



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

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6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Fraud in Foreign Labor Contracting	Prostitution	Stalking
Hostage		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

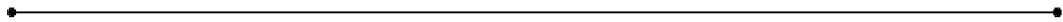
6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

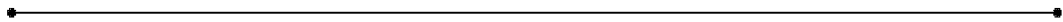
Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

May 7, 2014

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6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Hostage	Prostitution	Stalking
Fraud in Foreign Labor Contracting		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

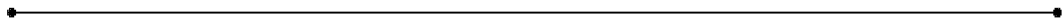
6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

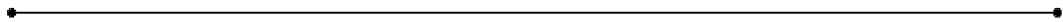
Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

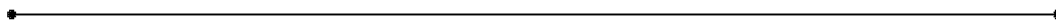
Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.





U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

August 4, 2014

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6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Fraud in Foreign Labor Contracting	Prostitution	Stalking
Hostage		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

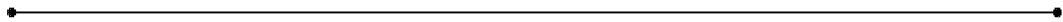


6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

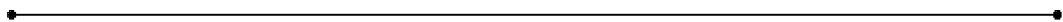
1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.



6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.



6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

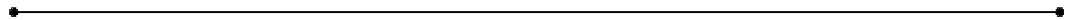
Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

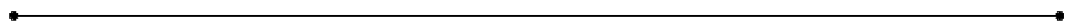
- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.



6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.



6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.



6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

Vermont Service Center

Standard Operating Procedure (SOP)

I-918, PETITION FOR U NONIMMIGRANT STATUS

Prepared by: Center Training Unit
Vermont Service Center

January 16, 2014

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Eligibility Requirements

Qualifying Criminal Activity

General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Hostage	Prostitution	Stalking
Fraud in Foreign Labor Contracting		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

Continued on next page

Qualifying Criminal Activity, Continued

Similar activity For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

**Evidence of
“similar
activity”**

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

Victim Definitions

General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

Continued on next page

Victim Definitions, Continued

- Indirect Victim**
- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
 - This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
 - Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
 - If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

Important: to determine eligibility, look to the age of the victim at the time the crime occurred.

**Victim of
Murder /
Manslaughter**

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
 2. Child under age 21 of the deceased
 3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.
-

Continued on next page

Victim Definitions, Continued

Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system

Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
2. Child under age 21
3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.

Continued on next page

Victim Definitions, Continued

Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

Continued on next page

Victim Definitions, Continued

Pre-existing Conditions	Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.
--------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Series of Acts	Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.
-----------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Required Evidence	Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:
--------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------

1. A properly executed Form I-918, Supplement B, "U Nonimmigrant Status Certification" will be given significant weight.
2. A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

Additional Evidence of Abuse	Additional evidence to demonstrate the abuse suffered may include, but is not limited to:
-------------------------------------	-------------------------------------------------------------------------------------------

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

Possesses Information

General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

Continued on next page

Possesses Information, Continued

Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

Continued on next page

Possesses Information, Continued

**Evidence
Parent/
Guardian/Next
Friend
Possesses Info**

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification”
 - Police reports
 - Court documents
-

**Evidence of
Relationship to
Petitioner**

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

Helpfulness to Law Enforcement Authorities

General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator's certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency's stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Scenario:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Other instances:

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

Criminal activity violated U.S. law or occurred in the United States

General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

Continued on next page

Criminal activity violated U.S. law or occurred in the United States, Continued

Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

May 20, 2014

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6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Hostage	Prostitution	Stalking
Fraud in Foreign Labor Contracting		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

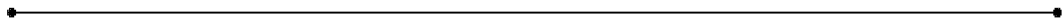
6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

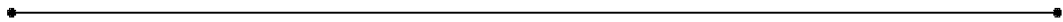
Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

August 27, 2014

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6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Fraud in Foreign Labor Contracting	Prostitution	Stalking
Hostage		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

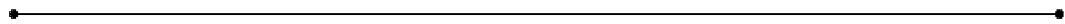
6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

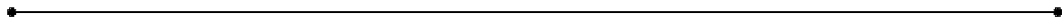
Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

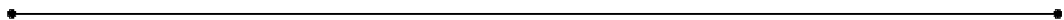
- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.



6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.



6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.



6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

April 29, 2014

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6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Hostage	Prostitution	Stalking
Fraud in Foreign Labor Contracting		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

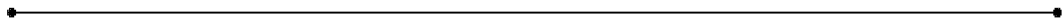
6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

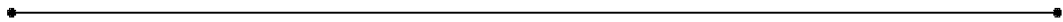
Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

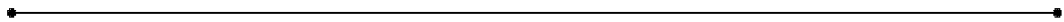
6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

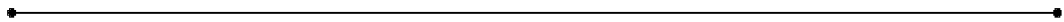


6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.



6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.



6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

June 6, 2014

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6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Hostage	Prostitution	Stalking
Fraud in Foreign Labor Contracting		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

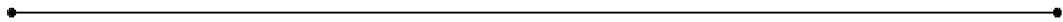
6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

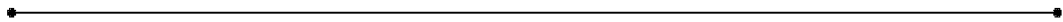
Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
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6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
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Fraud in Foreign Labor Contracting	Prostitution	Stalking
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Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

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Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

7 Qualifying Family Members

7.1 Overview

7.1.1 General

Certain qualifying family members of the petitioner/principal (U-1) may accompany or follow to join the alien victim and obtain U nonimmigrant status, regardless of whether the family member(s) is in the United States or overseas.

A separate “Petitioner for Qualifying Family Member of U-1 Recipient” (Form I-918, Supplement A) must be submitted for each family member.

Evidence to prove the relationship is needed. Documentary requirements for civil registration and timeliness of registration for relationship documents apply. See the *I-130 SOP* for specifics.

7.1.2 Locating Qualifying Family Member Petitions

The officer adjudicating an I-918 is responsible for checking for associated I-918, Supplement A filings. Conduct the check for a qualifying family member petition (Form I-918, Supplement A) by viewing the I-918A screen in HAVEN.

If an I-918, Supplement A is filed and still pending but is not riding with the I-918, the officer adjudicating the I-918 must obtain each pending I-918, Supplement A associated with the principal’s filing. Once an I-918, Supplement A is obtained, that officer will adjudicate it to completion. In general, I-918, Supplement A cannot be adjudicated to finality prior to the principal’s I-918 receiving a final decision.

7.1.3 Form Annotations

Write the EAC# of the I-918 principal in the remarks block on the I-918A. This will assist clerical in updating HAVEN as the only way to identify an I-918A filing is through opening the record for the principal.

Vermont Service Center

Standard Operating Procedure (SOP)

I-918, PETITION FOR U NONIMMIGRANT STATUS

Prepared by: Center Training Unit
Vermont Service Center

April 14, 2014

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Eligibility Requirements

Qualifying Criminal Activity

General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Hostage	Prostitution	Stalking
Fraud in Foreign Labor Contracting		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

Continued on next page

Qualifying Criminal Activity, Continued

Similar activity For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

**Evidence of
“similar
activity”**

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

Victim Definitions

General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

Continued on next page

Victim Definitions, Continued

- Indirect Victim**
- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
 - This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
 - Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
 - If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

Important: to determine eligibility, look to the age of the victim at the time the crime occurred.

**Victim of
Murder /
Manslaughter**

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
 2. Child under age 21 of the deceased
 3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.
-

Continued on next page

Victim Definitions, Continued

Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system

Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
2. Child under age 21
3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.

Continued on next page

Victim Definitions, Continued

Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

Continued on next page

Victim Definitions, Continued

Pre-existing Conditions	Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.
--------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Series of Acts	Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.
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Required Evidence	Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:
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A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

Additional Evidence of Abuse	Additional evidence to demonstrate the abuse suffered may include, but is not limited to:
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- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

Possesses Information

General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, "U Nonimmigrant Status Certification"
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

Continued on next page

Possesses Information, Continued

Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

Continued on next page

Possesses Information, Continued

**Evidence
Parent/
Guardian/Next
Friend
Possesses Info**

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification”
 - Police reports
 - Court documents
-

**Evidence of
Relationship to
Petitioner**

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

Helpfulness to Law Enforcement Authorities

General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, "U Nonimmigrant Status Certification"
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator's certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency's stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Scenario:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Other instances:

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

Criminal activity violated U.S. law or occurred in the United States

General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

Continued on next page

Criminal activity violated U.S. law or occurred in the United States, Continued

Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

July 11, 2014

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6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Fraud in Foreign Labor Contracting	Prostitution	Stalking
Hostage		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

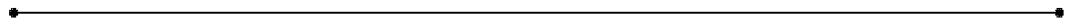
Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

November 25, 2014

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6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

7 Qualifying Family Members

7.1 Overview

7.1.1 General

Certain qualifying family members of the petitioner/principal (U-1) may accompany or follow to join the alien victim and obtain U nonimmigrant status, regardless of whether the family member(s) is in the United States or overseas.

A separate “Petitioner for Qualifying Family Member of U-1 Recipient” (Form I-918, Supplement A) must be submitted for each family member.

Evidence to prove the relationship is needed. Documentary requirements for civil registration and timeliness of registration for relationship documents apply. See the *I-130 SOP* for specifics.

7.1.2 Locating Qualifying Family Member Petitions

The officer adjudicating an I-918 is responsible for checking for associated I-918, Supplement A filings. Conduct the check for a qualifying family member petition (Form I-918, Supplement A) by viewing the I-918A screen in HAVEN.

If an I-918, Supplement A is filed and still pending but is not riding with the I-918, the officer adjudicating the I-918 must obtain each pending I-918, Supplement A associated with the principal’s filing. Once an I-918, Supplement A is obtained, that officer will adjudicate it to completion. In general, I-918, Supplement A cannot be adjudicated to finality prior to the principal’s I-918 receiving a final decision.

7.1.3 Form Annotations

Write the EAC# of the I-918 principal in the remarks block on the I-918A. This will assist clerical in updating HAVEN as the only way to identify an I-918A filing is through opening the record for the principal.

7.2 Eligibility

7.2.1 Determining Qualifying Family Members

Qualifying family members are determined by the age of the principal on the date the principal filed Form I-918.

If the principal is...	Then the qualifying family members can be...
UNDER the age of 21 at the time of filing,	U-2 – principal's spouse U-3 – principal's children (unmarried and under age 21*) U-4 – principal's parents U-5 – principal's unmarried siblings (under age 18*)
Age 21 or OLDER at the time of filing,	U-2 – principal's spouse U-3 – principal's children (unmarried and under age 21*)

***NOTE:** Age of the qualifying family member is calculated based on the age of the qualifying family member at the time the principal filed the I-918.

7.2.2 Existence of the relationship

The relationship between the principal and the family member must exist at the time Form I-918 was filed.

The relationship must also continue to exist at the time Form I-918, Supplement A, is adjudicated and at the time the qualifying family member is admitted to the United States in U nonimmigrant status.

If the principal proves he or she became the parent of a child after Form I-918 was filed, the child will be eligible to accompany or follow to join.

7.2.3 Initial Evidence

Each Form I-918 Supplement A must be accompanied by the following:

1. Evidence of principal's filing:
 - a) If the principal's Form I-918 is pending, a copy of the Principal's Form I-918 filing must accompany the derivative petition; or
 - b) If the principal has already been granted U-1 nonimmigrant status, he or she may submit a copy of the I-94 showing his/her admission in U-1 status.
 2. Evidence of the qualifying family member's relationship with the principal
 3. *(If the beneficiary is inadmissible)* Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) with fee or fee waiver request.
-

7.2.4 Prohibition for Certain Family Members

Do NOT grant U-2, U-3, U-4 or U-5 nonimmigrant status to a qualifying family member who committed the qualifying criminal activity in a family violence or trafficking context which established the principal alien's eligibility for U nonimmigrant status.

Example:

A woman applies for U nonimmigrant status as victim of domestic violence. Her spouse, who perpetrated the certified crime of domestic violence, is excluded from consideration as a U-2 as he is culpable for the qualifying criminal activity.

IMPORTANT: In cases where the perpetrator of the certified crime is a family member that could derive from the principal, carefully review the I-918B and add the perpetrator's name and DOB in the comment block of HAVEN. Adding the name of the perpetrator to HAVEN will help to identify any QFM's that are culpable and ensure we do not grant a benefit to the person who created the victim. Remember, this information is subject to FOIA. Please list the name and DOB of the perpetrator only.

7.2.5 Principal has Adjusted to LPR status

If the principal (U-1) has adjusted to that of an LPR while the I-918A remained pending, the I-918A must be denied.

7.2.6 Age-out Restrictions

Regulation and policy accords protections from aging-out of eligibility for certain qualifying family members (QFM):

If...	Then...	Pursuant to...
Interim relief was granted to the QFM as a child of the principal and that QFM was under 21 at the time of interim relief filing,	QFM remains eligible for consideration as a U-3 even if the QFM will be over 21 at the time the I-918A is approved.	<u>AFM Chapter 39</u> <u>Section (f)(4)(iv)</u>
A sibling was under the age of 18 at the time the I-918A was filed and the principal was under the age of 21 at the time the I-918 was filed but the principal is no longer 21 at the time of final adjudication,	QFM remains eligible for U-5 consideration as long as the QFM remains unmarried.	<u>8 CFR</u> <u>214.14(f)(4)(ii)</u>
The principal becomes the parent to a child after the I-918 is filed,	The child can be considered as a QFM (U-3) despite the relationship not existing at the time the I-918 was filed.	<u>8 CFR</u> <u>214.14(f)(4)(i)</u>

Continued on next page

Age-out Restrictions (continued)

If...	Then...	Pursuant to...
The principal was under 21 at the time the I-918 was filed and filed for a parent or a sibling (who was unmarried and under 18) and the principal is no longer under 21 at the time the I-918 is approved or adjudicated,	The parent or unmarried sibling remains eligible for U-4 (parent) or U-5 (sibling) consideration despite the principal no longer being under 21 and the sibling no longer being under 18 (but still must be unmarried).	<u>AFM Chapter 39</u> <u>Section (f)(4)(iii)</u>
The principal was over 21 and filed for a U-3 (derivative child) who was under 21 at the time of filing but who is over 21 at the time of adjudication or final decision,	The QFM U-3 was under 21 at the time the petition was filed. The QFM remains eligible.	Violence Against Women Act of 2013
The filing for a U-3 arrives on the QFM's 21 st birthday,	The U3 is no longer under 21 so most likely will not qualify but <i>may still be eligible</i> . Check to see when the petition arrived at the VSC to be sure the receive date is correct.	<i>Discuss with SISO or ISO3</i>

7.3 Evidence of Qualifying Relationship**7.3.1 Spouse of U-1**

The following evidence is needed to establish a qualifying relationship of a **spouse** of a U-1 petitioner (principal):

1. Marriage Certificate
2. Termination of all previous marriages of the U-1 (principal)
3. Termination of all previous marriages of the U-2 (derivative)

7.3.2 Biological or Adopted Child of U-1

The following evidence is needed to establish a qualifying relationship of a **biological or adopted child** of a U-1 petitioner (principal):

1. Birth certificate of the child showing the parents' names
 2. Legal adoption decree of the child.
-

7.3.3 Step Child of U-1

The following evidence is needed to establish a qualifying relationship of a **step child** of a U-1 petitioner (principal):

1. Birth certificate of the child showing the parents' names
 2. Marriage certificate for the U-1 principal and child's biological parent (prior to the child turning age 18)
 3. Termination of the U-1's previous marriage(s)
 4. Termination of the biological parent's previous marriage(s)
-

7.3.4 Parent of U-1

The following evidence is needed to establish a qualifying relationship of a **parent** of a U-1 petitioner (principal):

Documentation cited above for appropriate category of "child" relationship whether it is biological, step or adopted.

NOTE: To qualify as a parent of the U-1, the principal must be under 21 at the time the U-1 filed his or her form I-918.

7.3.5 Sibling of U-1

The following evidence is needed to establish a qualifying relationship of a **sibling** of a U-1 (principal):

1. Birth certificate of U-1 showing parents' names
2. Birth certificate of sibling showing parents' names
3. Marriage documentation and marriage termination documentation needed for a step relationship (if applicable)
4. Adoption documentation (if applicable)

NOTE: To qualify as a sibling of a U-1, the principal must be under 21 at the time the U-1 filed Form I-918 and the sibling must be under the age of 18

8 Special Considerations

8.1 Filing From Outside the United States

8.1.1 General

Aliens outside the United States are allowed to file for U Nonimmigrant Status.

Eligibility requirements for U Nonimmigrant Status for those filing from outside the United States are the same as for those filing from within the United States.

8.1.2 Filing

The required forms and evidence are sent to the Vermont Service Center for adjudication.

8.1.3 Evidence

Petitioners filing from outside the United States must meet the same eligibility requirements for principal's and qualifying family members as those filing from within the United States.

Evidentiary requirements and standards are the same.

8.1.4 Photo Requirements

Photos are not required for:

- Approvals that will be processed at the Kentucky Consular Center (KCC).
- A Form I-918 or Form I-918, Supplement A with no deficiencies or discrepancies in the record that would require an RFE or NOID at the time of initial adjudication.

Photos should be requested for a Form I-918 or Form I-918, Supplement A with deficiencies or discrepancies in the record that would require an RFE or NOID. Include the request for photos in the RFE or NOID seeking other additional evidence.

NOTE: Do not deny any petitions solely because photos were not submitted.

8.1.5 Worksheet Annotations

Do not route the file to FCU for updating. There is no update to the COA for overseas filings. Aliens who are processing overseas for their visas are not placed in U nonimmigrant status until they are inspected at a port of entry and permitted to enter as a U nonimmigrant.

8.2 Interim Relief Considerations

8.2.1 General

There is no deadline for submission of U nonimmigrant status petitions for those who previously filed for interim relief.

Petitioners and accompanying or following to join family members who were granted interim relief were initially encouraged to file Form I-918 by April 14, 2008 (within 180 days of the effective date of the rule). Guidance issued in 2009 delayed that date until February 1, 2010. Interim relief was terminated for all recipients that did not file the Form I-918 or have a Form I-918, Supplement A, filed on their behalf prior to February 1, 2010.

8.2.2 Interim Relief Continuation

The U rule became effective on of October 17, 2007.

Aliens who received deferred action issued by the Interim Relief program who have filed Form I-918 but whose form has not yet been adjudicated, may have that deferred action extended until USCIS completes the adjudication of the I-918. Extensions are granted upon written request of the alien or by the filing of an I-765 seeking work authorization under 8 CFR 274a.12(c)(14).

8.2.3 Initial evidence requirements

Individuals who received an interim relief approval are not required to submit initial evidence when filing Form I-918.

8.2.4 Law enforcement certifications

Generally, USCIS will consider the certification submitted for interim relief to meet requirements for interim relief purposes in lieu of Form I-918, Supplement B. However, aliens who received interim relief are not precluded from submitting Form I-918, Supplement B if they choose.

USCIS will be lenient regarding the signing official (whether or not it is the head of the agency or someone in a supervisory role specifically designated by the head of the agency) if the document meets all other requirements for a certification.

8.2.5 Approvals

Petitioners whose I-918 is approved and who were granted interim relief will be accorded U nonimmigrant status as of the date that the U interim relief was initially approved.

9 Classification and Duration of Status

9.1 Classification and Validity Dates

9.1.1 General

The U-visa accords aliens nonimmigrant status. As such, upon approval of Form I-918 (and Form I-192, as necessary) they will be provided an Arrival-Departure Record (Form I-94) showing their classification and the validity period of their nonimmigrant status.

After three years in U nonimmigrant status, the alien may apply for adjustment to that of a lawful permanent resident by filing the Application to Register Permanent Residence or Adjust Status (Form I-485).

9.1.2 Nonimmigrant classifications

Refer to the chart below for the appropriate classification:

If the alien is the...	Then the classification is...
Principal,	U-1
Spouse of the principal,	U-2
Child (<i>unmarried and under 21</i>) of the principal	U-3
Parent of the principal	U-4
Siblings (under 18 and unmarried) of the principal	U-5

9.1.3 Validity Dates

The initial approval of U-1 nonimmigrant status shall be for a period of four years minus one day from the date of approval of Form I-918.

Extensions of this nonimmigrant status are possible in certain circumstances when the initial validity period was less than four years. U nonimmigrant status may be approved for a period not to exceed four years in the aggregate.

Generally, a derivative family member granted U-2 through U-5 nonimmigrant status will be approved for an initial period that does not exceed the expiration date of the initial period granted to the principal.

NOTE: U3 Derivatives will be granted the full four year validity period even if it is longer than the principal petitioner's validity period.
See memo dated Dec 2012.

9.1.4 Interim Relief

Petitioners granted U interim relief will be accorded U nonimmigrant status as of the date that a request for U interim relief was initially approved.

10 Biometrics

10.1 Overview

10.1.1 General

All aliens between the ages of 14 and 79 seeking U nonimmigrant status must submit to biometrics capture. The biometrics are fee exempt.

10.1.2 Process

Fingerprinting will be conducted pursuant to 8 CFR 103.2(e).

USCIS will notify the applicant of the time and location to appear for fingerprinting after the petitioner files Form I-918.

Do not approve an I-918 or I-918, Supplement A, until the FBI fingerprint response is received.

If an I-918 or I-918, Supplement A, is otherwise deniable, you may deny the case without first obtaining a valid fingerprint response. If you determine that criminality issues exist, you may request biometrics capture (or a refresh of an expired fingerprint response) if that information will assist in properly adjudicating the petition or application.

10.1.3 Form FD-258

Form FD-258, Applicant Card, will only be accepted if prepared by a:

- USCIS office,
 - Registered state or local law enforcement agency designated by a cooperative agreement with USCIS to provide fingerprinting services (designative law enforcement agency),
 - U.S. consular office at U.S. embassies and consulates, or
 - U.S. military installation.
-

10.2 Filing Location

10.2.1 Needing Biometrics (in the United States)

Fingerprints are needed for all U nonimmigrant status seekers age 14 and older. If an alien in the United States was under 14 at the time he/she filed the I-918 or had the I-918A filed on his or her behalf, but is 14 or older at the time the form is adjudicated, you must obtain fingerprint results prior to final adjudication.

You must request fingerprints via NASS in Centerserve.

10.2.2 Needing Biometrics (outside the United States)

Aliens outside the United States must provide fingerprints using the overseas process. If an alien outside the United States was under 14 at the time he or she filed the I-918 or had the I-918A filed on his/her behalf, but is 14 or older at the time the form is adjudicated, an overseas fingerprint notice must be issued. No fee solicitation is needed as USCIS does not take fees for prints obtained overseas.

Route the file to Data Entry using the [Div 6 MRD Fingerprint Scheduling](#) worksheet. Indicate “Overseas fingerprint scheduling” on the worksheet. In the alternative, you may issue an RFE for the fingerprints and provide the alien with FD-258 cards and the instruction sheet for obtaining fingerprints at an overseas location. Only a consulate or military installation can take fingerprints overseas.

10.2.3 NASS Requests for I-918

The fingerprint request program has been added in Centerserve. You must use the Short Form NASS Request in Centerserve for all principal filings and the Detailed NASS Request in Centerserve for all derivatives. The information must be populated by the officer. Guidance for requesting appointments and populating the information is provided below.

Principal I918	Receipt Number 1 (Req.)	Receipt Number 2	Appointment Type (Req.)	Priority Code (Req.)	Scheduling Zip Code (Req.) <u>Do not use the Safe Address</u>
Age In	I918	N/A	3-Fingerprints and Biometrics	1	Petitioner's The ASC
No prints on file	I918	N/A	3-Fingerprint and Biometrics	1	Petitioner's The ASC
Expired fingerprint	I918	N/A	1-Fingerprint only	0	Petitioner's The ASC
Identity Issue	I918	N/A	3-Fingerprint and Biometric	1	Petitioner's The ASC
Two applicants assigned to one A-number	I918	N/A	3-Fingerprint and Biometric	1	Petitioner's The ASC
One unclassifiable print and auto re-schedule did not happen	I918	N/A	1 or 3 as needed	Report to Analyst	

*For any filings outside of the United States you must use the Div 6 MRD FP Scheduling Worksheet

•—————•

10.2.4 Derivative Filings

For all Derivative Filings, use the Detailed NASS Request. Guidance for requesting appointment sand populating the information is provided below.

I918A	Age In	No Prints on File	Expired Prints	Identity Issues	Two applicants assigned to One A#	One unclassifiable print and auto re-schedule did not happen
A Number	Of the I918A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A
Receipt #	VTU #	VTU #	VTU #	VTU #	VTU #	VTU #
Form Type	I918A	I918A or I914A	I918A or I914A	I918A or I914A	I918A or I914A	I918A or I914A
DOB	Of the I918A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A
First and last name	Of the I918A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A
Complete Safe Address include C/O	Of the I918A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A	Of the I918A or I914A
Appointment Type	1-Fingerprint Only					
Priority Code	1	1	1	1	1	Report to Analyst

•—————•

10.2.5 Annotating Worksheet

You must fill out the Div 6 MRD Fingerprint Scheduling worksheet completely.

- Check “Return to Officer”
- Enter your NFTS code and cube number.

IMPORTANT: You must ensure the worksheet is completed for aliens needing biometrics, whether they are inside or outside of the United States.

10.3 Failure to appear or provide fingerprints

10.3.1 Failure to Appear for Biometric Capture (in the United States)

Generally, aliens in the United States must appear for the capturing of biometrics at an Application Support Center (ASC).

The regulations state that the initial failure to appear shall be excused if the notice for the biometric capture appointment was not mailed to the alien’s current address and such address had been provided to USCIS unless USCIS determines that the alien received reasonable notice of the appointment.

VSC policy is that you will send the filing for rescheduling if the first appointment does not result in biometrics being captured for any reason.

Failure to appear for biometric capture after the second scheduling at an ASC in the United States will result in an abandonment denial of the petition. Refer to the table below when processing a case following a scheduled ASC appointment:

If the alien...	Then...
appears for the second scheduled ASC appointment,	Continue adjudicating the file.
fails to appear for the second scheduled ASC appointment,	<ul style="list-style-type: none"> • Wait 90 days after that appointment; • Check the NASS website and the FD-258 screen in National CLAIMS. • Deny the case for abandonment if the system checks do not establish that the biometrics have been captured.

NOTE: The burden of proof is on the alien to establish that he or she failed to receive reasonable notice of an appointment. The alien must notify USCIS of any change of address (per 8 CFR 265.1) prior to the date on which the notice for biometric capture was mailed to the alien.

10.3.2 Failure to Provide Fingerprints (outside the United States)

Failure to return FD-258 cards after making a second request for the fingerprints will result in an abandonment denial of the petition.

10.3.3 Excusing Failure to Appear

Failure to appear for biometric capture may be excused at the discretion of USCIS if:

1. The alien promptly contacts USCIS; and
2. The alien demonstrates that the failure to appear was the result of exceptional circumstances.

You must receive permission from the SISO to grant more extensions to submit fingerprints after a second ASC appointment is scheduled or after a second overseas request is made.

