harris County Model Policy for U Visa Certification

The Commissioners Court of Harris County, Texas, met in regular session at its regular term, virtually, on October 12, 2021, with all members present.

A quorum was present. Among other business, the following was transacted:

**ORDER APPROVING HARRIS COUNTY MODEL POLICY FOR U VISA
CERTIFICATION**

Commissioner _____ introduced the order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom Ramsey P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that:

1. Harris County Judicial Administration Department's Model Policy for U Visa Certification is approved.
2. All Harris County Law Enforcement Agencies are encouraged to adopt Harris County Judicial Administration Department's Model Policy for U Visa Certification.
3. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.