10.4 Fingerprint Results

10.4.1 Unclassifiable Fingerprints

Refer to the chart below when a file contains unclassifiable fingerprints:

If the...	Then...						
First FD-258 card Scanned and Print Response is unclassifiable (Overseas prints),	Send second FD-258 for dead scanning.						
Second FD-258 card Scanned and Print Response is still unclassifiable (Overseas prints),	Send RFE for local clearances.						
First fingerprint response is “R”(ASC prints),	Check the NASS website for a new appointment.						
	<table><tr><th>If there is...</th><th>Then...</th></tr><tr><td>A new appointment date,</td><td>Stop the adjudication until the fingerprint date.</td></tr><tr><td>No new appointment date,</td><td>Request an appointment through via NASS in Centerserve.</td></tr></table>	If there is...	Then...	A new appointment date,	Stop the adjudication until the fingerprint date.	No new appointment date,	Request an appointment through via NASS in Centerserve.
	If there is...	Then...					
	A new appointment date,	Stop the adjudication until the fingerprint date.					
No new appointment date,	Request an appointment through via NASS in Centerserve.						
Second fingerprint response is “R” (ASC prints),	Send RFE for local clearances.						
Exceptional circumstances impede attending ASC appointment or getting overseas prints taken,	See your SISO or an ISO(3).						

10.4.2 Check CLAIMS for FP Response

A fingerprint response is valid if it is within 15 months of the “Date Processed by the FBI”.

Follow the steps below to check for a fingerprint response:

Step	Action						
1	Access CLAIMS mainframe in National Systems.						
2	Select Option 15 for FD-258 Fingerprint Tracking Inquiry and press [Enter].						
3	Place an “X” at the first Option: FBI Fingerprint Tracking System and press [Enter]. <table border="1"> <tr> <th>If the alien has been fingerprinted...</th><th>Then the next screen will display...</th></tr> <tr> <td>once and only in relation to the I-918,</td><td>The FBI response record for the I-918 (appears as Form X-999).</td></tr> <tr> <td>more than once,</td><td> <ul style="list-style-type: none"> • a listing of each record by form type (i.e. I-485, I-751), • tab to the record for the X-999 or any valid FD-258 response generated by any form type, • press [Enter] to display the FBI response record. </td></tr> </table>	If the alien has been fingerprinted...	Then the next screen will display...	once and only in relation to the I-918,	The FBI response record for the I-918 (appears as Form X-999).	more than once,	<ul style="list-style-type: none"> • a listing of each record by form type (i.e. I-485, I-751), • tab to the record for the X-999 or any valid FD-258 response generated by any form type, • press [Enter] to display the FBI response record.
If the alien has been fingerprinted...	Then the next screen will display...						
once and only in relation to the I-918,	The FBI response record for the I-918 (appears as Form X-999).						
more than once,	<ul style="list-style-type: none"> • a listing of each record by form type (i.e. I-485, I-751), • tab to the record for the X-999 or any valid FD-258 response generated by any form type, • press [Enter] to display the FBI response record. 						
4	Verify that the FBI response record relates to the alien named on the I-918/I-918A.						

10.4.3 Fingerprint Response

Print a copy of the FBI response record and place it on the non-record side of the file. Refer to the table below after checking CLAIMS for a fingerprint response.

If a valid FBI response record is...	And the “Date Processed by the FBI” is...	Then ...
“N” Non-Ident,	less than 15 months old,	Proceed with adjudication.
	more than 15 months old,	Check SNAP for a new appointment; if none, go to the map entitled <u>“Fingerprint Refresh Procedure”</u> .
“I” Ident (does not contain RAP sheet),	less than 15 months old,	<ul style="list-style-type: none"> • Print the RAP sheet from BBSS. • Refer to “Reviewing IDENT Response” section later in this SOP.
“I” Ident (file contains RAP sheet),	less than 15 months old,	Refer to “Reviewing IDENT Response” section later in this SOP.
“I” Ident,	more than 15 months,	<ul style="list-style-type: none"> • Go to the map entitled <u>“Fingerprint Refresh Procedure”</u>. An updated RAP sheet can usually be viewed in BBSS within 72 hours of the refresh request. • When RAP sheet has been obtained, refer to “Reviewing IDENT Response.”

Continued on next page

Fingerprint Response (continued)

If a valid FBI response record is...	And the “Date Processed by the FBI” is...	Then ...
Only 1 “R” (Unclassifiable),	more than 6 months old,	Check SNAP for a new appointment; if none, prepare an MRD worksheet for “rejected” print and route to MRD for scheduling.
	less than 6 months old,	<ul style="list-style-type: none"> • Return the file to the FP shelf. The ASC should automatically reschedule. • If still no new response after 6 months, proceed as above.
Only 1 “Unclassifiable” and an “N” or “I” valid response within 15 months generated by any form type,	N/A	See applicable process for “N” or “I” above.
More than 1 “R” (Unclassifiable),	N/A	<ul style="list-style-type: none"> • Prepare an RFE seeking police clearances. • When a response is received, review evidence for criminal convictions. If no convictions, proceed with adjudication.

10.4.4 FD-258 in File but No Results in System

If the file contains an FD-258 for the alien that was generated based on the I-918/I-918A filing, but there are no results in national systems, verify whether the prints have been dead scanned. If there is no barcode on the FD-258, the card has not been scanned. Determine if there is sufficient data on the card for scanning.

The following fields must be completed on behalf of the alien being printed in order to have the card scanned (see below):

1. Alien's name
2. Signature of the alien
3. Residence of the alien
4. Signature of official taking the prints and date
5. Embassy/consulate or military installation where prints were taken
6. Reason for fingerprints (may write in I-918 if space left blank)
7. Country of Citizenship of the alien
8. Alien's A#
9. Date of birth of the alien
10. Place of birth of the alien

If the fields are all completed, send the file to the dead scan shelf in FCU.

10.4.5 No Record Found

Refer to the table below when there is no record found:

If ...	Then ...
A message appears at the bottom of the screen stating that no records were found relating to the A-number,	Search for a record using the Name and DOB function. <i>This step is important as the FD-258 response is posted to CIS by A-number. If the response is posted with an incorrect A-number, the response will not appear when using the A-number search.</i>
Still unable to locate a record,	Check the NASS website to verify the alien was scheduled for processing. See NASS UAT USER GUIDE for instructions.
Child was under the age of 14 at the time of the biometric appointment, but has since attained the age of 14 at time of adjudication,	Schedule fingerprints via NASS in Centerserve.

10.4.6 Reviewing IDENT Response

An individual will have an IDENT response after being fingerprinted if they have an FBI rap sheet. The rap sheet contains immigration violations as well as criminal arrests, charges, and convictions.

An IDENT response may impact the eligibility requirements. Review the information carefully and determine if there is any impact on the eligibility requirements (including inadmissibility issues).

Step	Action						
1	<p>Review the RAP sheet which is usually located on the non-record side of the file to identify criminal convictions that make the individual inadmissible under section 212(a) of the Immigration and Nationality Act (INA) or otherwise might impact the eligibility requirements.</p> <table><tr><th>If the rap sheet shows....</th><th>Then determine if the</th></tr><tr><td>Immigration violations,</td><td>Violations make the alien inadmissible and require a waiver.</td></tr><tr><td>Criminal convictions,</td><td>Convictions make the alien inadmissible.</td></tr></table>	If the rap sheet shows....	Then determine if the	Immigration violations,	Violations make the alien inadmissible and require a waiver.	Criminal convictions,	Convictions make the alien inadmissible.
If the rap sheet shows....	Then determine if the						
Immigration violations,	Violations make the alien inadmissible and require a waiver.						
Criminal convictions,	Convictions make the alien inadmissible.						
2	<p>Review the evidence of record as it relates to the convictions identified on the rap sheet.</p> <table><tr><th>If you...</th><th>Then...</th></tr><tr><td>Cannot determine the disposition of the arrests or charges,</td><td>Prepare an RFE using call-up requesting information regarding the charges.</td></tr><tr><td>Can determine that the:<ul style="list-style-type: none">• criminal convictions do not make the individual inadmissible, or• charges were dismissed, or• arrests and/or charges did not result in convictions,</td><td><ul style="list-style-type: none">• Write “Rap Sheet Reviewed” and your Officer ID code in the Remarks section on the front of the petition.• Proceed with adjudication.</td></tr></table>	If you...	Then...	Cannot determine the disposition of the arrests or charges,	Prepare an RFE using call-up requesting information regarding the charges.	Can determine that the: <ul style="list-style-type: none">• criminal convictions do not make the individual inadmissible, or• charges were dismissed, or• arrests and/or charges did not result in convictions,	<ul style="list-style-type: none">• Write “Rap Sheet Reviewed” and your Officer ID code in the Remarks section on the front of the petition.• Proceed with adjudication.
If you...	Then...						
Cannot determine the disposition of the arrests or charges,	Prepare an RFE using call-up requesting information regarding the charges.						
Can determine that the: <ul style="list-style-type: none">• criminal convictions do not make the individual inadmissible, or• charges were dismissed, or• arrests and/or charges did not result in convictions,	<ul style="list-style-type: none">• Write “Rap Sheet Reviewed” and your Officer ID code in the Remarks section on the front of the petition.• Proceed with adjudication.						

10.5 Fingerprint Refresh Procedure

10.5.1 When To Use

- See the NASS Requests for I-918 chart to request an updated RAP sheet (Ident fingerprint response in FD-258 Tracking), or
- a refresh or resubmission of an expired Non-Ident fingerprint response in FD-258 Tracking

NOTES:

- A refreshed fingerprint result may be requested to support the same benefit for which the fingerprints were initially submitted.
 - A resubmission may be requested when the fingerprints are at least 12 months old and are likely to expire prior to a decision being entered on the case.
-

11 Validity Dates

11.1 General

Validity dates for U Nonimmigrant status periods depend on:

- Whether the alien received Interim Relief.
- Whether the alien was previously granted U derivative status

See the scenarios below for specifics.

11.2 U-1 with Interim Relief

Time spent in U Nonimmigrant Interim Relief counts as time spent in U nonimmigrant status. An approved I-918 for an alien who was previously approved under the interim relief provisions shall be accorded U nonimmigrant status starting on the date that interim relief was first approved.

Instances where the alien has more than three years in interim relief at the time the I-918 is approved will have his/her U nonimmigrant status begin on the date that interim relief was initially approved until one year following the date the I-918 is approved.

NOTE: The I-94 dates will not match the EAD dates. EADs cannot be back dated to reflect the initial Interim Relief approval date. EADs are dated from day of I-918 approval forward to the end of the U nonimmigrant status period.

11.3 U-1 Scenarios

Examples of U-1 scenarios are listed below:

Scenario	Validity Period/Example
<p><i>More than 3 years since Interim Relief at the time I-918 is approved:</i></p> <p>Interim Relief initially approved 10/17/2003; I-918 approved on 5/4/2009,</p>	<p>Beginning date for the U Nonimmigrant status is the date on which U Interim Relief was first granted. Ending date for U Nonimmigrant status will be one year (minus one day) from the date of approval.</p> <p>I-918/ HAVEN dates: 10/17/2003 to 5/3/2010</p> <p>GUI dates: 5/4/2009 to 5/3/2010</p>
<p><i>Less than 3 years since Interim Relief at the time I-918 is approved:</i></p> <p>Interim Relief initially approved 6/8/2007; I-918 approved on 4/12/2009,</p>	<p>Beginning date for U Nonimmigrant status is the date on which U Interim Relief was first granted. Ending date for U Nonimmigrant status is 4 years after that date (minus one day) to give the alien at least 4 years in U Nonimmigrant status.</p> <p>I-918/ HAVEN dates: 6/8/2007 to 6/7/2011</p> <p>GUI dates: 4/12/2009 to 6/7/2011</p>

11.4 U-1 Without Interim Relief

Principals who never received Interim Relief are granted U Nonimmigrant status for four years starting on the date that the I-918 is approved.

Example: I-918 approved 8/17/08:

I-918 / HAVEN validity dates: 8/17/2008 to 8/16/2012

GUI/ EAD validity dates: 8/17/2008 to 08/16/2012

11.5 U-1 with Previous Derivative Status

Principals who were previously granted U derivative status until their 21st birthday, but did not benefit from the full four years of U nonimmigrant status required to file for an adjustment of status may later file their own I-918 seeking principal U1 status.

The validity period granted depends on whether the subsequent I-918 is based on the same crime for which they were granted U derivative status, or whether the subsequent I-918 is based on a different crime than that for which they were granted U derivative status.

Refer to the chart below to determine the correct validity period for a U principal applicant who was previously afforded U derivative status.

If the crime is ...	Then grant U1 nonimmigrant status from the date of ...
The same crime as the one for which he or she was granted U derivative status,	Original approval of the U derivative status to the end of the four year period. Example: if the principal was previously granted U3 status from 10/1/10 to 3/1/11, the new U1 status will be 10/1/10 to 9/30/14.
A different crime than that for which he or she was granted U derivative status,	Adjudication of the I-918 to the end of the four year period. Example: We are approving the petition on 10/17/12. The new U1 status will be 10/17/12 to 10/16/16.

11.6 U-2 through U-5, Principal and Derivative Had Interim Relief

Generally, a derivative family member granted U-2 through U-5 nonimmigrant status will be approved for an initial period that does not exceed the expiration date of the initial period granted to the principal. However, U-3s may be extended past the principal's ending validity. See memo dated Dec 2012. If the qualifying family member and the principal were both granted Interim Relief, the time previously accorded to the qualifying family member in Interim Relief may be counted toward time in U nonimmigrant status.

In some instances, the derivative will receive less time in U Nonimmigrant status as the principal. In order to obtain sufficient time to file for adjustment, derivatives in this scenario would need to file the I-539 and follow the extension of status procedures.

NOTE: The qualifying family member's starting date cannot pre-date the date on which the principal's U Nonimmigrant status began.

11.7 U-2, U-4 and U-5 Scenarios with Interim Relief

Example #1 (Principal's and derivative interim relief dates are the same. I-918 and I-918A approved on same day)

Principal's and derivative's Interim Relief approved 9/7/05. The I-918 and I-918A are approved 10/31/07:

- Principal's I-918 / HAVEN validity dates: 9/7/05 to 9/6/09
- Principal's EAD/GUI validity dates: 10/31/07 to 9/6/09
- Derivative's I-918A / HAVEN validity dates: 9/7/05 to 9/6/09

Derivative has no EAD/GUI update unless he/she has separately filed an I-765 as (a)(20). If one is filed, the validity dates would be 10/31/07 to 9/6/09.

Example #2: (Principal's and derivative's interim relief dates are different. I-918 and I-918A approved on different dates):

Principal's Interim Relief approved 4/22/04. Principal's I-918 approved 2/12/09:

- Principal's I-918 / HAVEN validity dates: 4/22/04 to 2/11/2010
- Principal's EAD/GUI validity dates: 2/12/2009 to 2/11/2010

Derivative approved for Interim Relief 4/22/04. Derivative's I-918A approved 3/22/09: Derivative's I-918A / HAVEN validity dates: 4/22/04 to 2/11/2010

Derivative has no EAD/GUI update unless he/she has separately filed an I-765 as (a)(20). If one is filed, the validity dates are date of I-765 approval to 2/11/2010.

11.8 U-3 Neither Principal nor Derivative had Interim Relief

The U-3 must be under 21 at the time his or her petition is accepted. U-3 derivatives will be granted the full four year validity period even if the end date goes beyond the principal petitioner's validity period.

11.9 U-2, U-4, and U-5 Neither Principal nor Derivative had Interim Relief

If neither the principal nor the derivative ever had interim relief, the validity dates for both will begin from the date of the form's approval. The derivative's ending date will always be the same as the principal's—even if the principal was approved prior to the derivative. This will result in some derivative's not receiving an initial validity period of four years. Those who will require an extension of time to acquire sufficient time in U status to meet the adjustment of status requirements will need to follow the procedures for requesting an extension of status.

11.10 U-2 through U-5 Scenarios Without Interim Relief

Example #1 (Principal and derivative approved for U status on the same date)

Principal's I-918 approved 8/17/08. Derivative's I-918A approved 8/17/08:

- Principal's I-918 / HAVEN validity dates: 8/17/2008 to 8/16/2012
- Principal's GUI/ EAD validity dates: 8/17/2008 to 08/16/2012
- Derivative's I-918A / HAVEN validity dates: 8/17/2008 to 8/16/2012
- Derivative has no EAD/GUI update unless he or she has separately filed an I-765 as (a)(20). If one is filed, the validity dates would be: date of I-765 approval to 8/16/2012

Example #2 (Principal approved for U status before the derivative)

Principal's I-918 approved 2/12/09:

- Principal's I-918 / HAVEN validity dates: 2/12/2009 to 2/11/2013
- Principal's EAD/GUI validity dates: 2/12/2009 to 2/11/2013

Derivative's I-918A approved 3/22/09:

- Derivative's I-918A / HAVEN validity dates: 3/22/09 to 2/11/2013.

Derivative has no EAD/GUI update unless he/she has separately filed an I-765 as (a)(20). If one is filed, the validity dates would be: date of I-765 approval to 2/11/2013

U3 Derivatives ONLY will be granted the full four year validity period even if it is longer than the principal's validity period.

11.11 U-2 through U-5: Principal's time expired but U-1 has I-485 pending

The U-1's pending I-485 automatically extends his or her U nonimmigrant status until there is a final decision on the I-485. For this reason, the U-2, U-4, and U-5 will be granted one year of validity from the date the I-918A is approved. U3s will be granted four years of validity from the date the I918A is approved.

11.12 U-2 through U-5: Principal's time expired U-1 has not filed the I-485

The I-918A will be denied as the principal no longer holds U-1 status.

11.13 U-2 through U-5 Interim Relief for the Principal Only

If a derivative was not granted interim relief but the principal was granted interim relief, he or she cannot benefit from the principal's time in interim relief. The principal's time in U status will begin on the date that interim relief was first approved. The derivative's U status will begin on the date his or her I-918A is approved. In some instances, the derivative may receive as little as one day of validity if his/her I-918A is approved a significant time after the principal's I-918.

Example: Principal's Interim Relief approved 4/22/04. Principal's I-918 approved 2/12/09:

- Principal's I-918 / HAVEN validity dates: 4/22/04 to 2/11/2010
- Principal's EAD/GUI validity dates: 2/12/2009 to 2/11/2010

Derivative had no time in interim relief. Derivative's I-918A approved 3/22/09:

- Derivative's I-918A / HAVEN validity dates: 3/22/09 to 2/11/2010

NOTE: If a derivative's I-918A is not approvable until a date after the expiration date of the principal's validity period, discuss the I-918A with the ISO(3) point of contact for the U program.

11.14 U-2 Through U-5 Interim Relief for Derivative Only or Derivative's Interim Relief Predates the Principal's

This scenario is currently under policy discussion. Bring cases falling into this scenario to the ISO(3) point of contact for the U program.

11.15 U-1 through U-5 Interim Relief terminated for failure to file I-918/I-918A timely

Interim relief recipients were required to file (or have a petition filed on his/her behalf) for U nonimmigrant status no later than February 1, 2010. All interim relief recipients who did not have a petition for U status filed (or filed on his/her behalf) had their interim relief terminated.

The validity dates will be treated as if there was no termination of interim relief if:

- the alien's interim relief was terminated due to failure to file timely,
- the alien subsequently filed the I-918 (or had an I-918A filed on his or her behalf), and
- the petition is ultimately approved.

Refer to the appropriate scenario for an alien with interim relief when making the determination for the assignment of validity dates.

12 Decisions

12.1 Overview

12.1.1 General

Written decisions will be issued after a de novo review of the petition and evidence.

12.1.2 A File Requests

In general, you cannot adjudicate an I-918 to completion (i.e., approve or deny) if it has not been consolidated into the relating A-file. If you are in possession of a T file containing an I-918, you must request the relating A file.

Follow the steps below to request the A file for T files in your possession.

Step	Action							
1	Check the 9504 screen in CIS to determine the location of the A file.							
2	Email ISA Dianne McLaughlin, with a CC to your SISO. Include: <ul style="list-style-type: none">• A number• Name of petitioner/applicant• Form type• Location of the A file.							
3	<table><tr><th>If the A file is...</th><th>Then ...</th></tr><tr><td>Received within 30 days</td><td>Proceed with your final adjudication.</td></tr><tr><td>Not received within 30 days</td><td><ul style="list-style-type: none">• Dianne will email you and your SISO, advising that we were unable to obtain the A file.• Your SISO will send you and Dianne an email telling you whether you may work the case in a T file, or if Dianne should make a 2nd request for the A file.</td></tr></table>		If the A file is...	Then ...	Received within 30 days	Proceed with your final adjudication.	Not received within 30 days	<ul style="list-style-type: none">• Dianne will email you and your SISO, advising that we were unable to obtain the A file.• Your SISO will send you and Dianne an email telling you whether you may work the case in a T file, or if Dianne should make a 2nd request for the A file.
If the A file is...	Then ...							
Received within 30 days	Proceed with your final adjudication.							
Not received within 30 days	<ul style="list-style-type: none">• Dianne will email you and your SISO, advising that we were unable to obtain the A file.• Your SISO will send you and Dianne an email telling you whether you may work the case in a T file, or if Dianne should make a 2nd request for the A file.							
4	Refer to your SISO's instruction to proceed with your final adjudication.							

12.2 Approvals

12.2.1 Approval for U-1 (petitioner in the U.S.)

U-1 nonimmigrant status will be concurrently granted with the approval of the petition, subject to the annual limitations for visa allocation.

The following documents will be issued to the petitioner upon approval:

1. Notice of approval (Form I-797).
 2. Arrival-Departure Record (Form I-94) valid until the end of the U Nonimmigrant status.
 3. List of nongovernmental organizations to which the petitioner can refer regarding his or her options while in the United States and available resources.
-

12.2.2 Approval for U-1 (petitioner outside the U.S.)

A notice of approval (Form I-797) will be issued to the petitioner.

A notice of approval will be forwarded to the U.S. Embassy or Consulate having jurisdiction over the area where the alien is located or (for a visa exempt alien) to the appropriate port of entry.

12.2.3 Approval of U-2 through U-5 (qualifying family member in the U.S.)

When Form I-918, Supplement A, is approved, the qualifying family member will be concurrently granted U-2, U-3, U-4 or U-5 nonimmigrant status.

The following documents will be issued to the principal (U-1) regarding the approval of the U-2, U-3, U-4 or U-5:

1. Notice of approval of the qualifying family member's U nonimmigrant status (Form I-797)
 2. Arrival-Departure Record (Form I-94)
-

12.2.4 Approval of U-2 through U-5 (qualifying family member outside the U.S.)

A notice of approval (Form I-797) will be issued to the petitioner.

The approved Form I-918, Supplement A, will be forwarded to the U.S. Embassy or Consulate having jurisdiction over the area where the qualifying family member is located or (for a visa exempt alien) to the appropriate port of entry.

12.2.5 Multiple Filings

Aliens seeking U nonimmigrant status may also seek any other immigration benefit or status for which they are eligible. Therefore, nothing limits a qualified petitioner from applying for U nonimmigrant status as well as other immigration benefits. Nothing limits qualifying family members from applying for other benefits or having other petitions or applications filed on their behalf. However, USCIS will only grant one nonimmigrant or immigrant status at a time.

Once the I-918 or the I-918A is approved, any subsequent I-918 or I-918A for that alien that is pending with the VSC will be denied. If the initial approval is revoked, the alien is again eligible to seek U nonimmigrant status.

If you are placing the I-918 or I-918A on the Wait List, refer to the Wait List Process with Subsequent I-918 or I-918A section of this SOP.

12.3 Denials

12.3.1 Denial (principals)

Written notification of the reasons for denial will be issued to the petitioner.

The decision will cite the specific reasons for denial and notify the petitioner of his/her appeal rights.

12.3.2 Denial (qualifying family members)

Written notification of the reasons for denial will be issued to the principal.

The decision will cite the specific reasons for denial and notify the principal of his/her appeal rights.

12.3.3 NTA issuance

If USCIS revokes or denies the Form I-918 for an alien who was in proceedings that were terminated pursuant to 8 CFR 214.14(c)(1)(i), a new Notice To Appear (NTA) may be filed by DHS (see INA section 239).

SISO sign off is required prior to forwarding any file for issuance of an NTA based on the denial of the Form I-918 or the Form I-918, Supplement A.

13 Section 384

13.1 Disclosure of Information

13.1.1 General

The use or disclosure (other than to a sworn officer or employee of the Department, or a bureau or agency of the Department, for legitimate department, bureau, or agency purposes) of any information relating to the beneficiary of a pending or approved petition for U nonimmigrant status is prohibited unless the disclosure falls within specified exceptions.

13.1.2 Exceptions for Disclosure of Information

Exceptions for disclosure of information are as follows:

1. By the Secretary of Homeland Security, at his discretion, in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under 13 U.S.C. 8;
 2. By the Secretary of Homeland Security, at his discretion, to law enforcement officials to be used solely for a legitimate law enforcement purpose;
 3. In conjunction with a judicial review of a determination in a manner that protects the confidentiality of such information;
 4. After adult petitioners for U nonimmigrant status or U nonimmigrant status holders have provided written consent to waive the restrictions prohibiting the release of information;
 5. To Federal, State, and local public and private agencies providing benefits, to be used solely to make determinations of eligibility for benefits pursuant to 8 U.S.C. 1641(c);
 6. After a petition for U nonimmigrant status denied in a final decision;
 7. To the chairmen and ranking members of the Committee on Judiciary of the Senate, or the Committee on Judiciary of the House of Representatives, for the exercise of congressional oversight authority, provided the disclosure relates to information about a closed case and is made in a manner that protects the confidentiality of the information and omits personally identifying information (including locational information about individuals);
 8. With prior consent from the principal petitioner or derivative family members, to nonprofit, nongovernmental victims' service providers for the sole purpose of assisting the victim in obtaining services from programs with expertise working with immigrant victims; or
 9. To federal prosecutors to comply with constitutional obligations to provide statements by witnesses and certain other documents to defendants in pending federal criminal proceedings.
-

13.1.3 Confidentiality Provisions

Agencies receiving information under this section, whether governmental or nongovernmental, are bound by the confidentiality provisions and other restrictions set out in 8 U.S.C. 1367.

13.1.4 Disciplinary Action for Violation

Appropriate disciplinary action must be taken and a monetary penalty of up to \$5,000 may be imposed on anyone who willfully uses, publishes, or permits information to be disclosed in violation of nondisclosure provisions.

13.2 Use of Evidence in the File

13.2.1 General

You are not permitted to use information provided by the alleged perpetrator of the certified criminal activity in making an adverse determination on the petition for U nonimmigrant status. All U related filings are protected by the provisions of section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). See 8 USC 1367(a)(1).

13.2.2 Prohibition for Usage of Certain Adverse Information

Officials of the Department of Homeland Security are prohibited from making adverse determinations of admissibility or deportability based on information obtained solely from the perpetrator of substantial physical or mental abuse and the criminal activity.

This prohibition includes all letters, statements or any other documentation provided by the alleged perpetrator (or his/her representative).

You may consider any independent, third-party evidence provided regarding the U petitioner or qualifying family members.

13.2.3 Source Determination

You must determine how USCIS came into possession of the evidence in the file.

If there is indication that the evidence was sent to USCIS by the alleged perpetrator but is not in the form of a squeal letter, you must determine:

- if the evidence was generated by a credible and reliable source.
- whether the evidence would lead to an adverse decision for the petitioner or qualifying family member.

You will refer the case to your supervisor for consultation regarding usage of the evidence if you determine that the information:

- is from a credible, reliable source;
- is relevant to the adjudication; and
- would result in an adverse decision for the self-petitioner.

In order to use the information in making an adverse determination, you must either verify the information through available systems and file review or receive its own independent copy of the adverse information using USCIS resources. This should be done to ensure that the information was not altered while in the possession of the alleged abuser.

13.2.4 Information from Public Sources

If the file contains information from a public source, such as a court or other law enforcement entity, the information may be used in the adjudication. Such evidence includes but is not limited to the following:

- protection orders against the petitioner;
- police reports made involving the petitioner;
- court transcripts and findings regarding the petitioner or petitioner's claims.

If you determine that the evidence is complete and unaltered, the evidence may be used. Be certain that the source behind the creation of the documentation is not the alleged perpetrator of the certified criminal activity.

Example 1: A protection order obtained by the alleged abuser against the self-petitioner. This evidence is prohibited from usage in making an adverse determination as it is based on the claims of the alleged perpetrator of the certified criminal activity.

Example 2: Documentation in the record includes transcripts of the criminal proceedings upon which the I-918 is based. In the transcript, the petitioner recants his testimony and states the crime never occurred.

You must determine whether the transcript is accurate and whether the recanting contradicts other assertions in the record submitted in support of the I-918.

Example 3: Results of a criminal trial for the certified criminal activity show the alleged perpetrator was acquitted of the charge(s).

This, by itself, does not constitute adverse information. A conviction is not an eligibility requirement for U nonimmigrant status.

13.2.5 Information Generated from Non-Public Sources

If the file contains evidence issued by a non-public source (example: medical records), you must first determine who provided the information for the file.

If it was sent by the alleged abuser or member of the alleged abuser's family (as cited above), you are prohibited from using the information to make an adverse determination on the I-918 or I-918, Supplement A.

If adverse information is received that is neither from a public source nor from the alleged perpetrator, then you must determine the credibility and relevance of the evidence. If you find that the evidence would have a negative impact on the adjudication, you must discuss the evidence with supervision prior to issuing any notices to the petitioner based on that evidence.

Example: Insurance billing statement for the petitioner (on the alleged abusive spouse's policy) indicating the petitioner was treated for injuries in a car accident on the date the petitioner reported to police she was assaulted by her spouse.

13.2.6 Acknowledging Information in the File

If the file contains information that, if used, would result in an adverse determination but the use of that information is prohibited by section 384, you must place an acknowledgement of the information in the file.

Generate the Adverse Information Memo and briefly state what specific information was reviewed and why usage of the information was prohibited by section 384 (ex: information provided by the alleged perpetrator). Place the memo on the non-record side of the file.

13.2.7 Discovery of an apparent violation

If you discover an apparent violation of section 384 (either disclosure of information or use of prohibited information), you must bring the violation to the attention of your SISO and the ACD who oversees the unit.

1. Notify VSC management via email detailing the specific filing and all relevant information about the violation.
 2. Place a copy of the notification email on the non-record side of the file.
 3. Hold the file pending instructions from the ACD or a SISO.
-

14 Employment Authorization

14.1 Overview

14.1.1 General

All U Nonimmigrants are eligible for an employment authorization document (EAD). Validity dates for EADs begin the date that the I-918 is approved for principals or (in the case of derivatives, who separately file the I-765) on the date that the I-765 is approved. Validity for work authorization ends on the last date of U nonimmigrant status.

14.2 U-1

14.2.1 U-1 Employment (alien in the U.S.)

1. Aliens granted status as a U-1 are eligible for employment pursuant to 8 CFR 247a.12(a)(19).
 2. Employment authorization is incident to the approval of the U-1 nonimmigrant status. The alien is **not** required to file an Application for Employment Authorization (Form I-765) for the initial card.
 3. Filing procedures for Form I-918, Petition for U Nonimmigrant Status, direct the alien to submit three current photos as described in 8 CFR 333.1
 4. Employment authorization will expire upon the expiration of the underlying U-1 nonimmigrant status.
 5. Alien must be in the United States to obtain the employment authorization document.
-

14.2.2 U-1 Employment (alien outside the U.S.)

An EAD will be automatically produced for a U-1 nonimmigrant when the case is approved and the alien is outside the United States. Update the address to the VSC's prior to approving in GUI. Once the card has been returned, have it destroyed and change the address on the case back to the attorney's address on the G-28. An EAD can be produced once the alien is admitted to the United States in U nonimmigrant status.

To receive the EAD, the U-1 need only submit a request for the EAD to the VSC. No forms or fees are required to produce this EAD.

Required evidence:

1. A request for the EAD; and
 2. A copy of the I-94 showing admission as U-1
-

14.3 U-2 through U-5

14.3.1 U-2 through U-5 Employment (alien in the U.S.)

Aliens granted status as a qualifying family member of a U nonimmigrant may apply for employment authorization by filing, with appropriate fee or with application for fee waiver, on Application for Employment Authorization (Form I-765), pursuant to 8 CFR 247a.12(a)(20).

Form I-765 may be filed concurrently with the alien's application for U-2, U-3, U-4, or U-5 nonimmigrant status or it may be filed later.

Employment authorization will be valid from the date of the I-765 approval until the expiration of the alien's U nonimmigrant status.

14.3.2 U-2 through U-5 Employment (alien outside the U.S.)

After admission to the United States as a U nonimmigrant, the alien should submit an Application for Employment Authorization (Form I-765) to the VSC.

Employment authorization will be valid from the date of the I-765 approval until the expiration of the alien's U nonimmigrant status.

Evidence required in support of the I-765 is:

1. A copy of the approval for U nonimmigrant classification;
 2. A copy of his/her Arrival-Departure Record (Form I-94); and
 3. Proper photos and signature.
-

14.4 Denial and Updating Errors

14.4.1 Denial

A denial of U Nonimmigrant status will result in the denial of any accompanying I-765 predicated on the approval of the I-918, Supplement A.

14.4.2 GUI CLAIMS Updating Errors

If an I-918 or derivative's I-765 is updated incorrectly in GUI CLAIMS, refer to the instructions in the "Case Updated by Error in CLAIMS" SOP on the LAN

15 Wait List Process

15.1 Overview

15.1.1 General

If more than 10,000 approvable I-918s are filed in a fiscal year, all cases determined to be approvable after reaching the cap will be placed under the Wait List Process.

15.1.2 Process for approvable I-918s and accompanying I-918As after the cap is reached

After 10,000 U-1 approvals have been issued in a fiscal year, do not update any Form I-918, I-918A, or I-192 approvals in HAVEN or GUI until the new fiscal year begins (October 1).

Follow the steps below to process approvable I-918s, I-918As and accompanying I-192s after the cap is reached.

Step	Action
1	Complete TECS checks and ensure any hits are resolved before placing the U Visa petition on the wait list.
2	If the file contains an I-192, verify that FBI NDOB check is valid at the time the U Visa petition is placed on the Wait List.
3	Verify that fingerprints are valid at the time the U Visa petition is placed on the Wait List.
4	Update I-192 in GUI as “pre-adjudicated, under review.”
5	Open the I-918 in HAVEN. For each identified inadmissibility, check the inadmissibility blocks under “Inadmissibility/Waiver/Status.” Do not check the block under “Waiver Grounds” until final adjudication.
6	Annotate all inadmissibility grounds to be waived on the Form I-192 Instructions page in blue or black ink.

NOTE: You must ensure that name, DOB, images, safe address, etc. are correct in all systems, including GUI. Ensure that the name and date of birth matches in CIS, GUI, and for I-918As, in HAVEN. You must correct errors. Submit CIS correction requests for name discrepancies. However, do not update approvals in HAVEN or GUI until the new fiscal year begins.

You must ensure that all steps above are complete and valid at the time the I-918, I-918A, and I-192 are placed on the Wait List.

15.1.3 Wait List Process with Second or Subsequent I-918 or I-918A

At the time of placing an I-918 or I-918A on the Wait List, if there is a second or subsequent I-918 or I-918A in the filing, follow the steps below.

Step	Action
1	Place the initial (oldest filing) I-918 or I-918A on waitlist and update the case appropriately in HAVEN and GUI.
2	Complete appropriate waitlist letter in CG and send out letter.
3	Do not update the second or subsequently filed I-918 or I-918A in HAVEN or GUI. Do not complete a Wait List letter in CG for the subsequently filed I-918 or I-918A.

•-----•

15.1.4 I-918, I-918A, and I-192 Wait List Decision

Refer to the table below to determine the appropriate I-918, I-918A, and I-192 Wait List action.

If the ...	Then ...
I-918 does not meet the eligibility requirements,	<ul style="list-style-type: none"> • Issue an RFE or NOID. • Adjudicate up to the point of approval using the normal I-918/I-918A procedure. • Use the PINK I-918 Routing Worksheet when issuing the RFE. • Keep all family members together.
I-918A meets all eligibility requirements and principal was approved prior to the cap (Prior to Wait List),	<ul style="list-style-type: none"> • Approve using normal I-918A procedure. • Approve any related I-765 (A20) using the normal I-765 (A20) procedure.
I-918/I-918As and/or I-192s do not meet the eligibility requirements after the issuance of an RFE or NOID,	<ul style="list-style-type: none"> • Issue a denial using the normal I-918, I-918A, and I-192 procedures. • Use the PINK I-918 Routing Worksheet when issuing the denial.
I-918/I-918A is placed under the Wait List Process and is accompanied by an I-192 that will be denied as unnecessary,	<ul style="list-style-type: none"> • Follow the Wait List Process. Update GUI with “Pre-Adjudicated – Under Review” for I-192.
I-918 meets all eligibility requirements but the family group contains I-918A(s) requiring RFE or ITD,	<ul style="list-style-type: none"> • Adjudicate the I-918 up to the point of approval using the normal I-918 procedure. • If the applicant has more than one A-file, band them together, but do not consolidate until after final approval. • Update the I-918 as pre-adjudicated in GUI and the proper WAITLIST NOTICE in HAVEN. • Issue the appropriate WAITLIST NOTICE in HAVEN. • Place the WHITE I-918 Routing Worksheet inside the waitlisted I-918 file. • Issue an RFE or NOID on the I-918A. • Use the PINK I-918 Routing Worksheet when issuing the RFE. • Send the group to the RFE shelf, keeping all the family members together.

15.1.5 Updating Petition / Application

Refer to the chart below for the Wait List Process for I-918/I-918As and I-192 cases:

When you have...	Then...
I-918/I-918As placed under the Wait List Process to be approved,	<ul style="list-style-type: none"> • Prepare and send the appropriate Wait List Notice in CG. The notice is located in the “Informational Section.” • Place the file copy notice on the top of the I-918/I-918A (Record Side). (Do not place the file copy on top of the 384 cover sheet.) • Update HAVEN & GUI. <i>Refer to table below for appropriate update depending on scenario.</i> • If the applicant has more than one A-file, band them together, but do not consolidate until after final approval. • Complete WHITE I-918 Routing Worksheet (Revision Date 11-24-2013). Refer to <u>Routing and Annotations Section</u>.
File with more than one I-918, all meeting eligibility requirements for the Wait List,	<ul style="list-style-type: none"> • Prepare and send the appropriate Wait List Notice in CG for only the earliest filed I-918. The notice is located in the “Informational Section.” Do not issue a notice for subsequently filed I-918s. • Place the file copy notice on the top of the relevant I-918 (Record Side). (Do not place the file copy on top of the 384 cover sheet.) • Update HAVEN & GUI for only the earliest I-918. Leave subsequently filed I-918s in pending status in HAVEN & GUI. <i>Refer to table below for appropriate update depending on scenario.</i> • Complete WHITE I-918 Routing Worksheet (Revision Date 11-24-2013). Refer to <u>Routing and Annotations Section</u>.
File with I-918 and I-918A,	<ul style="list-style-type: none"> • Prepare and send the appropriate Wait List Notice in CG for each family member’s I-918 and I-918A. • Place the file copy notice on the top of the relevant I-918 and I-918A (Record Side). (Do not place the file copy on top of the 384 cover sheet.) • Update HAVEN & GUI for the I-918 and I-918A for each family member’s file. <i>Refer to table below for appropriate update depending on scenario.</i> • Complete WHITE I-918 Routing Worksheet (Revision Date 11-24-2013). Refer to <u>Routing and Annotations Section</u>. • Keep all family members together. Place the earliest receipted I-918 on top.
Accompanying I-192 to be approved,	<ul style="list-style-type: none"> • Annotate all inadmissibility grounds being waived. • Update GUI. <i>Refer to table below for appropriate updates.</i>
I-192 to be denied as unnecessary,	<ul style="list-style-type: none"> • Update GUI. <i>Refer to table below for appropriate updates.</i>

15.1.6 Updating Petition / Application

Refer to the chart below for a summary of appropriate Wait List letter, HAVEN and GUI Updates.

Scenario	Letter	HAVEN Update #1	HAVEN Update #2	GUI Update
I-918 in the US	WL918DAS	“WAITLIST NOTICE ORDERED WITH DAS”	“WAITLIST NOTICE SENT”	“Pre Adjudicated Under Review”
I-918A in the US	WL918ADAS	“WAITLIST NOTICE ORDERED WITH DAS”	“WAITLIST NOTICE SENT”	
I-918 outside the US	WL918NO	“WAITLIST NOTICE ORDERED”	“WAITLIST NOTICE SENT”	“Pre Adjudicated Under Review”
I-918A outside the US	WL918ANO	“WAITLIST NOTICE ORDERED”	“WAITLIST NOTICE SENT”	
I-192	N/A	N/A	N/A	“Pre Adjudicated Under Review”



15.2 Routing and Annotations

15.2.1 Worksheet

Follow the steps below to complete the **WHITE** I-918-Routing Worksheet. You must use the I-918 Routing Worksheet dated 11-25-2013.

NOTE: Do not adjudicate or annotate I-765 (A19/A20) files riding with an I-918/I-918A until October 1.

Step	Action										
1	Write the I-918 and I-192 receipt numbers on the upper left of the Routing Worksheet or use stickers identifying the receipt numbers.										
2	Record your NFTS code on the line designated ISO #.										
3	Record the date on the designated line.										
4	Complete all sections of the Wait List section: <table border="1"> <thead> <tr> <th>Part</th><th>Description</th></tr> </thead> <tbody> <tr> <td>Date Received</td><td>Indicate the receipt stamp date on the I-918 or I-918A.</td></tr> <tr> <td>FD258 Date</td><td>Indicate the date the FBI fingerprint check was last run.</td></tr> <tr> <td>FD258 Results: IDENT/NON IDENT</td><td>Indicate the results of the last FBI fingerprint check.</td></tr> <tr> <td>FBI NAME DOB</td><td>Indicate the processing date of the last FBI name check.</td></tr> </tbody> </table>	Part	Description	Date Received	Indicate the receipt stamp date on the I-918 or I-918A.	FD258 Date	Indicate the date the FBI fingerprint check was last run.	FD258 Results: IDENT/NON IDENT	Indicate the results of the last FBI fingerprint check.	FBI NAME DOB	Indicate the processing date of the last FBI name check.
Part	Description										
Date Received	Indicate the receipt stamp date on the I-918 or I-918A.										
FD258 Date	Indicate the date the FBI fingerprint check was last run.										
FD258 Results: IDENT/NON IDENT	Indicate the results of the last FBI fingerprint check.										
FBI NAME DOB	Indicate the processing date of the last FBI name check.										
5	If the applicant has been granted deferred action status and CIS indicates "384," not "DAS," route the file to D6 VAWA Sort , and mark the box "Update CIS COA as: ____" with "DAS"										

15.2.2 Routing for all Files Placed Under the Wait List

Follow the steps below to route files that were placed under the Wait List. FCU shelving has been identified and labeled as “U Visa Wait List Process.” (Keep family members together.)

Site Location	Action
St. Albans, with DAS	Refer to Step 5, above, and complete the I-918 Wait List Routing Sheet. Charge out files in NFTS and place those files in the clerical sort boxes marked “COA Update, No Clerical Action” at the VAWA/humanitarian file staging area.
St. Albans, no DAS	Charge out files in NFTS and place those files in the waitlist boxes marked at the VAWA/humanitarian file staging area.
Essex, with DAS	Refer to Step 5, above, and complete the I-918 Wait List Routing Sheet. Charge out files in NFTS and place in the identified clerical sort boxes in the file staging area.
Essex, no DAS	Charge out files in NFTS and place those files in the assigned boxes in the FCU room.

15.3 Unlawful Presence and Revocations

15.3.1 Unlawful presence accrual

Time on the Wait List while granted deferred action or parole will not result in the accrual of unlawful presence under INA 212(a)(9)(B).

A petitioner may be removed from the Post U Visa CAP Process and deferred action or parole terminated at the discretion of USCIS.

15.3.2 Effect of Revocation on numerical limit

Revocation of an individual’s U-1 status will have no effect on the numerical limit.

15.4 Case Updated as Wait List in Error

15.4.1 Overview

This section provides detailed steps for removing petitions from Wait List as evidence in the record may indicate the petitioner or derivative may be ineligible for U nonimmigrant status.

15.4.2 ISA Process

Once a case is identified as being Wait Listed in Error, the ISAs will complete the following steps in the correction process.

Steps	Action
Retrieve Files	Pull identified file(s) from the Wait List hold area and deliver to the appropriate SISO.
Return Files to Wait List Shelving	After officers complete action on a wait-listed case, The ISA(s) will update the excel spreadsheet prior to returning the files to the I-918 Wait List shelves.

15.4.3 SISO Responsibilities

When a SISO receives a file identified as waitlisted in error, he or she will review the file to determine if corrective action is needed. If corrective action is needed, he or she will deliver the file to the appropriate officer.

15.4.4 Officer Responsibilities

If you receive a case identified as wait-listed in error, follow the steps below to correct the error:

Step	Action						
1	Determine if an RFE or ITD is needed on the I-918, I-918A and/or I-192.						
2	If an RFE or ITD is needed, update Haven/GUI with “Previous Action Canceled”. This will alert others reviewing the electronic case history that the case was removed from the Wait List.						
3	Update GUI/Haven with RFE or ITD notice ordered, etc.						
4	Issue RFE or ITD with one of the introductory paragraphs below: <table border="1"> <tr> <th>If the case was wait-listed...</th><th>Then use the introductory paragraph...</th></tr> <tr> <td>With DAS,</td><td>On DATE, you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on Wait List. You were also notified that you have been placed in deferred action. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.</td></tr> <tr> <td>With no DAS,</td><td>On DATE, you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on a Wait List. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.</td></tr> </table>	If the case was wait-listed...	Then use the introductory paragraph...	With DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on Wait List. You were also notified that you have been placed in deferred action. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.	With no DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on a Wait List. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.
If the case was wait-listed...	Then use the introductory paragraph...						
With DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on Wait List. You were also notified that you have been placed in deferred action. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.						
With no DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on a Wait List. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.						
5	Email the I-918waitlistrequest email account letting the ISA(s) know that an RFE/ITD was issued and ask that the Excel spreadsheet used to track these cases be updated.						

Continued on next page

Officer Responsibilities (continued)

Step	Action						
6	<p data-bbox="462 310 1291 373">Follow the steps below once you receive the response to the RFE or ITD:</p> <table border="1" data-bbox="462 415 1291 1423"> <thead> <tr> <th data-bbox="462 415 711 531">If the outcome of the RFE/ITD results in...</th><th data-bbox="711 415 1291 531">Then...</th></tr> </thead> <tbody> <tr> <td data-bbox="462 531 711 1224">A denial,</td><td data-bbox="711 531 1291 1224"> <ul style="list-style-type: none"> • Issue denial and include a statement in the denial that DAS is terminated as of the date of the denial e.g., “Any deferred action previously granted to you / your family member in connection with this petition is hereby terminated as of the date of this notice. Any employment authorization that may have been granted to you in connection with the deferred action grant is also terminated as of the date of this notice.” • After appeal time has passed, advise contractor to update COA field in CIS appropriately, e.g., UU. • Email the I-918waitlistrequest email account letting the ISA(s) know that the case was denied and ask that the Excel spreadsheet used to track these cases be updated. </td></tr> <tr> <td data-bbox="462 1224 711 1423">Wait listing the case again,</td><td data-bbox="711 1224 1291 1423"> <ul style="list-style-type: none"> • Issue appropriate Wait List letter in CG, • Update GUI/Haven, and • Send case to I-918 Wait List. NFTS to AC0019 and drop off in the crates outside EX280. </td></tr> </tbody> </table>	If the outcome of the RFE/ITD results in...	Then...	A denial,	<ul style="list-style-type: none"> • Issue denial and include a statement in the denial that DAS is terminated as of the date of the denial e.g., “Any deferred action previously granted to you / your family member in connection with this petition is hereby terminated as of the date of this notice. Any employment authorization that may have been granted to you in connection with the deferred action grant is also terminated as of the date of this notice.” • After appeal time has passed, advise contractor to update COA field in CIS appropriately, e.g., UU. • Email the I-918waitlistrequest email account letting the ISA(s) know that the case was denied and ask that the Excel spreadsheet used to track these cases be updated. 	Wait listing the case again,	<ul style="list-style-type: none"> • Issue appropriate Wait List letter in CG, • Update GUI/Haven, and • Send case to I-918 Wait List. NFTS to AC0019 and drop off in the crates outside EX280.
If the outcome of the RFE/ITD results in...	Then...						
A denial,	<ul style="list-style-type: none"> • Issue denial and include a statement in the denial that DAS is terminated as of the date of the denial e.g., “Any deferred action previously granted to you / your family member in connection with this petition is hereby terminated as of the date of this notice. Any employment authorization that may have been granted to you in connection with the deferred action grant is also terminated as of the date of this notice.” • After appeal time has passed, advise contractor to update COA field in CIS appropriately, e.g., UU. • Email the I-918waitlistrequest email account letting the ISA(s) know that the case was denied and ask that the Excel spreadsheet used to track these cases be updated. 						
Wait listing the case again,	<ul style="list-style-type: none"> • Issue appropriate Wait List letter in CG, • Update GUI/Haven, and • Send case to I-918 Wait List. NFTS to AC0019 and drop off in the crates outside EX280. 						

16 Revocations

16.1 Overview

16.1.1 General

Approvals of U nonimmigrant status can be revoked. The alien shall immediately inform USCIS of any changes in the terms and conditions of the alien's circumstances that may affect eligibility 8 CFR 214.14(o).

All Intents to Revoke and Revocations must be completed on the LAN and not in Correspondence Generator.

Revocation may occur at any time after the approval of the U nonimmigrant status—even after the status of validity has expired. There are two types of revocation: Automatic and by notice.

16.1.2 Automatic Revocation

Automatic Revocation 8 CFR 214.14(h)(1)

Principal with an approved U nonimmigrant petition who applied from outside the United States notifies USCIS that he or she will not use the approved petition to enter the United States

NOTE: Automatic revocations cannot be appealed.

16.1.3 Revocation on Notice

A petition for U nonimmigrant status also may be revoked following a **notice of intent to revoke** based on one or more of the following reasons:

Revocation on notice 8 CFR 214.14(h)(2)

- (A) The certifying official withdraws the U nonimmigrant status certification referred to in 8 CFR 214.14(c)(2)(i) or disavows the contents in writing;
- (B) The approval of the petition was in error;
- (C) There was fraud in the petition;
- (D) (*In the case of U-2 through U-5*), the relationship to the principal has terminated; or
- (E) (*In the case of U-2 through U-5*), the principal's U-1 nonimmigrant status is revoked.

NOTE: Revocations on notice may be appealed.

16.1.4 Notice of Intent

The notice of intent to revoke must be in writing and contain a detailed statement of the grounds for revocation. The U nonimmigrant will be granted 30 days to present rebuttal evidence.

Consider all relevant evidence presented in deciding whether to revoke the petition. Determination of what is relevant evidence and the weight to be given that evidence is within the sole discretion of USCIS.

16.1.5 Notification of revocation

USCIS will provide the alien with a written notice of revocation explaining the specific reasons for revocation.

16.2 Effects of Revocation

16.2.1 Effect of revocation on principal

- Revocation of a principal's I-918 approval will result in the termination of the principal's U-1 status.
 - If a petition for U-2, U-3, U-4, U-5 is still pending at the time the principal's U-1 status is revoked, deny the U-2, U-3, U-4, or U-5's petition.
 - Revocation of an approved I-918 also revokes any waiver of inadmissibility granted in conjunction with the petition.
-

16.2.2 Effect of revocation on derivative

- The revocation of the principal's Form I-918 approval will result in the denial of any pending Forms I-918, Supplement A, for qualifying family member of that principal.
 - Revocation of the qualifying family member's Form I-918, Supplement A, will result in the termination of status for that qualifying family member.
 - Revocation of an approved I-918 also revokes any waiver of inadmissibility granted in conjunction with the petition.
-

16.2.3 Appeal rights

A **revocation on notice** may be appealed to the Administrative Appeals Office in accordance with 8 CFR 103.3(a)(1)(iii).

Automatic revocations cannot be appealed.

16.2.4 Notice to Appear (NTA)

If USCIS revokes or denies Form I-918 for an alien who was in proceedings that were terminated pursuant to 8 CFR 214.14(c)(1)(i), a new Notice To Appear (NTA) may be filed by DHS (see INA section 239).

Contact the local NTA unit for processing and policies regarding the issuance of NTAs for this and other scenarios involving revocations of Form I-918.

17 Appeals and Motions

17.1 Overview

17.1.1 Appeal Rights

- Denied Petitions for U Nonimmigrant Status can be appealed to the Administrative Appeals Office (AAO).
 - Appeals can be made pursuant to the provisions of 8 CFR 103.3.
 - The denial upon which an appeal is filed will not become final until the appeal is adjudicated.
 - Revocation on notice, those grounds cited in 8 CFR 214.14(h)(2), may be appealed pursuant to 8 CFR 103.3.
 - Automatic revocations (8 CFR 214.112(h)(1)) cannot be appealed.
 - Denials and revocations of waivers of inadmissibility cannot be appealed.
-

17.1.2 Motion Rights

Denied applications for U Nonimmigrant Status are subject to the provisions for:

- a motion to reopen under the provisions of 8 CFR 103.3.
 - a motion to reconsider 8 CFR 103.5.
-

17.2 Motions to Reopen Denial for No. Supplement B

17.2.1 I-918 Denials Based on No. Form I-918, Supplement B

Refer to the table below to determine the appropriate action when adjudicating motions to reopen a denial based on no form I-918, Supplement B. The following are the three scenarios with recommended actions:

Scenario	Motion details	Action
Form I-918 denied for No Supplement B – all deficiencies addressed	Motion filed with only Supplement B. No additional evidence to address other deficiencies as noted in the denial	Grant motion to reopen and re-deny the Form I-918 for all remaining deficiencies as case is still not approvable.
Form I-918 denied for No Supplement B – all deficiencies NOT addressed	Motion filed with Supplement B	Grant motion and reopen to correct service error of not citing all deficiencies. RFE to address all remaining deficiencies.
Form I-918 denied for No Supplement B – no remaining deficiencies in the file	Motion filed with only Supplement B	Dismiss since the Supplement B is considered initial evidence and should not be accepted after the denial.

18 Immigration Proceedings

18.1 Effect of Immigration Proceedings

18.1.1 General

USCIS may institute removal proceedings for petitioners and derivatives for U Nonimmigrant Status.

Aliens in removal proceedings may petition for U nonimmigrant status.

18.1.2 Open proceedings at the time of filing

Aliens in removal proceedings under section 240 of the Act, 8 U.S.C. 1229a, or in exclusion or deportation proceedings initiated under the former sections 236 or 242 of the Act (as in effect prior to April 1, 1997) and who would like to petition for U nonimmigrant status must file Form I-918 directly with USCIS.

ICE counsel may agree to file, as a matter of discretion, at the request of the alien petitioner, a joint motion to terminate proceedings without prejudice with the immigration judge or the Board of Immigration Appeals (whichever is appropriate) while the I-918 is being adjudicated.

18.1.3 Final orders of removal, deportation or exclusion

- Aliens with a final order of removal, deportation or exclusion are not precluded from filing for U nonimmigrant status directly with USCIS.
 - Filing for U nonimmigrant status has **no effect** on ICE's authority to execute the final order. Aliens may file Form I-246, "Stay of Removal" with ICE for a stay of removal pursuant to 8 CFR 241.6(a) and 8 CFR 1241.6(a).
 - If the alien is in detention pending the execution of the final order, the time during which the stay is in effect will extend the period of detention necessary to bring about the alien's removal.
-

18.1.4 Effect of approvals on proceedings

Upon approval of Form I-918, orders of exclusion, deportation or removal issued by the Secretary for that alien will be deemed canceled as an operation of law as of the date of USCIS's approval of Form I-918.

Those subject to an order of exclusion, deportation, or removal issued by an immigration judge or the Board may seek cancellation of such order by filing, with the immigration judge or the Board, a motion to reopen and terminate proceedings. ICE counsel may agree, as a matter of discretion, to join in such a motion to overcome any applicable time and numerical limitations of 8 CFR 1003.2 and 1003.23

19 Trafficking Referrals

19.1 General

USCIS will make referrals to ICE/Office of Investigations for all cases that involve, appear to involve or claim to involve human trafficking.

19.2 Qualifying cases

Refer all cases where:

- the certified crime involves the crime of human trafficking or
 - human trafficking indicators are identified in the record.
-

19.3 Process

Follow the steps below as soon as the claims to human trafficking are identified.

Step	Action
1	Send a referral email to ICE at the following address: Trafficking.Icehuman@dhs.gov
2	Use call-up 0688 for the ICE Trafficking Referral Letter to make the referral.
3	Place a copy of the referral email to ICE on the non-record side of the file.
4	Continue adjudication on the I-918 after the referral is made.

NOTE: The alien will not be notified that the referral has been made.

20 Processing

20.1 General Processing

20.1.1 General

Perform TECS checks on all aliens seeking a benefit under the U nonimmigrant visa program.

Place files in the proper order and annotate worksheets appropriately prior to sending the file to clerical or outside the unit.

20.2 Record of Processing

20.2.1 Form I-918 Record of Proceeding (ROP)

The general order that will be used for basic file setup purposes is as follows:

Form I-918:

- 384 Warning Sheet
 - I-918 Safe Address Sheet
 - G-28 (if applicable)
 - I-918
 - I-918 Supplement B
 - Supporting evidence
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID (including additional I-918 Supplement B submission)
 - I-192 Safe Address Sheet
 - G-28 (if applicable)
 - I-192 (if applicable)
 - Supporting evidence
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-193 (if applicable)
-

20.2.2 Form I-918A

Form I-918, Supplement A:

- 384 Warning Sheet
 - Safe Address Sheet
 - G-28 (if applicable)
 - I-918, Supplement A
 - Evidence of relationship to I-918 petitioner
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-192 Safe Address Sheet
 - G-28 (if applicable)
 - I-192 (if applicable)
 - Supporting evidence
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-193 (if applicable)
-

20.3 Duplicate Copies and Systems

20.3.1 Second Copy of Petition/ Application in file

Refer to the table below to determine how to process the second copy of the petition that is in the file.

If the I-918/I-918A (and accompanying I-192 or I-193 is...	Then ...
Approved and there is a 2 nd copy of the petition/application in the file,	<ul style="list-style-type: none"> • Sign and annotate the 2nd copy in the same manner as the original petition. • Place the 2nd copy of the approved petition on the non-record side of the file after all updating is complete.
Denied and there is a 2 nd copy of the petition/application in the file,	<ul style="list-style-type: none"> • Write “Support Only” in the action block. • Do not stamp or annotate the petition further.

The clerical unit is responsible for sending the approved copy to the KCC.

NOTE: If there is not a second copy of the petition/application in the file, the clerical unit will make copies of the approved petition/application to send to the KCC.

20.3.2 Systems HAVEN

Refer to the table below to determine which system to use to adjudicate the various forms.

Form	System
I-918 and I-918A	HAVEN
“dummy” I-765 (principals only)	GUI
NOTE: No actual I-765 will be filed on these cases. There will only be an electronic record.	
Any I-765 filed on behalf of a qualifying family member	GUI
Accompanying forms such as I-192	GUI
Accompanying forms such as I-193	Adjudicate a Case

21 Adjudication

21.1 Updating

21.1.1 Updating in GUI and HAVEN

HAVEN information is pulled from GUI. Follow the steps below to update a file in GUI and HAVEN.

Step	Action
1	Open the case in GUI.
2	Verify that all information is correct in GUI.
3	Make all needed corrections in GUI. Do not update GUI.
4	Open the case in HAVEN.
5	Update the case in HAVEN.
6	Update the case in GUI.

IMPORTANT: You must update the case in HAVEN prior to updating in GUI.

21.2 Generating the Approval Notice

21.2.1 Verify Approval Info. for I-918 Principal Petitioner

You will generate the approval notice at the time of final adjudication. You must ensure that information in the notice is correct.

Refer to the tables below to determine the information that you must verify is correct prior to updating an approval for an I-918 principal petitioner.

If the update is an approval for an I-918 principal petitioner who is...	Then ensure the following information is correct in both HAVEN and GUI prior to updating...
In the United States,	<ul style="list-style-type: none">• Name• DOB• Country of Citizenship• Classification• Validity Dates• A-number• Safe Address• I-94 Number (entered in HAVEN, only)
Outside of the United States,	<ul style="list-style-type: none">• Name• DOB• Classification• Validity Dates• A-number• Safe Address

21.2.2 Verify Approval Info. for I-918A Qualifying Family Member

You will generate the approval notice at the time of final adjudication. You are responsible to ensure that information in the notice is correct.

You must verify that the information in the table below is correct prior to updating an approval for an I-918A Qualifying Family Member in HAVEN.

If the update is an approval for an applicant who is an I-918A Qualifying Family Member (QFM) who is.....	Then ensure the following information is correct in HAVEN...
In the United States,	<ul style="list-style-type: none"> • Principal's Name* • Principal's A-number* • QFM's Name • QFM's A-number • QFM's Country of Citizenship • QFM's Classification • QFM's Validity Dates • QFM's I-94 Number (entered in HAVEN, only) • Principal's Safe Address (as it appears in the QFM's filing) <p>*Updates/changes to this information must be made in GUI.</p>
Outside of the United States,	<ul style="list-style-type: none"> • Principal's Name* • Principal's A-number* • QFM's Name • QFM's A-number • QFM's Classification • QFM's Validity Dates • Principal's Safe Address (as it appears in the QFM's filing) <p>*Updates/changes to this information must be made in GUI</p>

21.3 Updating in HAVEN

21.3.1 Entering HAVEN

Select the Box labeled “I Agree” to login to HAVEN.

Welcome to HAVEN

WARNING!

You are accessing a U.S. Government information system, which includes: (1) this computer, (2) this computer network, (3) all computers connected to this network, (4) all devices and storage media attached to this network or to a computer on this network. Unauthorized or improper use of this system may result in disciplinary action, and civil or criminal penalties. By using this information system, you understand and consent to the following:

- You have no reasonable expectation of privacy regarding any communications transmitted through the data stored on this information system. At any time, the government may monitor, intercept, search and/or seize data transiting or stored on this information system.
- Any communications transmitted through data stored on this information system may be disclosed or used for any U.S. Government-authorized purpose.

For further information, see the Department Order on Use and Monitoring of Department Computer and Computer Systems.

Agreement required for login!

I have read, understood, and agree to abide by the above terms and conditions regarding the use of this system.

HAVEN, Version DCI 1.0.0 Build 2

United States Citizenship and Immigration Services • Office of Information Technology • Standard Tools & Services Branch
Standard Lightweight Operational Programming Environment (SLOPE) Local Applications Development (LAD)

FOR OFFICIAL USE ONLY

21.3.2 Searching for a Record in HAVEN

Follow the steps below to search for a record in HAVEN:

Step	Action
1	Click the Search Tab.
2	Type the criteria (b).
3	Click the Search button (c).
4	If you want to clear out all the search criteria, click Reset Criteria (d).

21.3.3 HAVEN Search Screen

This is a screenshot of the HAVEN Search Screen.

The screenshot shows the HAVEN Application Search interface. At the top, there are tabs for I914, I918, I929, Search, Reports, and Admin. The Search tab is active. Below the tabs, the title "HAVEN Application Search" is displayed. To the right, a "Your Profile" section shows the user's name (devuser1), current role (Administrator), and email address. A "Click Search" button is located next to the profile. The main search area is titled "SEARCH HAVEN APPLICATIONS" and includes instructions: "You may use any combination of the case criteria below to locate case(s). Only results matching all provided criteria are returned." The search criteria are organized into a grid of input fields: A Number Contains, VTU Number Contains, EAC Number Contains, I94 Number Contains, Passport Number Contains, Last Name Contains, First Name Contains, Middle Name Contains, Birth Date From, and Birth Date To. A "Click Search" button is positioned to the right of the grid. Below the grid, there are "Search" and "Reset Criteria" buttons. Annotations with letters a, b, c, and d point to specific elements: 'a' points to the Search tab, 'b' points to the search criteria grid, 'c' points to the Search button, and 'd' points to the Reset Criteria button. A text box labeled "Type any or all search criteria" is placed near the grid.

IMPORTANT: This is an exact search – the more data you enter, the less likely you are to get all match.

A numbers must have leading “0”.

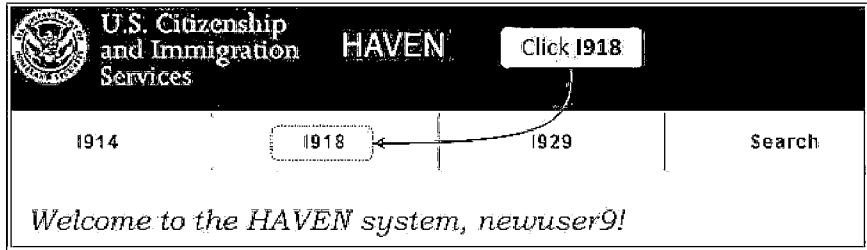
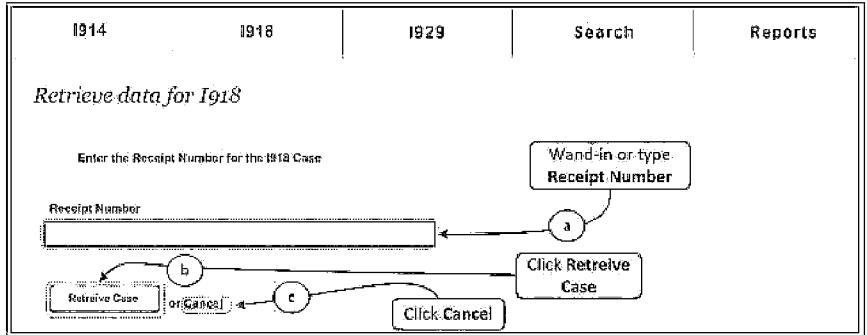
21.3.4 Sample HAVEN Search Results

An empty rectangular box intended for displaying sample search results.

21.3.5 Retrieving a Case in HAVEN

Follow the steps below to retrieve a case in HAVEN.

NOTE: The case first must have been created in GUI.

Step	Action
1	<p>Begin entering an I-918 receipt number by clicking the I-918 tab.</p> 
2	<p>On the <i>Retrieve data for I918</i> page:</p> <ul style="list-style-type: none"> • Wand-in the I-918 application form's Receipt Number. • Click Retrieve Case button, or • End without retrieving a case by clicking <u>Cancel</u>. 

21.3.6 Result Screenshot from Retrieving a Case in HAVEN

A message appears below the I918 Form heading,
 “This case exists in the HAVEN database.” A 918 can only be viewed in HAVEN if it exists in CLAIMS.

The Cap Counter tracks the current number of approved cases for the fiscal year-to-date.

IMPORTANT: Prior to proceeding, you must ensure that the CAP has not been reached and that a visa is available.

I918 Form

④ This case exists in the HAVEN database.

Cap 100	Reserve 3	Cap Counter 5716
Receipt Number EAC110885	Received Date 	
<input type="checkbox"/> I-192 <input type="checkbox"/> I-193 <input type="checkbox"/> IITA Referral <input type="checkbox"/> Sent to CFDO		

Updates are entered through GUI. HAVEN will display the information that it retrieves from GUI. The information on the screen that is grey is from GUI. You must update this information in GUI, not in HAVEN.

General Information

Personal Info

Last Name (Family Name)
 First Name (Given Name)
 Middle Name

Date of Birth
 Marital Status
 Gender
 A-Number
 SSN

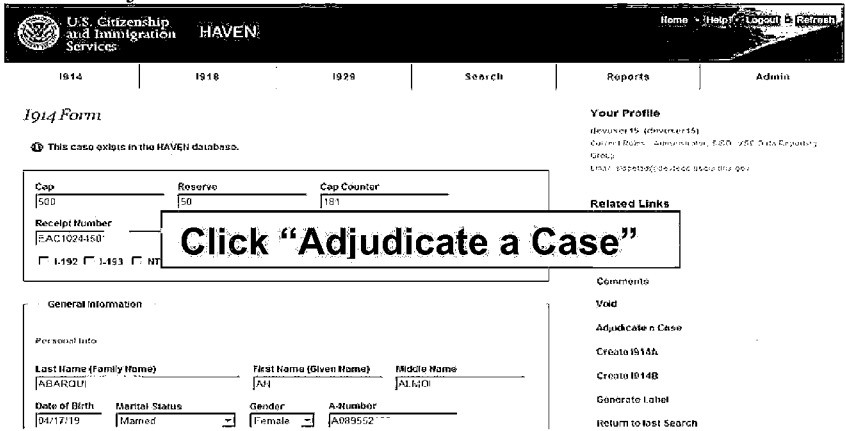
Country of Birth
 Country of Citizenship

IMPORTANT: HAVEN can only capture cases that already exist in GUI; this information will be grayed out.

21.3.7 Updating a Decision in HAVEN

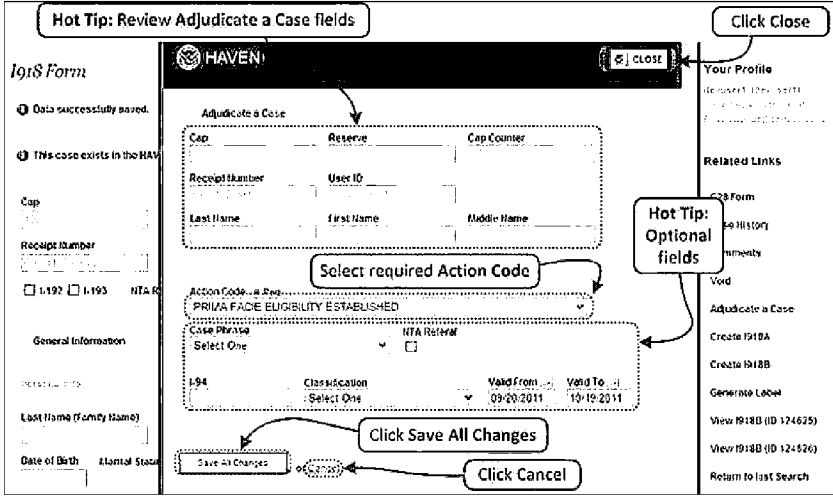
You must update all adjudicative decisions on the I-918 (principal) in both GUI and HAVEN. Update qualifying family members' I-918As only in HAVEN. Update any accompanying I-765 for a qualifying family member in GUI following normal EAD updating requirements.

Follow the steps below to update a decision in HAVEN:

Step	Action
1	<p>Click “Adjudicate a Case”</p>  <p>The screenshot shows the HAVEN system interface for the I-914 Form. The top navigation bar includes links for Home, Help, Logout, and Refresh. Below the navigation bar are tabs for I-914, I-918, I-929, Search, Reports, and Admin. The main content area is titled 'I-914 Form' and includes a message: 'This case exists in the HAVEN database.' Below this are fields for Cap (500), Reserve (50), and Cap Counter (181). There is also a Receipt Number field (EAC1024450) and checkboxes for I-192, I-193, and NT. A 'Click Adjudicate a Case' overlay is present over the Receipt Number field. To the right, there is a 'Your Profile' section with user information and a 'Related Links' section with links for Comments, Void, Adjudicate a Case, Create I-15A, Create I-14B, Generate Label, and Return to last Search.</p>

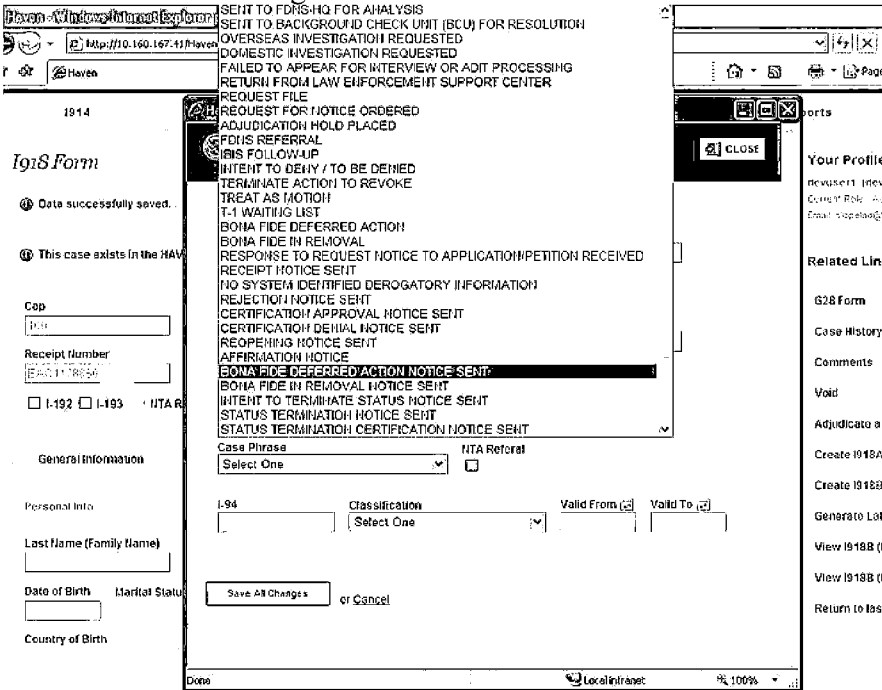
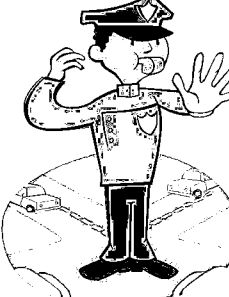
Continued on next page

Updating a Decision in HAVEN (continued)

Step	Action
2	<p>Review the information in the window that pops up after clicking “Adjudicate a Case” from the Related Links sidebar.</p>  <p>IMPORTANT: If approving a case for a principal, you must verify that the count is not more than 10,000 at the Cap Count menu screen.</p> <p>NOTE: All cases for principals that are over the 10,000 mark for a given fiscal year will be placed on a Wait List. (See instructions for “Wait List Approval”).</p>

Continued on next page

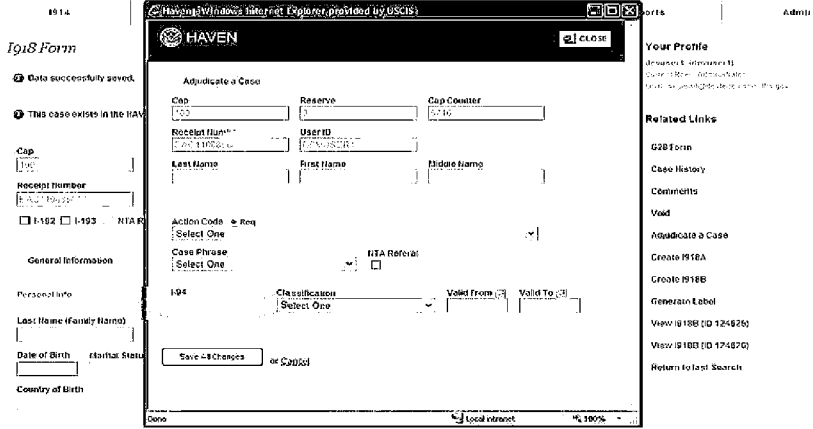
Updating a Decision in HAVEN (continued)

Step	Action
3	<ul style="list-style-type: none"> • Select action code/update phrase. • If approving, enter classification and validity dates. • Select “save all changes.” 
4	<p>Confirm the adjudication in HAVEN.</p>  <ul style="list-style-type: none"> • You must confirm that all information is correct before updating. • Once a Visa is issued, it can not be re-used. • Notices are generated through HAVEN, there generally is no clerical action with exception of I-94 card processing. <p>IMPORANT: You must also update GUI after you update HAVEN.</p>

Continued on next page

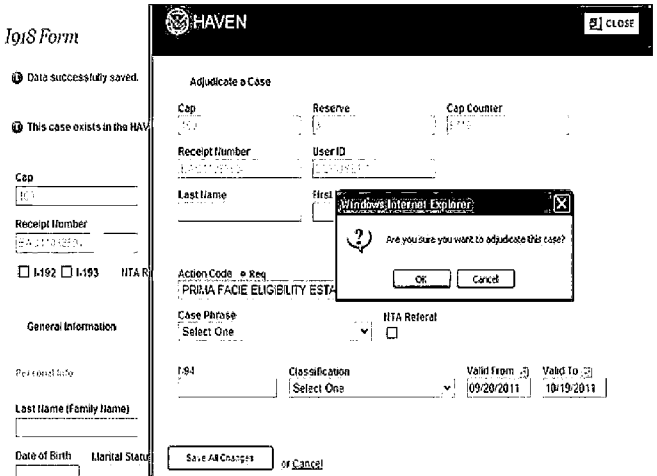
I-918, PETITION FOR U NONIMMIGRANT STATUS

Updating a Decision in HAVEN (continued)

Step	Action
5	<p>If you are approving the case, and the petitioner and/or derivative is in the United States, enter the number from the I-94 card into HAVEN.</p>  <p>IMPORTANT: Only issue an I-94 card to those petitioners and/or applicants who are in the United States at the time of approval. Do not issue an I-94 number to those petitioners and/or applicants who are outside of the United States.</p>

Continued on next page

Updating a Decision in HAVEN (continued)

Step	Action
6	<p>Verify that all information is correct, then select “ok”</p> <p>The Print Preview button is available to preview an approval notice prior to saving the changes.</p> <ul style="list-style-type: none"> • The class and I-94 number are currently missing on the approval preview screen. • This issue will be corrected on the next release of HAVEN. • You must verify all other data on the approval notice prior to saving. 

21.4 Processing an Approval

21.4.1 Processing an Approval

Follow the steps below to process an approval.

Step	Action
1	Verify that all information is correct and both HAVEN and GUI have been properly updated, including I-94 number. Verify that applicant's name and date of birth in GUI, CIS, and HAVEN match. Submit CIS correction requests if necessary. (See the instructions below for GUI updating).
2	Separate duplicate KCC copy from the record and stamp and make appropriate notations – leave this loose in the file.
3	Attach the I-94 Card(s) to the non-record side of the file.
4	Route the file to clerical for completion of the I-94 and subsequent routing of I-94 to KCC.

21.4.2 HAVEN Updating Errors

Refer to the table below to determine what steps to take if you update a case in HAVEN in error.

If you realize the case was updated in error...	Then ...
On the same day,	<ul style="list-style-type: none"> • Immediately notify a Division 6 SISO or ISO3. • The SISO or ISO3 will pull the approval notice from the print queue. • Once the approval has been pulled, update the case as "approval ordered in error."
After the date of approval and the case is approvable,	Issue an intent to revoke.
After the date of approval and the case is approvable but was granted the wrong class of admission, validity date, or I-94 number,	Notify a Division 6 SISO or ISO3 for instruction on issuing an amended notice.

21.5 GUI Updating

21.5.1 General

Form I-918 is also updated in GUI as the EAC# corresponds to a “dummy” I-765 that was entered for the purpose of generating an Employment Authorization Document if the case is ultimately approved.

Follow the normal directions for updating an I-765 in GUI. RFEs, Intentions, Approvals and Denials will be updated in this system—mirroring the actions taken in HAVEN.

NOTE: Form I-918A does not have a “dummy” I-765 entered in GUI. If an I-765 is filed along with the Form I-918A, it will be adjudicated on its own.

For example: An I-918A that requires an RFE will not generate any update in GUI for a concurrently filed I-765. Should the I-765 require an RFE of its own (example: no signature), it will be adjudicated independently from the I-918A.

21.5.2 Overseas Safe Address

GUI does not allow for overseas addresses. If the safe address listed on the I-765 (either dummy principal I918 or for A19/A20 filings) is an overseas address, it is keyed in by data entry as the 75 Lower Welden Street address. If the safe address is an overseas address:

- Place a manual hold on the case.
 - Send the file to clerical with the appropriate instructions for a clerical release of the approval, denial or the RFE
-

21.5.3 Approval (U-1 In the US)

Follow the steps below to update the card approval in GUI.

Step	Action
1	Enter the EAC# into the GUI search field.
2	Verify the information on the screen is correct.
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none"> • Choose Approve Case. • Choose Approve—order notice. • Choose “Card Sent to Applicant” from drop down menu.
5	Enter validity dates assigned to the I-918.
6	Select “Save”.
7	Select “Okay”.
8	Exit from screens.

21.5.4 Approval (U-1 Outside of the US)

Follow the steps below to update the card approval in GUI.

Step	Action
1	Enter EAC# into GUI search field.
2	Change the address to: 75 Lower Welden Street St. Albans, VT 05479
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none"> • Choose Approve Case. • Choose Approve—order notice. • Choose “Card Sent to Applicant” from drop down menu.
5	Enter validity dates assigned to the I-918.
6	Select “Save”.
7	Select “Okay”.
8	Exit from screens.

NOTE: PONDS may contact you when the card is returned. The card can be destroyed. The record can be reopened and a new card issued when the U-1 provides evidence of his/her lawful entry as a U nonimmigrant.

21.5.5 RFE

Follow the steps below to update the RFE in GUI.

Step	Action
1	Enter EAC# into GUI search field.
2	Verify information on screen is correct.
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none"> • Choose Case Review. • Choose Place in Suspense. • Choose Order Request for Evidence (either initial and additional or just additional).
5	Select “Save”.
6	Select “Okay”.
7	Exit from screens.

21.5.6 Denial

Follow the steps below to update a denial in GUI.

Step	Action
1	Enter EAC# into GUI search field.
2	Verify information on screen is correct.
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none"> • Choose “Deny the Case”. • Choose “Order Denial Notice”.
5	Select “Okay”.
6	Remove Supervisory Hold.
7	Exit record.

21.5.7 GUI Updating Errors

If an I-918 is erroneously updated as an approval, or the data entered for the update is incorrect, refer to the “Case Approved by Error – Stop Card Production” section of the Case Updated by Error in CLAIMS SOP.

For all other errors, follow the instructions in the Case Updated by Error in CLAIMS SOP.

22 Glossary of Terms

22.1 BIWPA

Acronym for Battered Immigrant Women Protection Act of 2000 of the Victims of Trafficking and Violence Protection Act of 2000, div. B, Violence Against Women Act of 2000, tit. V, Pub. L. No. 106-386, 114 Stat. 1464, (2000), amended by Violence Against Women and Department of Justice Reauthorization Act of 2005, tit. VIII, Pub. L. 109-162, 119 Stat. 2960 (2006), amended by Violence Against Women and Department of Justice Reauthorization Act—Technical Corrections, Pub. L. 109-271, 120 Stat. 750 (2006).

22.2 Certifying Agency

A Federal, State or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This includes agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Equal Employment Opportunity Commission, and the Department of Labor.

22.3 Certifying Official

The 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 the agency; or a Federal, State, or local judge.

22.4 Indian Country

Indian Country includes:

- All land within the limits of any Indian reservation under the jurisdiction of the U.S. Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;
 - All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof; and whether within or without the limits of a state; and
 - All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.
-

22.5 Investigation or prosecution

The detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.

22.6 Military Installation

Any facility, base, camp, post, encampment, station, yard, center, port, aircraft, vehicle, or vessel under the jurisdiction of the Department of Defense, including any leased facility, or any other location under military control.

22.7 Next friend

A person who appears in a lawsuit to act for the benefit of the alien under the age of 16 or incapacitated or incompetent, who has suffered substantial physical or mental abuse as the result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian.

22.8 Physical or mental abuse

Injury or harm to the victim's physical person, or harm to or impairment of the emotional or psychological soundness of the victim.

22.9 Qualifying crime or qualifying criminal activity

Includes one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail, extortion; manslaughter; murder, felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

22.10 Similar activity

Refers to criminal offenses in which the nature and the elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities in INA 101(a)(15)(U)(iii).

22.11 Qualifying family member

In the case of an alien victim 21 years of age or older who is eligible for U nonimmigrant status as described in section 101(a)(15)(U) of the Act, the spouse or child(ren). In the case of an alien victim under the age of 21 who is eligible for U nonimmigrant status as described in section 101(a)(15)(U) of the Act, qualifying family member means the spouse, child(ren), parents, or unmarried siblings under the age of 18 of such alien.

22.12 Territories and Possessions of the United States

American Samoa, Bajo Nuevo (the Petrel Islands), Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, Northern Mariana Islands, Palmyra Atoll, Serranilla Bank, and Wake Atoll.

22.13 United States

Except as otherwise specifically noted within the INA or regulations, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam and the Virgin Islands of the United States. (*see INA 101(a)(38)*).

22.14 U nonimmigrant status certification

Form I-918, Supplement B, “U Nonimmigrant Status Certification,” which confirms that the petitioner has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim.

22.15 U interim relief

Interim benefits that were provided by USCIS to petitioners for U nonimmigrant status, who requested such benefits and who were deemed *prima facie* eligible for U nonimmigrant status prior to the publication of the implementing regulations.

22.16 Victim of qualifying criminal activity

An alien who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity.

23 Appendix 1: Routing Worksheets for Withdrawals

Withdrawal I-918/I-918A

PENE Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER

Place I-918/I-918A
Barcode Here

ISO #: _____

DATE: _____

CLERICAL ACTION

RFE

- | | |
|----------------------------------------------------------------|----------------------------------------------------------------|
| <input type="checkbox"/> Additional Evidence (87 Days) | <input type="checkbox"/> Initial/Additional Evidence (87 Days) |
| <input type="checkbox"/> See Attached Document | |
| <input type="checkbox"/> Saved on LAN under: BAC# A# | <input type="checkbox"/> No Action Needed by Clerical |

APPROVAL

- | | |
|----------------------------------------------|-------------------------------------|
| <u>In U.S.</u> | <u>Outside U.S.</u> |
| <input type="checkbox"/> U-1 NGO List | <input type="checkbox"/> U-1 |
| <input type="checkbox"/> Derivative NGO List | <input type="checkbox"/> Derivative |
| U-2 U-3 U-4 U-5 | U-2 U-3 U-4 U-5 |
| <input type="checkbox"/> I-191 Release | |

DENIAL/ORDER

- | | |
|----------------------------------|---------------------------------------|
| ③ I-918 Order #: <u>G1</u> _____ | Saved on LAN/OG under: <u>BAC#</u> A# |
| I-191 Order #: _____ | Saved on LAN under: BAC# A# |

WAIT LIST

Date Received: _____ FBI Name DOB: _____

EDTSS Date: _____ EDTSS Results: IDENT / NONIDENT

FILE ROUTING

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| <input type="checkbox"/> Data Entry Scanning
Photos _____ Signature _____ Fingerprint _____ | <input type="checkbox"/> AAO: _____
(Signature/Consent Sign-off) |
| ② <input checked="" type="checkbox"/> D6 VAWA Sort
<input checked="" type="checkbox"/> Update CIS COA as: <u>Enter Previous ODA or "UU" Here</u>
(If denied, COA update after the appeal period.) | ① <input checked="" type="checkbox"/> SISD Denial Sign-off: _____ |
| <input type="checkbox"/> ECU/EMU
<input type="checkbox"/> VAWA - Expedite T/O - Shelving
<input type="checkbox"/> I-918 RFE Hold Shelf ____ 33 days ____ 87 days
<input type="checkbox"/> Consolidate: _____
_____ tag _____ | <input type="checkbox"/> Return to ISO# _____
At Cube # _____ |
| <input type="checkbox"/> Denial/Appeal hold shelf 60 days | <input type="checkbox"/> NTA Referral: _____
(Signature Sign-off) |
| | <input type="checkbox"/> Other: _____ |
| | ④ <input checked="" type="checkbox"/> RECORDS |

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1

FILE Worksheet

BARCODE/FILE NUMBER	Place I-918/I-918A Barcode Here	ISO #: _____ DATE: _____	
---------------------	------------------------------------	-----------------------------	--

CLERICAL ACTION

RFE

<input type="checkbox"/> Additional Evidence (87 Days) <input type="checkbox"/> See Attached Documents <input type="checkbox"/> Saved on LAN under: BAC# A#	<input type="checkbox"/> Initial/Additional Evidence (87 Days) <input type="checkbox"/> No Action Needed by Clerical
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------

APPROVAL

<u>In U.S.</u>	<u>Outside U.S.</u>
<input type="checkbox"/> U-1 NGO List <input type="checkbox"/> Derivative NGO List U-2 U-3 U-4 U-5	<input type="checkbox"/> U-1 <input type="checkbox"/> Derivative U-2 U-3 U-4 U-5

☐ I-191 Release

DENIAL/ORDER

(2)	I-918 Order #:	Indicate Order Number	Saved on LAN under:	BAC#	A#
	I-191 Order #:	Indicate Order Number	Saved on LAN under:	BAC#	A#

WAIT LIST

Date Received: _____	FBI Name DOB: _____
FD158 Date: _____	FD158 Results: IDENT /NONIDENT

FILE ROUTING

<input type="checkbox"/> Data Entry Scanning Photos _____ Signature _____ Fingerprint _____ <input type="checkbox"/> D6 VAWA Sort <input type="checkbox"/> Update CIS COA as: _____ (IF denied, COA update after the appeal period.)	<input type="checkbox"/> AACo _____ (Signature/Central Sign-off) (1) <input checked="" type="checkbox"/> SECO Denial Sign-off: _____ (4) <input checked="" type="checkbox"/> Return to ISO# _____ At Cube #_____
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

(3) <input checked="" type="checkbox"/> BCJ/RMU <input type="checkbox"/> VAWA - Expedite T/O - Shaking <input checked="" type="checkbox"/> I-918 RFE Hold Shelf <u>X</u> 33 days ____ 87 days <input type="checkbox"/> Consolidate: _____ Initial _____ <input type="checkbox"/> Dental/Appeal hold shelf 60 days	<input type="checkbox"/> NTA Referral: _____ (Signature Sign-off) <input type="checkbox"/> Other: _____ _____ <input type="checkbox"/> RECORDS
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------

25 Appendix 3: Routing Worksheet for Intents to Revoke

Intent to Revoke I-918/I-918A

PINE Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER

Place I-918/I-918A
Barcode Here

ISO #: _____

DATE: _____

CLERICAL ACTION

RFE

- | | |
|--------------------------------------------------------|----------------------------------------------------------------|
| <input type="checkbox"/> Additional Evidence (87 Days) | <input type="checkbox"/> Initial/Additional Evidence (87 Days) |
| <input type="checkbox"/> See Attached Document: | <input type="checkbox"/> No Action Needed by Clerical |
| <input type="checkbox"/> Saved on LAN under: BAC# A# | |

APPROVAL

- | | |
|----------------------------------------------|-------------------------------------|
| <u>In U.S.</u> | <u>Outside U.S.</u> |
| <input type="checkbox"/> U-1 NGO List | <input type="checkbox"/> U-1 |
| <input type="checkbox"/> Derivative NGO List | <input type="checkbox"/> Derivative |
| U-1 U-3 U-4 U-5 | U-1 U-3 U-4 U-5 |

☐ I-191 Release

DENIAL/ORDER

- | | | |
|---|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| 2 | I-918 Order #: Indicate Order Number | Saved on LAN under: BAC# A# |
| | I-191 Order #: Indicate Order Number | Saved on LAN under: BAC# A# |

WAIT LIST

Date Received: _____ FBI Name DOB: _____

FD158 Date: _____ FD158 Results: IDENT / NONIDENT

FILE ROUTING

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <input type="checkbox"/> Data Entry Scanning
Photos _____ Signature _____ Fingerprint _____ | <input type="checkbox"/> AAO: _____
(Signature/Cancel Page-05) |
| <input type="checkbox"/> D6 VAWA Sort
<input type="checkbox"/> Update CIS COA as: _____
(If denied, COA update after the appeal period.) | 1 <input checked="" type="checkbox"/> SIPO Denial Sign-off: _____ |
| 3 <input checked="" type="checkbox"/> BCU/ EMU
<input type="checkbox"/> VAWA - Expedite T/O - Shelving
<input checked="" type="checkbox"/> I-918 RFE Hold Shelf <u>X</u> 33 days 87 days
<input type="checkbox"/> Consolidate: _____ into _____ | 4 <input checked="" type="checkbox"/> Return to ISO# _____
At Cube # _____ |
| <input type="checkbox"/> Denial/Appeal hold shelf 60 days | <input type="checkbox"/> NTA Referral: _____
(Signature Page-05) |
| | <input type="checkbox"/> Other: _____ |
| | <input type="checkbox"/> RECORDS |

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27 I-918 SOP Revisions

27.1 Changes prior to current revision date

Revision #	Date	Subject	Pages
1	5/8/08	FBI name check process for I-912 added	38-40
2	5/29/08	Filing deadline for Interim Relief recipients suspended.	33
3	5/29/08	<ul style="list-style-type: none"> • Process for notifying ICE for trafficking referrals refined • Note regarding supervisory consultation on waivers for violent criminal acts, terrorism, foreign policy concerns or national security issues added. • Form I-192 to be used to waive passport requirements (INA 212(a)(7)(B)) for U status seekers who are in the US. • Added necessity to annotate on the form what grounds are being waived with Form I-192 	53 36 36 37
4	6/4/08	Procedure for contacting law enforcement agencies refined	27
5	7/3/08	IBIS clarification for I-918A	10
6	8/18/08	Revised and reformatted (info mapped) entire document.	Throughout
7	1/22/09	<ul style="list-style-type: none"> • Fee waiver on I-192 added • Clarification of passport/BCC requirement • Extension of status provisions • Process for FD-258s that are not scanned • GUI updating steps added • Waiver criteria added • Missing RAP Sheet procedure 	Throughout 12 Throughout 43 79 49 44
8	2/6/09	<ul style="list-style-type: none"> • Added to initial evidence required - photos for consular processing • Principal's EAC# to be entered into the Remarks block on I-918A 	36 38

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
9	04/10/09	• ICE referral process and Record of Contact refined.	67
		• Process for correcting GUI errors added.	80
10	05/01/09	• Added a new block titled “Fingerprint Response”.	43-45
		• Updated ICE email address.	69
11	06/12/09	• Added third paragraph to “ General ” table regarding relationship documents.	39
		• Added new block titled “ Age Out Restrictions ”.	41
		• Added new block titled “ Worksheet Annotations ”.	44
		• Added new block titled “ Needing Biometrics (in the US) ”.	47
		• Added new block titled “ Needing Biometrics (outside the US) ”.	48
		• Added new block titled “ Multiple I-192 Waivers Filed ”.	59
		• Added new block titled “ Form I-193 Waiver Filed ”.	60
		• Modified text in “ General ” block regarding validity dates.	64
		• Added section titled “ Validity Dates ”.	64-67
		• Included more information in the “ General ” block under Employment Authorization section.	71
		• Employment Authorization validity dates clarified and “ GUI Claims Updating Errors ” lock added.	73
		• Validity date information removed from updating blocks titled “ Approval of I-918 in HAVEN ” and “ Approval of I-918A in HAVEN ”.	88
12	7/22/09	• Moved “Glossary of Terms” to back of document.	84-86
		• Corrected formatting issues.	Throughout
13	09/18/09	• Added another row at the end of the “If/Then” table in the Age-out Restrictions block.	34
		• Added second paragraph to the Waiver Approval and Validity Dates block.	48
		• Corrected validity date in the example from 3/29/09 to 3/22/09.	58

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
14	12/04/09	Modified I-193 process.	50
15	12/18/09	<ul style="list-style-type: none"> • FBI name check validation added • Section 384: Adverse Information expanded 	52 62-66
16	2/19/10	<ul style="list-style-type: none"> • A/T-file processing guidance added • Denial for lack of I-918, Supplement B • Victim definitions clarified • Officer required to locate derivative filings • Overseas photo requirements modified • Fingerprint issues clarified (missing prints and unclassifiable prints) • Decisions on multiple filings for the same alien 	13 17 20-23 35 41 45-47 67
17		<ul style="list-style-type: none"> • Notification process for 384 violations added • ROP changed (I-918 and I-192 ROPs separated) 	71 81
18		• Passport/BCC validity clarification	15
19	05/05/10	• Update the FBI Name and DOB check process	58-60
20	05/28/10	• A new scenario to assist when assigning validity dates was added	67
21	7/9/10	<ul style="list-style-type: none"> • Waiting List Process replaces Visa Cap/Waiting List section • Trafficking referrals email address updated 	76-80 85
22	10/19/2010	<ul style="list-style-type: none"> • Exception circumstances option added to U-1 extension possibilities • Interim relief termination options added • Blank I-918B may result in denial • Age-out restrictions for table updated for U-3 • Denial requirement for pending I-918A when principal adjusts • Interim relief termination date added • U-3 validity periods for age out cases added • SISO sign off requirement for NTA 	12 15 17 38 39 43 66 70
23	12/2/2010	KCC routing reference removed.	41
		Validity scenario added for Qualifying Family MembersU-1 when the U-1 has a pending I-485 or is expired	66
24	01/31/2011	<ul style="list-style-type: none"> • Fee reference for biometrics removed • Replaced duplicate RAP sheet process with BBSS process 	44 49

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
25	4/26/11	<ul style="list-style-type: none"> • Clarified what constitutes “No I-918B filed” • Fingerprint age requirements clarified 	17 44
26	6/18/11	<ul style="list-style-type: none"> • Added requirement to use the most up-to-date routing worksheet 	10
		<ul style="list-style-type: none"> • Requesting an I-693 for health related grounds. *For guidance on requests for Form I-693s, refer to the Form I-192 SOP. 	55
		<ul style="list-style-type: none"> • Added Form I-693 Validity Chart. *For guidance on requests for Form I-693s, refer to the Form I-192 SOP. 	56
		<ul style="list-style-type: none"> • Added instructions for I-918A deferred action review. 	70-72
		<ul style="list-style-type: none"> • Added instruction for sending a second copy of an approved petition/application for KCC Processing. 	92
		<ul style="list-style-type: none"> • Added instructions for updating in GUI and HAVEN. 	94 -106
		<ul style="list-style-type: none"> • Added instructions for correcting an updating error in HAVEN. 	106
		<ul style="list-style-type: none"> • Added instructions for updating approvals in GUI 	107
		<ul style="list-style-type: none"> • Added instruction to issue I-192 denials through Correspondence Generator. 	110
		<ul style="list-style-type: none"> • Removed references related to ACCESS database update. 	Throughout
27	5/24/12	Added section entitled “Withdrawal of U Non Immigrant Status Certification Form I-918B	17
		Corrected information regarding how to calculate the age of the child for U3 Qualifying Family Members	36
		Deleted instructions for requesting fingerprint fees for principals and derivatives who reach the age of 14 while their Form I-918 or Form I-918A is pending.	44
		Updated instructions for requesting updated IDENT fingerprint results	49
		Deleted the block entitled “Requesting Duplicate or Updated RAP Sheets for IDENT cases.	51
		Updated the I-192 Name Check Process to indicate that FBI Name Check results for the I-192 are valid indefinitely	59
		Added table to identify recommended action when adjudicating a motion to reopen a denial based upon no Form I-918, Supplement B.	87
		Added call-up information when making Trafficking referrals to ICE	90

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
		Added information regarding GUI updates when the Safe Address is a foreign address	106
28	10/22/2012	Renamed block labeled “Credible Evidence Standard”	10
		Added statutory and regulatory authority	11
		Renamed block labeled “Waiver Authority”	11
		Blocks relating to U-1, U-2, U-3, U-4, U-5 Eligibility Requirements – added “and” to penultimate item in both lists.	11
		Corrected instructions for accessing the Div 6 MRD FP Scheduling worksheet to reflect correct name and folder location. The worksheet is titled “VAWA Biometrics & FP Scheduling” but labeled “Div 6 MRD FP Scheduling” in the Div 6 ADJ Worksheets folder	54
		Added instructions to request refreshed fingerprint responses for expired Non-ident and Ident responses	54
		Renamed block labeled “Unusually Direct Victim” to “Bystanders Who Suffer Unusually Direct injuries” Added Federal Register citation where this term is discussed.	54
		Added information regarding the U1 validity period for U Derivatives who subsequently file their own I-918 seeking principal status	65 and 67
		“Overseas Safe Address” – placed in separate block	108
		Corrected Approval instructions to indicate “Send to Clerical” field should indicate “N” for I-192 approvals	111
		Added Previous Revisions at the end of the document	115
		Created hyperlinks to worksheets and referenced citations	Throughout
29	1/9/13	Revision 29 includes revisions in the SOP that were uploaded two different dates. These have been consolidated at the request of the Division. <ul style="list-style-type: none"> • Added block entitled “212(a)(2)(D) Prostitution” • Updated information regarding a Positive FBI Fingerprint response. • Changed references to ACCESS to read HAVEN • Updated age-out section • Added instruction for the officer to list the I-94 number on the worksheet prior to sending the file to clerical. 	57 64 Throughout 77 108

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
30	5/1/13	Added requirement that LPRs are not eligible for U related nonimmigrant status.	7, 8
		Added note – U3 Derivatives will get full four year validity period.	40
		Explained examples of Health Related Grounds	54
		Added block for “Subsequent I-192 Filed	58
		In the “U-3 Reaching 21 before Validity Expires” block, removed reference to the same ending date as principal and change the ending date to just a full four years. Also corrected HAVEN validity date for a derivative approved on 3/22/09.	68
		Revised second block title to “U-2, U-4 and U-5 - Neither Principal nor Derivative had Interim Relief.”	72
		Added requirement that all Intents to Revoke and Revocations must be completed on the LAN and not in Correspondence Generator	93

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
		Updated references of ACCESS to reflect HAVEN	Entire Document
31	6/24/13	Updated blocks relating to derivatives to indicate that they will receive a full four year validity period, even if that exceeds the validity period of the principal.	8, 9
		Added requirement that IBIS ROIQ be included for KCC processing	10
		Added instruction that guardian or next friend may write the personal statement on behalf of principals who are incapacitated or under the age of 16.	11
		Updated table regarding statutory criminal activity	16
		Updated block entitled “Substantial Mental or Physical Abuse” to include information regarding preexisting conditions and a series of acts.	22
		Updated block entitled “Prohibition for Certain Family Members” to indicate that the officer must enter culpable family members into HAVEN when adjudicating domestic violence related cases.	35
		Updated sections relating to age-out provisions.	36, 58, 60
		Removed chapters entitled “Inadmissibility Waivers”, “I-192 FBI Name Checks”, and “I-918 Age Out Deferred Action Review”	
		Updated hyperlinks	Entire Document
32	8/6/13	Removed U-3 from Duration of Status section	8
		Added requirement that the petitioner submit initial evidence of passport that was valid at the time of filing.	11
		Changed system that I-192’s are processed in from CLAIMS to GUI.	89
		Changed 4 to four.	8,55,57
		Updated information for calculating the age of the qualifying family member.	33
		Added block entitled “Á file Requests”	62
		Updated SOP for formatting, spelling, and branding	Entire Document

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages	
33	8/13/13	Renamed Chapter entitled “Wait List” That chapter is now named “Post U Visa CAP Process”. Updated maps to include current processing.	74	
34	8/27/13	Removed references to requesting a finger print fee	42, 43	
		Updated block entitled “Needing Biometrics (in the United States) to reflect that fingerprint scheduling should be requested by using the Div 6 MRD Fingerprint Scheduling worksheet.	43	
		Replaced references to “IBIS” with “TECS”	Throughout	
35	10/8//13	Deleted requirement that the petitioner must submit three passport style photographs of a derivative who is outside of the United States.	34	791
		Removed custody and residency requirement related to adopted children. Combined information relating to biological and adopted children into one block.	37	803
36	11/4/13	Added map instructing the officer to completely fill out the Div 6 MRD Fingerprint Scheduling worksheet.	43	874
		Corrected hyperlink	43	874
		Added clarification that the officer should look to the age at the victim at the time the qualifying crime occurred when determining who qualifies as an indirect victim.	19	947
		Updated TECS map to include instructions for officers to send a copy of the Resolution Memo when sending copies to the KCC.	10	945

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Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages	KM#
37	11/14/13	Added instructions for sending names of updated certifying officials to ISO3s for ECN updating	14	990
		Added instruction that the officer is not required to obtain a valid fingerprint response prior to issuing a denial.	15,42	
		Corrected hyperlink	10	960
38	12/2/13	Updated map entitled “U-1 Initial Evidence” to reflect that petitioners may submit evidence of a valid Border Crossing Card (BCC), in addition to a passport.	11	1032
		Corrected validity dates for derivatives when the U-1 has a pending I-485.	59	1093
		Updated Wait List Process	74-81	1084
		Deleted maps entitled “Case Actions” and “Validity Dates”.	76	
39	1/16/14	Updated map entitled, “FD-258 in File but No Results in System” to include dead scan instructions.	50	1169
		Updated Wait-list process Table	76-77	1209
40	4/14/14	<u>Updated Qualifying Law Enforcement Official overview.</u>	16	1561
--	--	<u>Updated routing for Wait-Listed cases with site specific instructions.</u>	77	1489
--	--	<u>Updated processing instructions for Wait-Listed cases by site.</u>	79	1489
--	--	<u>Created section with instructions for I-918 Wait List process for cases that were Wait-Listed in Error.</u>	81-83	1513
--	--	<u>Added Routing Worksheet examples for Routing I-918 Withdrawals, ITDs, ITRs and Revocations.</u>	114-117	1457
41	4/24/14	<u>Changed section title to I-918, I-918A, and I-192 Wait List Decision.</u>	76	1578 & 1593
--	--	<u>Edited Wait List Process Table with scenarios, appropriate letter, and appropriate HAVEN and GUI Updates.</u>	77	
--	--	<u>Removed routing instructions from Updating Petition/Application section. Moved to Routing and Annotations.</u>	78	
42	4/29/14	Conversion to new SOP formatting.	All	--

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages	KM#
43	5/7/14	<u>Edited accompanying forms such as I-193, change the primary adjudicating system from GUI to Adjudicate a Case.</u>	20.3.2	1634
44	5/20/14	Added reference to I-192 SOP for health related grounds of inadmissibility.	27	1673
--	--	Added reference to I-192 SOP related to inadmissibility grounds.	3.2 & 3.3	
--	--	Fixed broken hyperlinks.	All	
45	6/6/14	<u>Updated routing worksheet for I918/I918A ITDs to include an extra step.</u>	129	1687
--	--	<u>Updated routing worksheet for revocations as it is usable for Revocations and Denials.</u>	131	
46	7/11/14	Added statement about who can collect fingerprints overseas.	58	1853
--	--	Added notes related to placing applicants on the Wait List when there are subsequent filings.	77, 91	1788
--	--	Added reminder and instructions to correct Name/DOB discrepancies for Wait List cases.	90, 124	1852
--	--	Added steps for I918/I918As that need RFE/NOID issuance to the Wait List processing table.	92	1799
--	--	Added instructions to band more than one A-file together for Wait List cases.	93	1852
--	--	Added processing instructions for Wait List cases.	93	1852
--	--	Updated all routing sheets.	132-135	1852
47	7/29/14	Added note to Form I-918 ROP.	108	1938
--	--	Removed PII from HAVEN Screen Shots.	All	--
48	8/4/14	Added clarification to Supplement B requirement for certifying official signature within six months minus one day.	19, 22	1949
49	8/27/14	Added note that family members who are the perpetrator of the crime should have their name added in HAVEN.	47	2007

Vermont Service Center

Standard Operating Procedure (SOP)

I-918, PETITION FOR U NONIMMIGRANT STATUS

Prepared by: Center Training Unit
Vermont Service Center

April 14, 2014

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I-918 SOP Revisions 118

General

General

Purpose	This SOP sets forth the procedures for the adjudication and processing of Form I-918, Petition for U Nonimmigrant Status, within the Vermont Service Center (VSC).
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Disclaimer	This SOP is not intended to be, and should not be taken as, an authoritative statement of the rules of decision for Form I-918, Petition for U Nonimmigrant Status. This SOP is only a guide for the consistent processing of Form I-918. USCIS bases the actual decision in a particular case on the record for that case, the Immigration and Nationality Act (INA), regulations, precedent administrative and judicial decisions, and general statements of USCIS policy. Thus, nothing in this SOP creates any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.
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Applicability/ Scope	This SOP is applicable to all VSC SISOs, officers and clerical personnel performing adjudicative or clerical functions or review of those functions. Personnel performing other duties pertaining to Form I-918 will be similarly bound by those provisions of this SOP that apply to their specific task or duties.
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Conflict Resolution	<p>Any provision of the INA or 8 CFR that conflicts with this SOP will take precedence over the SOP. If you identify a conflict, report the matter immediately to your supervisor or to any SISO.</p> <p>If any conflict is noted between this SOP and policy or guidance documents issued by HQSCOPS, report the matter through the supervisory chain for resolution.</p> <p>This SOP supersedes all prior Vermont Service Center guidance documents, policy memoranda, training packets, or other materials pertaining to clerical operations and processing; these documents should be discarded.</p>
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General, Continued

Revisions

The *revisions* section should include the following information:

Numbered revisions to this SOP will be issued as required; no other document will be considered a valid modification.

Electronic Copies

Electronic copies of the SOP will be modified to reflect changes as they are issued. A summary of all revisions will be included in the electronic SOP.

Proposed Changes

Submit proposed changes with appropriate supporting documents through first-line supervisors.

Current Revisions

Current revisions will be posted in the beginning of the document and all new changes will be highlighted in yellow. ***NOTE:** The KM# column indicates the Knowledge Management change request number associated with the change.

Revision #	Date	Subject	Pages	KM#
40	4/14/14	<u>Updated Qualifying Law Enforcement Official overview.</u>	16	1561
--	--	<u>Updated routing for Wait-Listed cases with site specific instructions.</u>	77	1489
--	--	<u>Updated processing instructions for Wait-Listed cases by site.</u>	79	1489
--	--	<u>Created section with instructions for I-918 Wait List process for cases that were Wait-Listed in Error.</u>	81-83	1513
--	--	<u>Added Routing Worksheet examples for Routing I-918 Withdrawals, ITDs, ITRs and Revocations.</u>	114-117	1457

General Adjudication Information

De Novo Review

USCIS will conduct a *de novo* review of the petition and supporting evidence during all stages of the adjudication process.

USCIS is permitted to investigate any aspect of the petition.

Burden of Proof

The burden of proof is on the petitioner at all times during the initial adjudication of a Petition for U nonimmigrant Status (Form I-918 and Form I-918, Supplement A).

The petitioner is required to fully establish all elements of eligibility for the desired benefit.

Credible Evidence Standard

The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by USCIS. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence.

USCIS may use any previously submitted evidence for this or any other immigration benefit or relief in evaluating eligibility.

USCIS is not bound by previous factual determinations.

Routing Worksheets

You are required to use the most current worksheet each time you take an adjudicative or routing action on an I-918 or I-918A filing.

Overview

Statutory and Regulatory Authorities

Refer to the chart below for the appropriate statutory and regulatory authority for the U Nonimmigrant Status Program:

If you are referencing the ...	Then the appropriate statutory and regulatory authority is ...
U Nonimmigrant Status Program	<u>INA Section 101(a)(15)(U)</u>
Implementing regulation	<u>8 CFR 214.14</u>
Filing fees for U nonimmigrant petitions	<u>8 CFR 103.7</u>
Waiver of inadmissibility	<u>8 CFR 212.17</u>
Regulation requiring certain U nonimmigrants to file an application when seeking employment authorization	<u>8 CFR 274a.13(a)</u>
Regulation allowing U nonimmigrant status recipients to accept employment	<u>8 CFR 274a.12(a)</u>
Interim Rule	<u>72 FR 53014</u>

U-1 Eligibility Requirements

Basic Eligibility Requirements for U-1 (Principal):

1. Petitioner must be a victim of one of the enumerated crimes found in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (INA).
2. Petitioner must have suffered substantial physical or mental abuse as a result of being a victim of one of those enumerated crimes.
3. Crime(s) must have violated the laws of the United States or occurred in the United States.
4. Petitioner has been/is being/likely to be helpful to the investigation and/or prosecution of the crime for which he/she was a victim, and
5. Petitioner is admissible to the United States

NOTE: Must be a non-immigrant. LPR's are not eligible to be granted U status.

Continued on next page

Overview, Continued

U-2, U-3, U-4, U-5 Eligibility Requirements

Basic Eligibility Requirements for U-2, U-3, U-4, U-5 (Derivative):

1. Alien must be a qualifying family member of a U-1 (Principal) with an approved Petition for U Nonimmigrant Status (Form I-918). and
2. Alien must be admissible to the United States.

NOTE: Must be a non-immigrant. LPR's are not eligible to be granted U status.

Visa Cap/ Wait List

- A limit of 10,000 U-1s (principals) can be approved in any fiscal year.
 - All those who apply but whose petition cannot be approved solely because there are no visa numbers remaining will be placed on a Wait List.
 - Those on the Wait List may be eligible for deferred action, parole and stays of removal for the U-1 petitioners and eligible family members
-

Duration of Status

- Generally, U nonimmigrant status may be approved for a period not to exceed four years in the aggregate.
 - Exceptions are made for cases with more than three years in interim relief. These cases will be granted one year of validity in addition to the time already accrued in interim relief. This will allow the alien time to file for adjustment while still in valid U nonimmigrant status.
 - A qualifying family member granted U-2, U-4 and U-5 status will be approved for an initial period that does not exceed the expiration date of the initial period approved for the principal alien. Extensions are possible in limited circumstances.
 - A qualifying family member granted U-3 status will be approved for an initial period of four years even if this validity exceeds the expiration date of the initial period approved for the principal alien. Extensions are possible in limited circumstances.
-

Extension of U-1 Status

Extensions of U-1 nonimmigrant status beyond the four-year period are available upon attestation by the certifying official that the alien's presence in the United States continues to be necessary to assist in the investigation or prosecution of qualifying criminal activity or if the U-1 can demonstrate he/she qualifies for an extraordinary exception circumstance

Continued on next page

Overview, Continued

Extension of status (U2 through U-5)

When a U nonimmigrant's initial approved period of stay on Form I-94 is less than four years, he or she may file the Application to Extend/Change Nonimmigrant Status (Form I-539) to request an extension of U nonimmigrant status for an aggregate period not to exceed four years.

This most commonly occurs when a principal (U-1) has time in interim relief that counts toward time in U status but the approved derivatives (U-2 through U-5) do not have time in interim relief, or when the derivative's filing is not approved at the same time as the principal's.

As required by 8 CFR 214.14(g)(1), the initial validity period given to U-2, U-4, and U-5 derivatives cannot exceed the expiration date given to the principal; the initial validity period given to U-3 derivatives may exceed the expiration date given to the principal. In some instances, the derivative may need to file Form I-539 to seek an extension of status to ensure that the qualifying family member is able to attain at least three years in U nonimmigrant status for the purposes of adjusting under 245(m) of the Act.

Additionally, qualifying family members may be approved beyond the date of the U-1 nonimmigrant's status when the qualifying family member is unable to enter the United States timely due to delays in consular processing. Form I-539 needs to be filed in this instance as well.

The U-visa team is responsible for the adjudicating I-539s filed for the purpose of extending U nonimmigrant status.

Continued on next page

Overview, Continued

Aliens outside the United States	<p>Petitioners for U nonimmigrant status do not need to be physically present in the United States to file Form I-918, Petition for U Nonimmigrant Status. Qualifying family members do not need to be physically present in the United States to have the I-918A approved.</p>
Jurisdiction	<ul style="list-style-type: none">• Petitions for U nonimmigrant status will be filed with the Vermont Service Center (VSC).• VSC has sole jurisdiction for the adjudication of this form type.
TECS	<p>You must conduct a TECS check on the name of the principal and all aliases discovered in the course of the adjudication of the I-918.</p> <p>You must conduct a TECS check on the name of the qualifying family member and all aliases discovered in the course of the adjudication of the I-918, Supplement A. When adjudicating an I-918, Supplement A, you must also conduct a TECS check on the principal. A copy of the TECS check used in the final decision of the principal's I-918 may be used if it is still within time limits. If there is a hit, copies of the Resolution Memo, ROIT, and TECS manifest print out must be included with the KCC copy.</p> <p>Age restrictions cited in the TECS SOP apply. Refer to that document for more specifics on the TECS check process.</p>
A-file Requirement	<p>Form I-918 and I-918, Supplement A, are adjudicated in A-files. If the petition(s) are in T-files, follow the ISO File Maintenance Procedures SOP instructions before issuing a final decision.</p>

Filing Requirements

Initial Evidence

U-1 Initial Evidence

Failure to provide this initial evidence may result in a request for additional evidence, a notice of intent to deny or a denial being issued on the petition.

Initial Evidence Required for U-1 Nonimmigrant Status (Form I-918):

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification” signed by a certifying official within six months immediately preceding the filing of Form I-918.
2. Any additional evidence to establish that:
 - The petitioner is a victim of qualifying criminal activity;
 - The petitioner has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity;
 - The petitioner possesses information about the qualifying criminal activity;
 - The petitioner has been, is being or is likely to be helpful to law enforcement concerning the qualifying criminal activity;
 - The criminal activity is qualifying and occurred in the United States, including Indian country and military installations, or the territories and possessions of the United States, or violated a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. Federal Court.
3. A statement signed by the petitioner describing the facts of the victimization. If the petitioner is incapacitated or under 16 years of age, the parent or next friend can write this statement.
4. Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) with fee or fee waiver request (*If the petitioner is inadmissible*)
5. Passport/BCC valid at the time the Form I-918 was filed.

NOTE: Petitioners filing from outside the United States do not need to provide evidence of a valid passport/BCC.

Continued on the next page

Initial Evidence, Continued

U-2, U-3, U-4, U-5 Initial Evidence

Failure to provide this initial evidence may result in a request for additional evidence, a notice of intent to deny or a denial being issued on the petition.

Initial Evidence Required for U-1 Nonimmigrant Status (Form I-918 Supplement A):

1. Evidence demonstrating the relationship of a qualifying family member,
2. Passport or border crossing card valid at the time the I-918A is filed; and
3. (*If inadmissible*) Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) with fee or fee waiver request.

NOTE: Derivatives who are outside the United States do not need to provide evidence of a valid passport.

Interim Relief

A petitioner who previously received interim relief is not required to submit initial evidence with the Form I-918 if he or she wishes to rely on the law enforcement certification and the other evidence that was submitted with the request for interim relief.

Interim relief is considered terminated if:

- The alien did not file his or her Form I-918 or have an I-918, Supplement A, filed on his or her behalf prior to February 1, 2010.
 - His or her Form I-918 or Form I-918, Supplement A, is denied.
-

Passport or Border Crossing Card

U nonimmigrant status seekers are required to present a passport or border crossing card valid at the time of filing or a passport or border crossing card that was valid for some period of time while the petition for U nonimmigrant status was pending.

Those without a passport or border crossing card valid at the time of filing for U nonimmigrant status may seek a waiver by filing the Application for Advance Permission to Enter as a Nonimmigrant Pursuant to Section 212(d)(3) of the Immigration and Nationality Act (Form I-192).

- The authority to waive the documentary requirement resides with the USCIS office having jurisdiction over the adjudication of Form I-918.
 - The waiver may be revoked at any time after approval.
 - There is no appeal from the revocation or denial of such a waiver.
-

Law Enforcement Certifications

General

A certification from a qualified certifying official must accompany all Petitions for U Nonimmigrant Status (Form I-918) at the time of filing. In most cases, this certification takes the form of Supplement B of Form I-918. Exceptions exist for cases that were approved for Interim Relief purposes.

Deny any Form I-918 filed on or after November 1, 2009 that did not previously receive an approval under the Interim Relief program.

Properly executed I-918 Supplement B

A properly executed certification on Form I-918, Supplement B, is required for an alien seeking U nonimmigrant status. The burden is on the petitioner to provide the law enforcement certification.

The certifying agency conducting an investigation or prosecution of the qualifying criminal activity must prepare the Form I-918, Supplement B. It must be signed by the certifying official with an **original** signature **within the six months immediately preceding** the submission of Form I-918.

Special consideration will be given to those petitioners who received an Interim Relief approval.

Evidentiary Weight of the Law Enforcement Certification

The law enforcement certification will be given significant weight but will not be considered conclusive evidence that the petitioner has met the eligibility requirements.

Petitioners may be requested to submit additional supporting evidence to establish their claims

Continued on next page

Law Enforcement Certifications, Continued

Certification Requirements

All law enforcement certifications must contain the following details:

1. Name of the qualifying law enforcement agency
2. Signature of a qualifying law enforcement official (specifically the head of the agency or someone in a supervisory role specifically designated by the head of the agency to issue U nonimmigrant certifications. (See exceptions for Interim Relief on page 33)
3. Statement that the subject of the certification is the victim of a qualifying crime
4. Statement that the subject of the certification possesses information necessary to the investigation/prosecution
5. Statement that the subject of the certification has been, is being, or is likely to be helpful to the investigation/prosecution of the criminal activity.

Continued on next page

Law Enforcement Certifications, Continued

Qualifying Law Enforcement Official

All law enforcement certifications must contain the signature of a qualifying law enforcement official. When the certifying official named on page one of the Certification is not the head of the agency, officers should determine whether the certifying officer holds a supervisory role within the agency.

If there is affirmative evidence in the file suggesting that the certifying official has not been designated by the head of the agency or is not properly affiliated with the certifying agency, the officer should speak with a supervisor before referring the file to CFDO for signature confirmation.

Officers should not ask for evidence that a certifying official is qualified without first discussing the RFE with a supervisor. The list of Certifying Officials on the Humanitarian Division VSC ECN website is a reference tool. Officers should not issue an RFE only because the certifying official is not on the list.

Refer to the table below to determine the appropriate adjudicative action based on the COL.

If the signature on law enforcement certification....	Then ...
Matches the name on the COL	Proceed with adjudication
Does not match the name on the COL	<ul style="list-style-type: none">• RFE for evidence that the person who signed the law enforcement certification is authorized by the head of the agency to issue law enforcement certifications.• If, in response to that RFE, you receive the name of a recently designated certifying official, send that information to an ISO3 with a request to update the COL.

Continued on next page

Law Enforcement Certifications, Continued

Failure to Submit U Nonimmigrant Status Certification (Form I-918, Supplement B)

Deny any Form I-918 filed on or after November 1, 2009 without issuing an RFE or NOID if it:

- Was not accompanied by a properly executed U Nonimmigrant Status Certification (Form I-918, Supplement B) at the time of filing; **and**
- Did not previously receive an approval under the Interim Relief program.

If a Form I-918 is filed with a blank I-918B (none of the fields of the form are filled out), you may immediately deny the Form I-918 as though there was no certification submitted. Note any other deficiencies in the record in the denial.

If a Form I-918 is filed with an I-918B that has no signature, you may immediately deny the Form I-918 as though there was no certification submitted. Note any other deficiencies in the record in the denial. You are not required to obtain a valid fingerprint response before denying the Form I-918.

NOTE: This does not pertain to photocopied signatures. If an I-918B has a photocopied signature of a certifying official, you must issue an RFE or NOID requesting the original signature.

Withdrawal of U Nonimmigrant Status Certification (Form I-918, Supplement B)

The law enforcement agency that issued the Form I-918, Supplement B may withdraw it at any time.

Follow the steps below when you receive a request to withdraw Form I-918, Supplement B.

Step	Action						
1	Verify that the request to withdraw is from the agency that issued the Form I-918, Supplement B.						
2	Determine the current status of the Form I-918. <table><tr><th>If the Form I-918...</th><th>Then issue an ...</th></tr><tr><td>Is pending,</td><td>Intent to Deny.</td></tr><tr><td>Has been approved,</td><td>Intent to Revoke.</td></tr></table>	If the Form I-918...	Then issue an ...	Is pending,	Intent to Deny.	Has been approved,	Intent to Revoke.
If the Form I-918...	Then issue an ...						
Is pending,	Intent to Deny.						
Has been approved,	Intent to Revoke.						
3	Place the Withdrawal letter on the record side of the file, on top of the Form I-918, Supplement B.						
4	Annotate "Withdrawn" in the remarks block on the Form I-918, Supplement B.						
5	Indicate the date of withdrawal in the remarks block on the Form I-918, Supplement B.						

Eligibility Requirements

Qualifying Criminal Activity

General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Hostage	Prostitution	Stalking
Fraud in Foreign Labor Contracting		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

Continued on next page

Qualifying Criminal Activity, Continued

Similar activity For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

**Evidence of
“similar
activity”**

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

Victim Definitions

General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

Continued on next page

Victim Definitions, Continued

- Indirect Victim**
- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
 - This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
 - Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
 - If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

Important: to determine eligibility, look to the age of the victim at the time the crime occurred.

**Victim of
Murder /
Manslaughter**

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
 2. Child under age 21 of the deceased
 3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.
-

Continued on next page

Victim Definitions, Continued

Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system

Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
2. Child under age 21
3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.

Continued on next page

Victim Definitions, Continued

Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

Continued on next page

Victim Definitions, Continued

Pre-existing Conditions	Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.
--------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Series of Acts	Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.
-----------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Required Evidence	Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:
--------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

Additional Evidence of Abuse	Additional evidence to demonstrate the abuse suffered may include, but is not limited to:
-------------------------------------	-------------------------------------------------------------------------------------------

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

Possesses Information

General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, "U Nonimmigrant Status Certification"
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

Continued on next page

Possesses Information, Continued

Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

Continued on next page

Possesses Information, Continued

**Evidence
Parent/
Guardian/Next
Friend
Possesses Info**

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification”
 - Police reports
 - Court documents
-

**Evidence of
Relationship to
Petitioner**

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

Helpfulness to Law Enforcement Authorities

General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator's certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency's stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Scenario:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Other instances:

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

Criminal activity violated U.S. law or occurred in the United States

General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

Continued on next page

Criminal activity violated U.S. law or occurred in the United States, Continued

Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

Qualifying Family Members

Overview

General

Certain qualifying family members of the petitioner/principal (U-1) may accompany or follow to join the alien victim and obtain U nonimmigrant status, regardless of whether the family member(s) is in the United States or overseas.

A separate “Petitioner for Qualifying Family Member of U-1 Recipient” (Form I-918, Supplement A) must be submitted for each family member.

Evidence to prove the relationship is needed. Documentary requirements for civil registration and timeliness of registration for relationship documents apply. See the *I-130 SOP* for specifics.

Locating Qualifying Family Member Petitions

The officer adjudicating an I-918 is responsible for checking for associated I-918, Supplement A filings. Conduct the check for a qualifying family member petition (Form I-918, Supplement A) by viewing the I-918A screen in HAVEN.

If an I-918, Supplement A is filed and still pending but is not riding with the I-918, the officer adjudicating the I-918 must obtain each pending I-918, Supplement A associated with the principal’s filing. Once an I-918, Supplement A is obtained, that officer will adjudicate it to completion. In general, I-918, Supplement A cannot be adjudicated to finality prior to the principal’s I-918 receiving a final decision.

Form Annotations

Write the EAC# of the I-918 principal in the remarks block on the I-918A. This will assist clerical in updating HAVEN as the only way to identify an I-918A filing is through opening the record for the principal.

Eligibility

Determining Qualifying Family Members

Qualifying family members are determined by the age of the principal on the date the principal filed Form I-918.

If the principal is...	Then the qualifying family members can be...
UNDER the age of 21 at the time of filing,	U-2 – principal’s spouse U-3 – principal’s children (unmarried and under age 21*) U-4 – principal’s parents U-5 – principal’s unmarried siblings (under age 18*)
Age 21 or OLDER at the time of filing,	U-2 – principal’s spouse U-3 – principal’s children (unmarried and under age 21*)

***NOTE:** Age of the qualifying family member is calculated based on the age of the qualifying family member at the time the principal filed the I-918.

Existence of the relationship

The relationship between the principal and the family member must exist at the time Form I-918 was filed.

The relationship must also continue to exist at the time Form I-918, Supplement A, is adjudicated and at the time the qualifying family member is admitted to the United States in U nonimmigrant status.

If the principal proves he or she became the parent of a child after Form I-918 was filed, the child will be eligible to accompany or follow to join.

Continued on next page

Eligibility, Continued

Initial Evidence Each Form I-918 Supplement A must be accompanied by the following:

1. Evidence of principal's filing:
 - a) If the principal's Form I-918 is pending, a copy of the Principal's Form I-918 filing must accompany the derivative petition; or
 - b) If the principal has already been granted U-1 nonimmigrant status, he or she may submit a copy of the I-94 showing his/her admission in U-1 status.
 2. Evidence of the qualifying family member's relationship with the principal
 3. *(If the beneficiary is inadmissible)* Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) with fee or fee waiver request.
-

**Prohibition for
Certain Family
Members**

Do NOT grant U-2, U-3, U-4 or U-5 nonimmigrant status to a qualifying family member who committed the qualifying criminal activity in a family violence or trafficking context which established the principal alien's eligibility for U nonimmigrant status.

Example:

A woman applies for U nonimmigrant status as victim of domestic violence. Her spouse, who perpetrated the certified crime of domestic violence, is excluded from consideration as a U-2 as he is culpable for the qualifying criminal activity.

IMPORTANT: In cases where the certified crime is Domestic Violence, carefully review the I918B and add the abuser's name and DOB in the comment block of HAVEN. Adding the name of the perpetrator to HAVEN will help to identify any QFM's that are culpable and ensure we do not grant a benefit to the person who created the victim. Remember, this information is subject to FOIA. Please list the name and DOB of the perpetrator only.

**Principal has
Adjusted to
LPR status**

If the principal (U-1) has adjusted to that of an LPR while the I-918A remained pending, the I-918A must be denied.

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Eligibility, Continued

Age-out Restrictions

Regulation and policy accords protections from aging-out of eligibility for certain qualifying family members (QFM):

If...	Then...	Pursuant to...
Interim relief was granted to the QFM as a child of the principal and that QFM was under 21 at the time of interim relief filing,	QFM remains eligible for consideration as a U-3 even if the QFM will be over 21 at the time the I-918A is approved.	<u>AFM Chapter 39 Section (f)(4)(iv)</u>
A sibling was under the age of 18 at the time the I-918A was filed and the principal was under the age of 21 at the time the I-918 was filed but the principal is no longer 21 at the time of final adjudication,	QFM remains eligible for U-5 consideration as long as the QFM remains unmarried.	<u>8 CFR 214.14(f)(4)(ii)</u>
The principal becomes the parent to a child after the I-918 is filed,	The child can be considered as a QFM (U-3) despite the relationship not existing at the time the I-918 was filed.	<u>8 CFR 214.14(f)(4)(i)</u>

Continued on next page

Eligibility, Continued

Age-out Restrictions (continued)

If...	Then...	Pursuant to...
The principal was under 21 at the time the I-918 was filed and filed for a parent or a sibling (who was unmarried and under 18) and the principal is no longer under 21 at the time the I-918 is approved or adjudicated,	The parent or unmarried sibling remains eligible for U-4 (parent) or U-5 (sibling) consideration despite the principal no longer being under 21 and the sibling no longer being under 18 (but still must be unmarried).	<u>AFM Chapter 39 Section (f)(4)(iii)</u>
The principal was over 21 and filed for a U-3 (derivative child) who was under 21 at the time of filing but who is over 21 at the time of adjudication or final decision,	The QFM U-3 was under 21 at the time the petition was filed. The QFM remains eligible.	Violence Against Women Act of 2013
The filing for a U-3 arrives on the QFM's 21 st birthday,	The U3 is no longer under 21 so most likely will not qualify but <i>may still be eligible</i> . Check to see when the petition arrived at the VSC to be sure the receive date is correct.	<i>Discuss with SISO or ISO3</i>

Evidence of Qualifying Relationship

Spouse of U-1 The following evidence is needed to establish a qualifying relationship of a **spouse** of a U-1 petitioner (principal):

1. Marriage Certificate
 2. Termination of all previous marriages of the U-1 (principal)
 3. Termination of all previous marriages of the U-2 (derivative)
-

Biological or Adopted Child of U-1 The following evidence is needed to establish a qualifying relationship of a **biological or adopted child** of a U-1 petitioner (principal):

1. Birth certificate of the child showing the parents' names
 2. Legal adoption decree of the child.
-

Step Child of U-1 The following evidence is needed to establish a qualifying relationship of a **step child** of a U-1 petitioner (principal):

1. Birth certificate of the child showing the parents' names
 2. Marriage certificate for the U-1 principal and child's biological parent (prior to the child turning age 18)
 3. Termination of the U-1's previous marriage(s)
 4. Termination of the biological parent's previous marriage(s)
-

Parent of U-1 The following evidence is needed to establish a qualifying relationship of a **parent** of a U-1 petitioner (principal):

Documentation cited above for appropriate category of "child" relationship whether it is biological, step or adopted.

NOTE: To qualify as a parent of the U-1, the principal must be under 21 at the time the U-1 filed his or her form I-918.

Continued on next page

Evidence of Qualifying Relationship, Continued

Sibling of U-1 The following evidence is needed to establish a qualifying relationship of a **sibling** of a U-1 (principal):

1. Birth certificate of U-1 showing parents' names
2. Birth certificate of sibling showing parents' names
3. Marriage documentation and marriage termination documentation needed for a step relationship (if applicable)
4. Adoption documentation (if applicable)

NOTE: To qualify as a sibling of a U-1, the principal must be under 21 at the time the U-1 filed Form I-918 and the sibling must be under the age of 18

Special Considerations

Filing From Outside the United States

General	<p>Aliens outside the United States are allowed to file for U Nonimmigrant Status.</p> <p>Eligibility requirements for U Nonimmigrant Status for those filing from outside the United States are the same as for those filing from within the United States.</p>
Filing	<p>The required forms and evidence are sent to the Vermont Service Center for adjudication.</p>
Evidence	<p>Petitioners filing from outside the United States must meet the same eligibility requirements for principal's and qualifying family members as those filing from within the United States.</p> <p>Evidentiary requirements and standards are the same.</p>
Photo Requirements	<p>Photos are not required for:</p> <ul style="list-style-type: none">• Approvals that will be processed at the Kentucky Consular Center (KCC).• A Form I-918 or Form I-918, Supplement A with no deficiencies or discrepancies in the record that would require an RFE or NOID at the time of initial adjudication. <p>Photos should be requested for a Form I-918 or Form I-918, Supplement A with deficiencies or discrepancies in the record that would require an RFE or NOID. Include the request for photos in the RFE or NOID seeking other additional evidence.</p> <p>NOTE: Do not deny any petitions solely because photos were not submitted.</p>
Worksheet Annotations	<p>Do not route the file to FCU for updating. There is no update to the COA for overseas filings. Aliens who are processing overseas for their visas are not placed in U nonimmigrant status until they are inspected at a port of entry and permitted to enter as a U nonimmigrant.</p>

Interim Relief Considerations

General

There is no deadline for submission of U nonimmigrant status petitions for those who previously filed for interim relief.

Petitioners and accompanying or following to join family members who were granted interim relief were initially encouraged to file Form I-918 by April 14, 2008 (within 180 days of the effective date of the rule). Guidance issued in 2009 delayed that date until February 1, 2010. Interim relief was terminated for all recipients that did not file the Form I-918 or have a Form I-918, Supplement A, filed on their behalf prior to February 1, 2010.

Interim Relief Continuation

The U rule became effective on of October 17, 2007.

Aliens who received deferred action issued by the Interim Relief program who have filed Form I-918 but whose form has not yet been adjudicated, may have that deferred action extended until USCIS completes the adjudication of the I-918. Extensions are granted upon written request of the alien or by the filing of an I-765 seeking work authorization under 8 CFR 274a.12(c)(14).

Initial evidence requirements

Individuals who received an interim relief approval are not required to submit initial evidence when filing Form I-918.

Law enforcement certifications

Generally, USCIS will consider the certification submitted for interim relief to meet requirements for interim relief purposes in lieu of Form I-918, Supplement B. However, aliens who received interim relief are not precluded from submitting Form I-918, Supplement B if they choose.

USCIS will be lenient regarding the signing official (whether or not it is the head of the agency or someone in a supervisory role specifically designated by the head of the agency) if the document meets all other requirements for a certification.

Approvals

Petitioners whose I-918 is approved and who were granted interim relief will be accorded U nonimmigrant status as of the date that the U interim relief was initially approved.

Classifications and Duration of Status

Classifications and Validity Dates

General

The U-visa accords aliens nonimmigrant status. As such, upon approval of Form I-918 (and Form I-192, as necessary) they will be provided an Arrival-Departure Record (Form I-94) showing their classification and the validity period of their nonimmigrant status.

After three years in U nonimmigrant status, the alien may apply for adjustment to that of a lawful permanent resident by filing the Application to Register Permanent Residence or Adjust Status (Form I-485).

Nonimmigrant classifications

Refer to the chart below for the appropriate classification:

If the alien is the...	Then the classification is...
Principal,	U-1
Spouse of the principal,	U-2
Child (<i>unmarried and under 21</i>) of the principal	U-3
Parent of the principal	U-4
Siblings (under 18 and unmarried) of the principal	U-5

Validity Dates

The initial approval of U-1 nonimmigrant status shall be for a period of four years minus one day from the date of approval of Form I-918.

Extensions of this nonimmigrant status are possible in certain circumstances when the initial validity period was less than four years. U nonimmigrant status may be approved for a period not to exceed four years in the aggregate.

Generally, a derivative family member granted U-2 through U-5 nonimmigrant status will be approved for an initial period that does not exceed the expiration date of the initial period granted to the principal.

NOTE: U3 Derivatives will be granted the full four year validity period even if it is longer than the principal petitioner's validity period.
See memo dated Dec 2012.

Interim Relief

Petitioners granted U interim relief will be accorded U nonimmigrant status as of the date that a request for U interim relief was initially approved.

Biometrics

Overview

General All aliens between the ages of 14 and 79 seeking U nonimmigrant status must submit to biometrics capture. The biometrics are fee exempt.

Process Fingerprinting will be conducted pursuant to 8 CFR 103.2(e).

USCIS will notify the applicant of the time and location to appear for fingerprinting after the petitioner files Form I-918.

Do not approve an I-918 or I-918, Supplement A, until the FBI fingerprint response is received.

If an I-918 or I-918, Supplement A, is otherwise deniable, you may deny the case without first obtaining a valid fingerprint response. If you determine that criminality issues exist, you may request biometrics capture (or a refresh of an expired fingerprint response) if that information will assist in properly adjudicating the petition or application.

Form FD-258 Form FD-258, Applicant Card, will only be accepted if prepared by a:

- USCIS office,
- Registered state or local law enforcement agency designated by a cooperative agreement with USCIS to provide fingerprinting services (designative law enforcement agency),
- U.S. consular office at U.S. embassies and consulates, or
- U.S. military installation.

Filing Location

Needing Biometrics (in the United States)

Fingerprints are needed for all U nonimmigrant status seekers age 14 and older. If an alien in the United States was under 14 at the time he/she filed the I-918 or had the I-918A filed on his or her behalf, but is 14 or older at the time the form is adjudicated, you must obtain fingerprint results prior to final adjudication.

To request fingerprints for aliens who “age-in,” complete and send the [Div 6 MRD Fingerprint Scheduling](#) worksheet from the LAN (Add'l Resources/ADJ Worksheets tab) along with the file, to Data Entry. Route the file to MRD using the MRD worksheet on the LAN.

- Indicate in the “Type of processing requested” section whether Code 1 (prints only) or Code 3 (prints and photos) is needed.
-

Needing Biometrics (outside the United States)

Aliens outside the United States must provide fingerprints using the overseas process. If an alien outside the United States was under 14 at the time he or she filed the I-918 or had the I-918A filed on his/her behalf, but is 14 or older at the time the form is adjudicated, an overseas fingerprint notice must be issued. No fee solicitation is needed as USCIS does not take fees for prints obtained overseas.

Route the file to Data Entry using the [Div 6 MRD Fingerprint Scheduling](#) worksheet. Indicate “Overseas fingerprint scheduling” on the worksheet. In the alternative, you may issue an RFE for the fingerprints and provide the alien with FD-258 cards and the instruction sheet for obtaining fingerprints at an overseas location.

Annotating Worksheet

You must fill out the Div 6 MRD Fingerprint Scheduling worksheet completely.

- Check “Return to Officer”
- Enter your NFTS code and cube number.

Important: You must ensure the worksheet is completed for aliens needing biometrics, whether they are inside or outside of the United States.

Failure to Appear or Provide Fingerprints

Failure to Appear for Biometric Capture (in the United States)

Generally, aliens in the United States must appear for the capturing of biometrics at an Application Support Center (ASC).

The regulations state that the initial failure to appear shall be excused if the notice for the biometric capture appointment was not mailed to the alien's current address and such address had been provided to USCIS unless USCIS determines that the alien received reasonable notice of the appointment.

VSC policy is that you will send the filing for rescheduling if the first appointment does not result in biometrics being captured for any reason.

Failure to appear for biometric capture after the second scheduling at an ASC in the United States will result in an abandonment denial of the petition. Refer to the table below when processing a case following a scheduled ASC appointment:

If the alien...	Then...
appears for the second scheduled ASC appointment,	Continue adjudicating the file.
fails to appear for the second scheduled ASC appointment,	<ul style="list-style-type: none">• Wait 90 days after that appointment;• Check the SNAP and the FD-258 screen in National CLAIMS.• Deny the case for abandonment if the system checks do not establish that the biometrics have been captured.

NOTE: The burden of proof is on the alien to establish that he or she failed to receive reasonable notice of an appointment. The alien must notify USCIS of any change of address (per 8 CFR 265.1) prior to the date on which the notice for biometric capture was mailed to the alien.

Continued on next page

Failure to Appear or Provide Fingerprints, Continued

Failure to Provide Fingerprints (outside the United States)

Failure to return FD-258 cards after making a second request for the fingerprints will result in an abandonment denial of the petition.

Excusing Failure to Appear

Failure to appear for biometric capture may be excused at the discretion of USCIS if:

1. The alien promptly contacts USCIS; and
2. The alien demonstrates that the failure to appear was the result of exceptional circumstances.

You must receive permission from the SISO to grant more extensions to submit fingerprints after a second ASC appointment is scheduled or after a second overseas request is made.

Fingerprint Results

Unclassifiable Fingerprints

Refer to the chart below when a file contains unclassifiable fingerprints:

If the...	Then...						
First FD-258 card Scanned and Print Response is unclassifiable (Overseas prints),	Send second FD-258 for dead scanning.						
Second FD-258 card Scanned and Print Response is still unclassifiable (Overseas prints),	Send RFE for local clearances.						
First fingerprint response is “R”(ASC prints),	Check SNAP for a new appointment.						
	<table><tr><th>If there is...</th><th>Then...</th></tr><tr><td>A new appointment date,</td><td>Stop the adjudication until the fingerprint date.</td></tr><tr><td>No new appointment date,</td><td><ul style="list-style-type: none">• Prepare the <u>Div 6 MRD FP Scheduling</u> worksheet for “rejected”.• Print and route the VAWA Biometrics and FP Scheduling worksheet for scheduling to MRD.</td></tr></table>	If there is...	Then...	A new appointment date,	Stop the adjudication until the fingerprint date.	No new appointment date,	<ul style="list-style-type: none">• Prepare the <u>Div 6 MRD FP Scheduling</u> worksheet for “rejected”.• Print and route the VAWA Biometrics and FP Scheduling worksheet for scheduling to MRD.
	If there is...	Then...					
A new appointment date,	Stop the adjudication until the fingerprint date.						
No new appointment date,	<ul style="list-style-type: none">• Prepare the <u>Div 6 MRD FP Scheduling</u> worksheet for “rejected”.• Print and route the VAWA Biometrics and FP Scheduling worksheet for scheduling to MRD.						
Second fingerprint response is “R” (ASC prints),	Send RFE for local clearances.						
Exceptional circumstances impede attending ASC appointment or getting overseas prints taken,	See your SISO or an ISO(3).						

NOTE: Access the Div 6 MRD FP Scheduling worksheet (located in the ADJ Worksheets, Div 6 folder.)

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Fingerprint Results, Continued

Check CLAIMS for FP Response

A fingerprint response is valid if it is within 15 months of the “Date Processed by the FBI”.

Follow the steps below to check for a fingerprint response:

Step	Action						
1	Access CLAIMS mainframe in National Systems.						
2	Select Option 15 for FD-258 Fingerprint Tracking Inquiry and press [Enter].						
3	Place an “X” at the first Option: FBI Fingerprint Tracking System and press [Enter]. <table><tr><th>If the alien has been fingerprinted...</th><th>Then the next screen will display...</th></tr><tr><td>once and only in relation to the I-918,</td><td>The FBI response record for the I-918 (appears as Form X-999).</td></tr><tr><td>more than once,</td><td><ul style="list-style-type: none">• a listing of each record by form type (i.e. I-485, I-751),• tab to the record for the X-999 or any valid FD-258 response generated by any form type,• press [Enter] to display the FBI response record.</td></tr></table>	If the alien has been fingerprinted...	Then the next screen will display...	once and only in relation to the I-918,	The FBI response record for the I-918 (appears as Form X-999).	more than once,	<ul style="list-style-type: none">• a listing of each record by form type (i.e. I-485, I-751),• tab to the record for the X-999 or any valid FD-258 response generated by any form type,• press [Enter] to display the FBI response record.
If the alien has been fingerprinted...	Then the next screen will display...						
once and only in relation to the I-918,	The FBI response record for the I-918 (appears as Form X-999).						
more than once,	<ul style="list-style-type: none">• a listing of each record by form type (i.e. I-485, I-751),• tab to the record for the X-999 or any valid FD-258 response generated by any form type,• press [Enter] to display the FBI response record.						
4	Verify that the FBI response record relates to the alien named on the I-918/I-918A.						

Continued on next page

Fingerprint Results, Continued

Fingerprint Response

Print a copy of the FBI response record and place it on the non-record side of the file. Refer to the table below after checking CLAIMS for a fingerprint response.

If a valid FBI response record is...	And the “Date Processed by the FBI” is...	Then ...
“N” Non-Ident,	less than 15 months old,	Proceed with adjudication.
	more than 15 months old,	Check SNAP for a new appointment; if none, go to the map entitled “ <u>Fingerprint Refresh Procedure</u> ”.
“I” Ident (does not contain RAP sheet),	less than 15 months old,	<ul style="list-style-type: none">• Print the RAP sheet from BBSS.• Refer to “Reviewing IDENT Response” section later in this SOP.
“I” Ident (file contains RAP sheet),	less than 15 months old,	Refer to “Reviewing IDENT Response” section later in this SOP.
“I” Ident,	more than 15 months,	<ul style="list-style-type: none">• Go to the map entitled “<u>Fingerprint Refresh Procedure</u>”. An updated RAP sheet can usually be viewed in BBSS within 72 hours of the refresh request.• When RAP sheet has been obtained, refer to “Reviewing IDENT Response.”

Continued on next page

Fingerprint Results, Continued

Fingerprint
Response,
cont...

If a valid FBI response record is...	And the "Date Processed by the FBI" is...	Then ...
Only 1 "R" (Unclassifiable),	more than 6 months old,	Check SNAP for a new appointment; if none, prepare an MRD worksheet for "rejected" print and route to MRD for scheduling.
	less than 6 months old,	<ul style="list-style-type: none"> • Return the file to the FP shelf. The ASC should automatically reschedule. • If still no new response after 6 months, proceed as above.
Only 1 "Unclassifiable" and an "N" or "I" valid response within 15 months generated by any form type,	N/A	See applicable process for "N" or "I" above.
More than 1 "R" (Unclassifiable),	N/A	<ul style="list-style-type: none"> • Prepare an RFE seeking police clearances. • When a response is received, review evidence for criminal convictions. If no convictions, proceed with adjudication.

Continued on next page

Fingerprint Results, Continued

FD-258 in File but No Results in System

If the file contains an FD-258 for the alien that was generated based on the I-918/I-918A filing, but there are no results in national systems, verify whether the prints have been dead scanned. If there is no barcode on the FD-258, the card has not been scanned. Determine if there is sufficient data on the card for scanning.

The following fields must be completed on behalf of the alien being printed in order to have the card scanned (see below):

1. Alien's name
2. Signature of the alien
3. Residence of the alien
4. Signature of official taking the prints and date
5. Embassy/consulate or military installation where prints were taken
6. Reason for fingerprints (may write in I-918 if space left blank)
7. Country of Citizenship of the alien
8. Alien's A#
9. Date of birth of the alien
10. Place of birth of the alien

If the fields are all completed, send the file to the dead scan shelf in FCU.

No Record Found

Refer to the table below when there is no record found:

If ...	Then ...
a message appears at the bottom of the screen stating that no records were found relating to the A-number,	Search for a record using the Name and DOB function. <i>This step is important as the FD-258 response is posted to CIS by A-number. If the response is posted with an incorrect A-number, the response will not appear when using the A-number search.</i>
still unable to locate a record,	Check SNAP to verify the alien was scheduled for Code 3 processing. See <u>Verifying Appointment data in SNAP</u> in this section.
child was under the age of 14 at the time of the biometric appointment, but has since attained the age of 14 at time of adjudication,	Send the file to MRD for fingerprint scheduling using Code 1. <i>The alien will be scheduled for Code 1 as only the fingerprint (10 print) is needed.</i>

Continued on next page

Fingerprint Results, Continued

Reviewing IDENT Response

An individual will have an IDENT response after being fingerprinted if they have an FBI rap sheet. The rap sheet contains immigration violations as well as criminal arrests, charges, and convictions.

An IDENT response may impact the eligibility requirements. Review the information carefully and determine if there is any impact on the eligibility requirements (including inadmissibility issues).

Step	Action						
1	Review the RAP sheet which is usually located on the non-record side of the file to identify criminal convictions that make the individual inadmissible under section 212(a) of the Immigration and Nationality Act (INA) or otherwise might impact the eligibility requirements.						
	<table><tr><th>If the rap sheet shows....</th><th>Then determine if the</th></tr><tr><td>Immigration violations,</td><td>Violations make the alien inadmissible and require a waiver.</td></tr><tr><td>Criminal convictions,</td><td>Convictions make the alien inadmissible.</td></tr></table>	If the rap sheet shows....	Then determine if the	Immigration violations,	Violations make the alien inadmissible and require a waiver.	Criminal convictions,	Convictions make the alien inadmissible.
	If the rap sheet shows....	Then determine if the					
	Immigration violations,	Violations make the alien inadmissible and require a waiver.					
Criminal convictions,	Convictions make the alien inadmissible.						
2	Review the evidence of record as it relates to the convictions identified on the rap sheet.						
	<table><tr><th>If you...</th><th>Then...</th></tr><tr><td>Cannot determine the disposition of the arrests or charges,</td><td>Prepare an RFE using call-up requesting information regarding the charges.</td></tr><tr><td>Can determine that the:<ul style="list-style-type: none">• criminal convictions do not make the individual inadmissible, or• charges were dismissed, or• arrests and/or charges did not result in convictions,</td><td><ul style="list-style-type: none">• Write “Rap Sheet Reviewed” and your Officer ID code in the Remarks section on the front of the petition.• Proceed with adjudication.</td></tr></table>	If you...	Then...	Cannot determine the disposition of the arrests or charges,	Prepare an RFE using call-up requesting information regarding the charges.	Can determine that the: <ul style="list-style-type: none">• criminal convictions do not make the individual inadmissible, or• charges were dismissed, or• arrests and/or charges did not result in convictions,	<ul style="list-style-type: none">• Write “Rap Sheet Reviewed” and your Officer ID code in the Remarks section on the front of the petition.• Proceed with adjudication.
	If you...	Then...					
Cannot determine the disposition of the arrests or charges,	Prepare an RFE using call-up requesting information regarding the charges.						
Can determine that the: <ul style="list-style-type: none">• criminal convictions do not make the individual inadmissible, or• charges were dismissed, or• arrests and/or charges did not result in convictions,	<ul style="list-style-type: none">• Write “Rap Sheet Reviewed” and your Officer ID code in the Remarks section on the front of the petition.• Proceed with adjudication.						

Fingerprint Refresh Procedure

When To Use

Use the Fingerprint Refresh Procedure to request:

- an updated RAP sheet (Ident fingerprint response in FD-258 Tracking), or
- a refresh or resubmission of an expired Non-Ident fingerprint response in FD-258 Tracking

Notes:

- A refreshed fingerprint result may be requested to support the same benefit for which the fingerprints were initially submitted.
 - A resubmission may be requested when the fingerprints are at least 12 months old and are likely to expire prior to a decision being entered on the case.
-

Process of Requesting a Fingerprint Refresh

Follow the steps below to request a refresh on a fingerprint response.

Step	Action
1	Open the <i>Fingerprint Refresh Request Template</i>
2	Enter the following data requirements on the form: <ul style="list-style-type: none">• A-number<ul style="list-style-type: none">– must be entered as an A followed by nine digits;– if there are only eight digits in the A-number then insert “0”s between the A and the first digit, Example: A0#####.• Last Name – enter the name as it appears on the application or petition.• First Name – enter the name as it appears on the application or petition.• Date of Birth (DOB) – enter in the format of: YYYYMMDD where:<ul style="list-style-type: none">– Y = digits of year,– M = digits of month and– D = digits of day of month
3	Save the request form to your local drive IMPORTANT: Be sure to rename it so that you don’t alter the original.
4	Once you have completed and saved the form, submit the request as an attachment in Outlook email to: SCOSS VSC RAP SHEET REQUEST.

Validity Dates

General

Validity dates for U Nonimmigrant status periods depend on:

- Whether the alien received Interim Relief.
 - Whether the alien was previously granted U derivative status
- See the scenarios below for specifics.
-

U-1 with Interim Relief

Time spent in U Nonimmigrant Interim Relief counts as time spent in U nonimmigrant status. An approved I-918 for an alien who was previously approved under the interim relief provisions shall be accorded U nonimmigrant status starting on the date that interim relief was first approved.

Instances where the alien has more than three years in interim relief at the time the I-918 is approved will have his/her U nonimmigrant status begin on the date that interim relief was initially approved until one year following the date the I-918 is approved.

NOTE: The I-94 dates will not match the EAD dates. EADs cannot be back dated to reflect the initial Interim Relief approval date. EADs are dated from day of I-918 approval forward to the end of the U nonimmigrant status period.

Continued on next page

Validity Dates, Continued

U-1 Scenarios Examples of U-1 scenarios are listed below:

Scenario	Validity Period/Example
<i>More than 3 years since Interim Relief at the time I-918 is approved:</i> Interim Relief initially approved 10/17/2003; I-918 approved on 5/4/2009,	Beginning date for the U Nonimmigrant status is the date on which U Interim Relief was first granted. Ending date for U Nonimmigrant status will be one year (minus one day) from the date of approval. I-918/ HAVEN dates: 10/17/2003 to 5/3/2010 GUI dates: 5/4/2009 to 5/3/2010
<i>Less than 3 years since Interim Relief at the time I-918 is approved:</i> Interim Relief initially approved 6/8/2007; I-918 approved on 4/12/2009,	Beginning date for U Nonimmigrant status is the date on which U Interim Relief was first granted. Ending date for U Nonimmigrant status is 4 years after that date (minus one day) to give the alien at least 4 years in U Nonimmigrant status. I-918/ HAVEN dates: 6/8/2007 to 6/7/2011 GUI dates: 4/12/2009 to 6/7/2011

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Validity Dates, Continued

U-1 Without Interim Relief

Principals who never received Interim Relief are granted U Nonimmigrant status for four years starting on the date that the I-918 is approved.

Example: I-918 approved 8/17/08:

I-918 / HAVEN validity dates: 8/17/2008 to 8/16/2012

GUI/ EAD validity dates: 8/17/2008 to 08/16/2012

U-1 With Previous Derivative Status

Principals who were previously granted U derivative status until their 21st birthday, but did not benefit from the full four years of U nonimmigrant status required to file for an adjustment of status may later file their own I-918 seeking principal U1 status.

The validity period granted depends on whether the subsequent I-918 is based on the same crime for which they were granted U derivative status, or whether the subsequent I-918 is based on a different crime than that for which they were granted U derivative status.

Refer to the chart below to determine the correct validity period for a U principal applicant who was previously afforded U derivative status.

If the crime is ...	Then grant U1 nonimmigrant status from the date of ...
The same crime as the one for which he or she was granted U derivative status	Original approval of the U derivative status to the end of the four year period. Example: if the principal was previously granted U3 status from 10/1/10 to 3/1/11, the new U1 status will be 10/1/10 to 9/30/14.
A different crime than that for which he or she was granted U derivative status	Adjudication of the I-918 to the end of the four year period. Example: We are approving the petition on 10/17/12. The new U1 status will be 10/17/12 to 10/16/16

Continued on next page

Validity Dates, Continued

U-2 Through U-5, Principal and Derivative Had Interim Relief

Generally, a derivative family member granted U-2 through U-5 nonimmigrant status will be approved for an initial period that does not exceed the expiration date of the initial period granted to the principal. However, U-3s may be extended past the principal's ending validity. See memo dated Dec 2012. If the qualifying family member and the principal were both granted Interim Relief, the time previously accorded to the qualifying family member in Interim Relief may be counted toward time in U nonimmigrant status.

In some instances, the derivative will receive less time in U Nonimmigrant status as the principal. In order to obtain sufficient time to file for adjustment, derivatives in this scenario would need to file the I-539 and follow the extension of status procedures.

NOTE: The qualifying family member's starting date cannot pre-date the date on which the principal's U Nonimmigrant status began.

U-2, U-4 and U-5 Scenarios With Interim Relief

Example #1 (Principal's and derivative interim relief dates are the same. I-918 and I-918A approved on same day)

Principal's and derivative's Interim Relief approved 9/7/05. The I-918 and I-918A are approved 10/31/07:

- Principal's I-918 / HAVEN validity dates: 9/7/05 to 9/6/09
- Principal's EAD/GUI validity dates: 10/31/07 to 9/6/09
- Derivative's I-918A / HAVEN validity dates: 9/7/05 to 9/6/09

Derivative has no EAD/GUI update unless he/she has separately filed an I-765 as (a)(20). If one is filed, the validity dates would be 10/31/07 to 9/6/09.

Example #2: (Principal's and derivative's interim relief dates are different. I-918 and I-918A approved on different dates):

Principal's Interim Relief approved 4/22/04. Principal's I-918 approved 2/12/09:

- Principal's I-918 / HAVEN validity dates: 4/22/04 to 2/11/2010
- Principal's EAD/GUI validity dates: 2/12/2009 to 2/11/2010

Derivative approved for Interim Relief 4/22/04. Derivative's I-918A approved 3/22/09: Derivative's I-918A / HAVEN validity dates: 4/22/04 to 2/11/2010

Derivative has no EAD/GUI update unless he/she has separately filed an I-765 as (a)(20). If one is filed, the validity dates are date of I-765 approval to 2/11/2010.

Continued on next page

Validity Dates, Continued

**U-3 Neither
Principal nor
Derivative had
Interim Relief**

The U-3 must be under 21 at the time his or her petition is accepted. U-3 derivatives will be granted the full four year validity period even if the end date goes beyond the principal petitioner's validity period.

**U-2, U-4, and
U-5 Neither
Principal nor
Derivative had
Interim Relief**

If neither the principal nor the derivative ever had interim relief, the validity dates for both will begin from the date of the form's approval. The derivative's ending date will always be the same as the principal's—even if the principal was approved prior to the derivative. This will result in some derivative's not receiving an initial validity period of four years. Those who will require an extension of time to acquire sufficient time in U status to meet the adjustment of status requirements will need to follow the procedures for requesting an extension of status.

Continued on next page

Validity Dates, Continued

U-2 through U-5 Scenarios Without Interim Relief

Example #1 (Principal and derivative approved for U status on the same date)

Principal's I-918 approved 8/17/08. Derivative's I-918A approved 8/17/08:

- Principal's I-918 / HAVEN validity dates: 8/17/2008 to 8/16/2012
- Principal's GUI/ EAD validity dates: 8/17/2008 to 08/16/2012
- Derivative's I-918A / HAVEN validity dates: 8/17/2008 to 8/16/2012
- Derivative has no EAD/GUI update unless he or she has separately filed an I-765 as (a)(20). If one is filed, the validity dates would be: date of I-765 approval to 8/16/2012

Example #2 (Principal approved for U status before the derivative)

Principal's I-918 approved 2/12/09:

- Principal's I-918 / HAVEN validity dates: 2/12/2009 to 2/11/2013
- Principal's EAD/GUI validity dates: 2/12/2009 to 2/11/2013

Derivative's I-918A approved 3/22/09:

- Derivative's I-918A / HAVEN validity dates: 3/22/09 to 2/11/2013.

Derivative has no EAD/GUI update unless he/she has separately filed an I-765 as (a)(20). If one is filed, the validity dates would be: date of I-765 approval to 2/11/2013

U3 Derivatives ONLY will be granted the full four year validity period even if it is longer than the principal's validity period.

Validity Dates, Continued

U-2 Through U-5: Principal's time expired but U-1 has I-485 pending	The U-1's pending I-485 automatically extends his or her U nonimmigrant status until there is a final decision on the I-485. For this reason, the U-2, U-4, and U-5 will be granted one year of validity from the date the I-918A is approved. U3s will be granted four years of validity from the date the I918A is approved.
----------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

U-2 Through U-5: Principal's time expired U-1 has not filed the I-485	The I-918A will be denied as the principal no longer holds U-1 status.
------------------------------------------------------------------------------	------------------------------------------------------------------------

U-2 Through U-5 Interim Relief for the Principal Only	If a derivative was not granted interim relief but the principal was granted interim relief, he or she cannot benefit from the principal's time in interim relief. The principal's time in U status will begin on the date that interim relief was first approved. The derivative's U status will begin on the date his or her I-918A is approved. In some instances, the derivative may receive as little as one day of validity if his/her I-918A is approved a significant time after the principal's I-918.
--------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Example: Principal's Interim Relief approved 4/22/04. Principal's I-918 approved 2/12/09:

- Principal's I-918 / HAVEN validity dates: 4/22/04 to 2/11/2010
- Principal's EAD/GUI validity dates: 2/12/2009 to 2/11/2010

Derivative had no time in interim relief. Derivative's I-918A approved 3/22/09:

- Derivative's I-918A / HAVEN validity dates: 3/22/09 to 2/11/2010

NOTE: If a derivative's I-918A is not approvable until a date after the expiration date of the principal's validity period, discuss the I-918A with the ISO(3) point of contact for the U program.

U-2 Through U-5 Interim Relief for Derivative Only or Derivative's Interim Relief Predates the Principal's	This scenario is currently under policy discussion. Bring cases falling into this scenario to the ISO(3) point of contact for the U program.
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Validity Dates, Continued

**U-1 Through
U-5 Interim
Relief
terminated for
failure to file I-
918/I-918A
timely**

Interim relief recipients were required to file (or have a petition filed on his/her behalf) for U nonimmigrant status no later than February 1, 2010. All interim relief recipients who did not have a petition for U status filed (or filed on his/her behalf) had their interim relief terminated.

The validity dates will be treated as if there was no termination of interim relief if:

- the alien's interim relief was terminated due to failure to file timely,
- the alien subsequently filed the I-918 (or had an I-918A filed on his or her behalf), and
- the petition is ultimately approved.

Refer to the appropriate scenario for an alien with interim relief when making the determination for the assignment of validity dates.

Decisions

Overview

General Written decisions will be issued after a de novo review of the petition and evidence.

A File Requests In general, you cannot adjudicate an I-918 to completion (i.e., approve or deny) if it has not been consolidated into the relating A-file. If you are in possession of a T file containing an I-918, you must request the relating A file.

Follow the steps below to request the A file for T files in your possession.

Step	Action						
1	Check the 9504 screen in CIS to determine the location of the A file.						
2	Email ISA Dianne McLaughlin, with a CC to your SISO. Include: <ul style="list-style-type: none">• A number• Name of petitioner/applicant• Form type• Location of the A file.						
3	<table><tr><th>If the A file is...</th><th>Then ...</th></tr><tr><td>Received within 30 days</td><td>Proceed with your final adjudication.</td></tr><tr><td>Not received within 30 days</td><td><ul style="list-style-type: none">• Dianne will email you and your SISO, advising that we were unable to obtain the A file.• Your SISO will send you and Dianne an email telling you whether you may work the case in a T file, or if Dianne should make a 2nd request for the A file.</td></tr></table>	If the A file is...	Then ...	Received within 30 days	Proceed with your final adjudication.	Not received within 30 days	<ul style="list-style-type: none">• Dianne will email you and your SISO, advising that we were unable to obtain the A file.• Your SISO will send you and Dianne an email telling you whether you may work the case in a T file, or if Dianne should make a 2nd request for the A file.
If the A file is...	Then ...						
Received within 30 days	Proceed with your final adjudication.						
Not received within 30 days	<ul style="list-style-type: none">• Dianne will email you and your SISO, advising that we were unable to obtain the A file.• Your SISO will send you and Dianne an email telling you whether you may work the case in a T file, or if Dianne should make a 2nd request for the A file.						
4	Refer to your SISO's instruction to proceed with your final adjudication,						

Approvals

Approval for U-1 (petitioner in the U.S.)

U-1 nonimmigrant status will be concurrently granted with the approval of the petition, subject to the annual limitations for visa allocation.

The following documents will be issued to the petitioner upon approval:

1. Notice of approval (Form I-797).
 2. Arrival-Departure Record (Form I-94) valid until the end of the U Nonimmigrant status.
 3. List of nongovernmental organizations to which the petitioner can refer regarding his or her options while in the United States and available resources.
-

Approval for U-1 (petitioner outside the U.S.)

A notice of approval (Form I-797) will be issued to the petitioner.

A notice of approval will be forwarded to the U.S. Embassy or Consulate having jurisdiction over the area where the alien is located or (for a visa exempt alien) to the appropriate port of entry.

Approval of U-2 through U-5 (qualifying family member in the U.S.)

When Form I-918, Supplement A, is approved, the qualifying family member will be concurrently granted U-2, U-3, U-4 or U-5 nonimmigrant status.

The following documents will be issued to the principal (U-1) regarding the approval of the U-2, U-3, U-4 or U-5:

1. Notice of approval of the qualifying family member's U nonimmigrant status (Form I-797)
 2. Arrival-Departure Record (Form I-94)
-

Continued on next page

Approvals, Continued

**Approval of
U-2 through
U-5 (qualifying
family member
outside the
U.S.)**

A notice of approval (Form I-797) will be issued to the petitioner.

The approved Form I-918, Supplement A, will be forwarded to the U.S. Embassy or Consulate having jurisdiction over the area where the qualifying family member is located or (for a visa exempt alien) to the appropriate port of entry.

Multiple Filings

Aliens seeking U nonimmigrant status may also seek any other immigration benefit or status for which they are eligible. Therefore, nothing limits a qualified petitioner from applying for U nonimmigrant status as well as other immigration benefits. Nothing limits qualifying family members from applying for other benefits or having other petitions or applications filed on their behalf. However, USCIS will only grant one nonimmigrant or immigrant status at a time.

Once the I-918 or the I-918A is approved, any subsequent I-918 or I-918A for that alien that is pending with the VSC will be denied. If the initial approval is revoked, the alien is again eligible to seek U nonimmigrant status.

Denials

**Denial
(principals)**

Written notification of the reasons for denial will be issued to the petitioner.

The decision will cite the specific reasons for denial and notify the petitioner of his/her appeal rights.

**Denial
(qualifying
family
members)**

Written notification of the reasons for denial will be issued to the principal.

The decision will cite the specific reasons for denial and notify the principal of his/her appeal rights.

NTA issuance

If USCIS revokes or denies the Form I-918 for an alien who was in proceedings that were terminated pursuant to 8 CFR 214.14(c)(1)(i), a new Notice To Appear (NTA) may be filed by DHS (see INA section 239).

SISO sign off is required prior to forwarding any file for issuance of an NTA based on the denial of the Form I-918 or the Form I-918, Supplement A.

Section 384

Disclosure of Information

General

The use or disclosure (other than to a sworn officer or employee of the Department, or a bureau or agency of the Department, for legitimate department, bureau, or agency purposes) of any information relating to the beneficiary of a pending or approved petition for U nonimmigrant status is prohibited unless the disclosure falls within specified exceptions.

Exceptions for Disclosure of Information

Exceptions for disclosure of information are as follows:

1. By the Secretary of Homeland Security, at his discretion, in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under 13 U.S.C. 8;
2. By the Secretary of Homeland Security, at his discretion, to law enforcement officials to be used solely for a legitimate law enforcement purpose;
3. In conjunction with a judicial review of a determination in a manner that protects the confidentiality of such information;
4. After adult petitioners for U nonimmigrant status or U nonimmigrant status holders have provided written consent to waive the restrictions prohibiting the release of information;
5. To Federal, State, and local public and private agencies providing benefits, to be used solely to make determinations of eligibility for benefits pursuant to 8 U.S.C. 1641(c);
6. After a petition for U nonimmigrant status denied in a final decision;
7. To the chairmen and ranking members of the Committee on Judiciary of the Senate, or the Committee on Judiciary of the House of Representatives, for the exercise of congressional oversight authority, provided the disclosure relates to information about a closed case and is made in a manner that protects the confidentiality of the information and omits personally identifying information (including locational information about individuals);

Continued on next page

Disclosure of Information, Continued

Exceptions for Disclosure of Information (continued)

8. With prior consent from the principal petitioner or derivative family members, to nonprofit, nongovernmental victims' service providers for the sole purpose of assisting the victim in obtaining services from programs with expertise working with immigrant victims; or
 9. To federal prosecutors to comply with constitutional obligations to provide statements by witnesses and certain other documents to defendants in pending federal criminal proceedings.
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Confidentiality Provisions

Agencies receiving information under this section, whether governmental or nongovernmental, are bound by the confidentiality provisions and other restrictions set out in 8 U.S.C. 1367.

Disciplinary Action for Violation

Appropriate disciplinary action must be taken and a monetary penalty of up to \$5,000 may be imposed on anyone who willfully uses, publishes, or permits information to be disclosed in violation of nondisclosure provisions.

Use of Evidence in the File

General

You are not permitted to use information provided by the alleged perpetrator of the certified criminal activity in making an adverse determination on the petition for U nonimmigrant status. All U related filings are protected by the provisions of section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). See 8 USC 1367(a)(1).

Prohibition for Usage of Certain Adverse Information

Officials of the Department of Homeland Security are prohibited from making adverse determinations of admissibility or deportability based on information obtained solely from the perpetrator of substantial physical or mental abuse and the criminal activity.

This prohibition includes all letters, statements or any other documentation provided by the alleged perpetrator (or his/her representative).

You may consider any independent, third-party evidence provided regarding the U petitioner or qualifying family members.

Source Determination

You must determine how USCIS came into possession of the evidence in the file.

If there is indication that the evidence was sent to USCIS by the alleged perpetrator but is not in the form of a squeal letter, you must determine:

- if the evidence was generated by a credible and reliable source.
- whether the evidence would lead to an adverse decision for the petitioner or qualifying family member.

You will refer the case to your supervisor for consultation regarding usage of the evidence if you determine that the information:

- is from a credible, reliable source;
- is relevant to the adjudication; and
- would result in an adverse decision for the self-petitioner.

In order to use the information in making an adverse determination, you must either verify the information through available systems and file review or receive its own independent copy of the adverse information using USCIS resources. This should be done to ensure that the information was not altered while in the possession of the alleged abuser.

Continued on next page

Use of Evidence in the File, Continued

Information from Public Sources

If the file contains information from a public source, such as a court or other law enforcement entity, the information may be used in the adjudication. Such evidence includes but is not limited to the following:

- protection orders against the petitioner;
- police reports made involving the petitioner;
- court transcripts and findings regarding the petitioner or petitioner's claims.

If you determine that the evidence is complete and unaltered, the evidence may be used. Be certain that the source behind the creation of the documentation is not the alleged perpetrator of the certified criminal activity.

Example 1: A protection order obtained by the alleged abuser against the self-petitioner. This evidence is prohibited from usage in making an adverse determination as it is based on the claims of the alleged perpetrator of the certified criminal activity.

Example 2: Documentation in the record includes transcripts of the criminal proceedings upon which the I-918 is based. In the transcript, the petitioner recants his testimony and states the crime never occurred.

You must determine whether the transcript is accurate and whether the recanting contradicts other assertions in the record submitted in support of the I-918.

Example 3: Results of a criminal trial for the certified criminal activity show the alleged perpetrator was acquitted of the charge(s).

This, by itself, does not constitute adverse information. A conviction is not an eligibility requirement for U nonimmigrant status.

Continued on next page

Use of Evidence in the File, Continued

Information Generated from Non-Public Sources

If the file contains evidence issued by a non-public source (example: medical records), you must first determine who provided the information for the file.

If it was sent by the alleged abuser or member of the alleged abuser's family (as cited above), you are prohibited from using the information to make an adverse determination on the I-918 or I-918, Supplement A.

If adverse information is received that is neither from a public source nor from the alleged perpetrator, then you must determine the credibility and relevance of the evidence. If you find that the evidence would have a negative impact on the adjudication, you must discuss the evidence with supervision prior to issuing any notices to the petitioner based on that evidence.

Example: Insurance billing statement for the petitioner (on the alleged abusive spouse's policy) indicating the petitioner was treated for injuries in a car accident on the date the petitioner reported to police she was assaulted by her spouse.

Acknowledging Information in the File

If the file contains information that, if used, would result in an adverse determination but the use of that information is prohibited by section 384, you must place an acknowledgement of the information in the file.

Generate the Adverse Information Memo and briefly state what specific information was reviewed and why usage of the information was prohibited by section 384 (ex: information provided by the alleged perpetrator). Place the memo on the non-record side of the file.

Discovery of an apparent violation

If you discover an apparent violation of section 384 (either disclosure of information or use of prohibited information), you must bring the violation to the attention of your SISO and the ACD who oversees the unit.

1. Notify VSC management via email detailing the specific filing and all relevant information about the violation.
 2. Place a copy of the notification email on the non-record side of the file.
 3. Hold the file pending instructions from the ACD or a SISO.
-

Employment Authorization

Overview

General

All U Nonimmigrants are eligible for an employment authorization document (EAD). Validity dates for EADs begin the date that the I-918 is approved for principals or (in the case of derivatives, who separately file the I-765) on the date that the I-765 is approved. Validity for work authorization ends on the last date of U nonimmigrant status.

U-1

U-1 Employment (alien in the U.S.)

1. Aliens granted status as a U-1 are eligible for employment pursuant to 8 CFR 247a.12(a)(19).
 2. Employment authorization is incident to the approval of the U-1 nonimmigrant status. The alien is **not** required to file an Application for Employment Authorization (Form I-765) for the initial card.
 3. Filing procedures for Form I-918, Petition for U Nonimmigrant Status, direct the alien to submit three current photos as described in 8 CFR 333.1
 4. Employment authorization will expire upon the expiration of the underlying U-1 nonimmigrant status.
 5. Alien must be in the United States to obtain the employment authorization document.
-

U-1 Employment (alien outside the U.S.)

An EAD will be automatically produced for a U-1 nonimmigrant when the case is approved and the alien is outside the United States. Update the address to the VSC's prior to approving in GUI. Once the card has been returned, have it destroyed and change the address on the case back to the attorney's address on the G-28. An EAD can be produced once the alien is admitted to the United States in U nonimmigrant status.

To receive the EAD, the U-1 need only submit a request for the EAD to the VSC. No forms or fees are required to produce this EAD.

Required evidence:

1. A request for the EAD; and
 2. A copy of the I-94 showing admission as U-1
-

U-2 through U-5

U-2 through U-5 Employment (alien in the U.S.)

Aliens granted status as a qualifying family member of a U nonimmigrant may apply for employment authorization by filing, with appropriate fee or with application for fee waiver, on Application for Employment Authorization (Form I-765), pursuant to 8 CFR 247a.12(a)(20).

Form I-765 may be filed concurrently with the alien's application for U-2, U-3, U-4, or U-5 nonimmigrant status or it may be filed later.

Employment authorization will be valid from the date of the I-765 approval until the expiration of the alien's U nonimmigrant status.

U-2 through U-5 Employment (alien outside the U.S.)

After admission to the United States as a U nonimmigrant, the alien should submit an Application for Employment Authorization (Form I-765) to the VSC.

Employment authorization will be valid from the date of the I-765 approval until the expiration of the alien's U nonimmigrant status.

Evidence required in support of the I-765 is:

1. A copy of the approval for U nonimmigrant classification;
 2. A copy of his/her Arrival-Departure Record (Form I-94); and
 3. Proper photos and signature.
-

Denial and Updating Errors

Denial

A denial of U Nonimmigrant status will result in the denial of any accompanying I-765 predicated on the approval of the I-918, Supplement A.

GUI CLAIMS Updating Errors

If an I-918 or derivative's I-765 is updated incorrectly in GUI CLAIMS, refer to the instructions in the "Case Updated by Error in CLAIMS" SOP on the LAN

Wait List Process

Overview

General

If more than 10,000 approvable I-918s are filed in a fiscal year, all cases determined to be approvable after reaching the cap will be placed under the Wait List Process.

Process for approvable I-918s and accompanying I-918As after the cap is reached

After 10,000 U-1 approvals have been issued in a fiscal year, do not update any Form I-918, I-918A, or I-192 approvals in HAVEN or GUI until the new fiscal year begins (October 1).

Follow the steps below to process approvable I-918s, I-918As and accompanying I-192s after the cap is reached.

Step	Action
1	Complete TECS checks and ensure any hits are resolved before placing the U Visa petition on the wait list.
2	If the file contains an I-192, verify that FBI NDOB check is valid at the time the U Visa petition is placed on the Wait List.
3	Verify that fingerprints are valid at the time the U Visa petition is placed on the Wait List.

NOTE: You must ensure that name, DOB, images, safe address, etc. are correct in all systems, including GUI. You must correct errors; however, you must not update approvals in HAVEN or GUI until the new fiscal year begins.

You must ensure that all steps above are complete and valid at the time the I-918, I-918A, and I-192 are placed on the Wait List.

Routing and Annotations

**Routing for all
Files Placed
Under the Wait
List**

Follow the steps below to route files that were placed under the Wait List.

Site Location	Action
St. Albans	Charge out files to be waitlisted and place those files in the waitlist boxes marked at the VAWA/humanitarian file staging area.
Essex	Charge out files to be waitlisted and place those files in the assigned boxes in the FCU room.

NOTE: All waitlisted files will be stored in St. Albans FMU by received date order until the new fiscal year begins.

Wait List Process Table

I-918, I-918A, and I-192 Actions

Refer to the table below to determine the appropriate I-918, I-918A, and I-192 Wait List action.

If the ...	Then ...
I-918/I-918As do not meet the eligibility requirements,	<ul style="list-style-type: none">• Issue an RFE or NOID.• Adjudicate up to the point of approval using the normal I-918/I-918A procedure.• Use the PINK I-918 Routing Worksheet when issuing the RFE.• Keep all family members together.
I-918A meets all eligibility requirements and principal was approved prior to the cap (Prior to Wait List),	<ul style="list-style-type: none">• Approve using normal I-918A procedure.• Approve any related I-765 (A20) using the normal I-765 (A20) procedure.
I-918/I-918As and/or I-192s do not meet the eligibility requirements after the issuance of an RFE or NOID,	<ul style="list-style-type: none">• Issue a denial using the normal I-918, I-918A, and I-192 procedures.• Use the PINK I-918 Routing Worksheet when issuing the denial.
I-918/I-918A is placed under the Wait List Process and is accompanied by an I-192 that will be denied as unnecessary,	<ul style="list-style-type: none">• Follow the Wait List Process. Update GUI with “Pre-Adjudicated – Under Review” for I-192.

Continued on next page

Wait List Process Table, Continued

Updating Petition / Application

Refer to the chart below for the Wait List Process for I-918/I-918As and I-192 cases:

When you have...	Then...						
I-918/I-918As placed under the Wait List Process to be approved,	<ul style="list-style-type: none"> • Prepare and send Wait List Notice in CG. The notice is located in the “Informational Section.” • Place the file copy notice on the top of the I-918/I-918A (Record Side). (Do not place the file copy on top of the 384 cover sheet.) • Update HAVEN with “Wait List Notice Ordered” and “Wait List Notice Sent.” • Update GUI with “Pre-Adjudicated-Under Review” for all I-918s. (Dummy I-765). • Complete WHITE I-918-Routing Worksheet. (Revision date 11-25-2013). Annotate the I918/I918A received date in the Wait List section. <table border="1"> <tr> <th>If your site is...</th><th>Then ...</th></tr> <tr> <td>St. Albans</td><td>Charge out and place files in the VAWA/humanitarian file staging area.</td></tr> <tr> <td>Essex</td><td>Charge out and place files in the FCU to be forwarded to the U Visa Wait List Shelf.</td></tr> </table> <p>NOTE: FCU shelving has been identified and labeled as “U Visa Wait List Process.” (Keep family members together.)</p> <p>IMPORTANT: Do not adjudicate or annotate I-765 (A19/A20) files riding with an I-918/I-918A until October 1.</p>	If your site is...	Then ...	St. Albans	Charge out and place files in the VAWA/humanitarian file staging area.	Essex	Charge out and place files in the FCU to be forwarded to the U Visa Wait List Shelf.
If your site is...	Then ...						
St. Albans	Charge out and place files in the VAWA/humanitarian file staging area.						
Essex	Charge out and place files in the FCU to be forwarded to the U Visa Wait List Shelf.						
Accompanying I-192 to be approved,	<ul style="list-style-type: none"> • Annotate all inadmissibility grounds being waived. • Update GUI with “Pre-adjudicated – Under Review.” 						
I-192 to be denied as unnecessary,	<ul style="list-style-type: none"> • Update GUI with “Pre-adjudicated – Under Review.” 						

IMPORTANT: You must use the I-918 Routing Worksheet dated 11-25-2013.

Unlawful Presence and Revocations

Unlawful presence accrual

Time on the Wait List while granted deferred action or parole will not result in the accrual of unlawful presence under INA 212(a)(9)(B).

A petitioner may be removed from the Post U Visa CAP Process and deferred action or parole terminated at the discretion of USCIS.

Effect of Revocation on numerical limit

Revocation of an individual's U-1 status will have no effect on the numerical limit.

Case updated as Wait List in Error

Overview This section provides detailed steps for removing petitions from Wait List as evidence in the record may indicate the petitioner or derivative may be ineligible for U nonimmigrant status.

ISA Process Once a case is identified as being Wait Listed in Error, the ISAs will complete the following steps in the correction process.

Steps	Action
Retrieve Files	Pull identified file(s) from the Wait List hold area and deliver to the appropriate SISO.
Return Files to Wait List Shelving	After officers complete action on a wait-listed case, The ISA(s) will update the excel spreadsheet prior to returning the files to the I-918 Wait List shelves.

SISO Responsibilities When a SISO receives a file identified as waitlisted in error, he or she will review the file to determine if corrective action is needed. If corrective action is needed, he or she will deliver the file to the appropriate officer.

Continued on next page

Case updated as Wait List in Error, Continued

Officer Responsibilities

If you receive a case identified as wait-listed in error, follow the steps below to correct the error:

Step	Action						
1	Determine if an RFE or ITD is needed on the I-918, I-918A and/or I-192.						
2	If an RFE or ITD is needed, update Haven/GUI with “Previous Action Canceled”. This will alert others reviewing the electronic case history that the case was removed from the Wait List.						
3	Update GUI/Haven with RFE or ITD notice ordered, etc.						
4	Issue RFE or ITD with one of the introductory paragraphs below: <table border="1"> <tr> <th>If the case was wait-listed...</th><th>Then use the introductory paragraph...</th></tr> <tr> <td>With DAS,</td><td>On DATE, you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on Wait List. You were also notified that you have been placed in deferred action. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.</td></tr> <tr> <td>With no DAS,</td><td>On DATE, you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on a Wait List. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.</td></tr> </table>	If the case was wait-listed...	Then use the introductory paragraph...	With DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on Wait List. You were also notified that you have been placed in deferred action. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.	With no DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on a Wait List. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.
If the case was wait-listed...	Then use the introductory paragraph...						
With DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on Wait List. You were also notified that you have been placed in deferred action. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.						
With no DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on a Wait List. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.						
5	Email the I-918waitlistrequest email account letting the ISA(s) know that an RFE/ITD was issued and ask that the Excel spreadsheet used to track these cases be updated.						

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Case updated as Wait List in Error, Continued

Officer Responsibilities (continued)

Step	Action						
6	<p>Follow the steps below once you receive the response to the RFE or ITD:</p> <table> <tr> <th>If the outcome of the RFE/ITD results in...</th><th>Then...</th></tr> <tr> <td>A denial,</td><td> <ul style="list-style-type: none"> • Issue denial and include a statement in the denial that DAS is terminated as of the date of the denial e.g., “Any deferred action previously granted to you / your family member in connection with this petition is hereby terminated as of the date of this notice. Any employment authorization that may have been granted to you in connection with the deferred action grant is also terminated as of the date of this notice.” • After appeal time has passed, advise contractor to update COA field in CIS appropriately, e.g., UU. • Email the I-918waitlistrequest email account letting the ISA(s) know that the case was denied and ask that the Excel spreadsheet used to track these cases be updated. </td></tr> <tr> <td>Wait listing the case again,</td><td> <ul style="list-style-type: none"> • Issue appropriate Wait List letter in CG, • Update GUI/Haven, and • Send case to I-918 Wait List. NFTS to AC0019 and drop off in the crates outside EX280. </td></tr> </table>	If the outcome of the RFE/ITD results in...	Then...	A denial,	<ul style="list-style-type: none"> • Issue denial and include a statement in the denial that DAS is terminated as of the date of the denial e.g., “Any deferred action previously granted to you / your family member in connection with this petition is hereby terminated as of the date of this notice. Any employment authorization that may have been granted to you in connection with the deferred action grant is also terminated as of the date of this notice.” • After appeal time has passed, advise contractor to update COA field in CIS appropriately, e.g., UU. • Email the I-918waitlistrequest email account letting the ISA(s) know that the case was denied and ask that the Excel spreadsheet used to track these cases be updated. 	Wait listing the case again,	<ul style="list-style-type: none"> • Issue appropriate Wait List letter in CG, • Update GUI/Haven, and • Send case to I-918 Wait List. NFTS to AC0019 and drop off in the crates outside EX280.
If the outcome of the RFE/ITD results in...	Then...						
A denial,	<ul style="list-style-type: none"> • Issue denial and include a statement in the denial that DAS is terminated as of the date of the denial e.g., “Any deferred action previously granted to you / your family member in connection with this petition is hereby terminated as of the date of this notice. Any employment authorization that may have been granted to you in connection with the deferred action grant is also terminated as of the date of this notice.” • After appeal time has passed, advise contractor to update COA field in CIS appropriately, e.g., UU. • Email the I-918waitlistrequest email account letting the ISA(s) know that the case was denied and ask that the Excel spreadsheet used to track these cases be updated. 						
Wait listing the case again,	<ul style="list-style-type: none"> • Issue appropriate Wait List letter in CG, • Update GUI/Haven, and • Send case to I-918 Wait List. NFTS to AC0019 and drop off in the crates outside EX280. 						

Revocations

Overview

General

Approvals of U nonimmigrant status can be revoked. The alien shall immediately inform USCIS of any changes in the terms and conditions of the alien's circumstances that may affect eligibility 8 CFR 214.14(o).

All Intents to Revoke and Revocations must be completed on the LAN and not in Correspondence Generator.

Revocation may occur at any time after the approval of the U nonimmigrant status—even after the status of validity has expired. There are two types of revocation: Automatic and by notice.

Automatic Revocation

Automatic Revocation 8 CFR 214.14(h)(1)

Principal with an approved U nonimmigrant petition who applied from outside the United States notifies USCIS that he or she will not use the approved petition to enter the United States

NOTE: Automatic revocations cannot be appealed.

Revocation on Notice

A petition for U nonimmigrant status also may be revoked following a **notice of intent to revoke** based on one or more of the following reasons:

Revocation on notice 8 CFR 214.14(h)(2)

- (A) The certifying official withdraws the U nonimmigrant status certification referred to in 8 CFR 214.14(c)(2)(i) or disavows the contents in writing;
- (B) The approval of the petition was in error;
- (C) There was fraud in the petition;
- (D) *(In the case of U-2 through U-5)*, the relationship to the principal has terminated; or
- (E) *(In the case of U-2 through U-5)*, the principal's U-1 nonimmigrant status is revoked.

NOTE: Revocations on notice may be appealed.

Continued on next page

Overview, Continued

Notice of Intent The notice of intent to revoke must be in writing and contain a detailed statement of the grounds for revocation. The U nonimmigrant will be granted 30 days to present rebuttal evidence.

Consider all relevant evidence presented in deciding whether to revoke the petition. Determination of what is relevant evidence and the weight to be given that evidence is within the sole discretion of USCIS.

Notification of revocation USCIS will provide the alien with a written notice of revocation explaining the specific reasons for revocation.

Effects of Revocation

Effect of revocation on principal

- Revocation of a principal's I-918 approval will result in the termination of the principal's U-1 status.
 - If a petition for U-2, U-3, U-4, U-5 is still pending at the time the principal's U-1 status is revoked, deny the U-2, U-3, U-4, or U-5's petition.
 - Revocation of an approved I-918 also revokes any waiver of inadmissibility granted in conjunction with the petition.
-

Effect of revocation on derivative

- The revocation of the principal's Form I-918 approval will result in the denial of any pending Forms I-918, Supplement A, for qualifying family member of that principal.
 - Revocation of the qualifying family member's Form I-918, Supplement A, will result in the termination of status for that qualifying family member.
 - Revocation of an approved I-918 also revokes any waiver of inadmissibility granted in conjunction with the petition.
-

Appeal rights

A **revocation on notice** may be appealed to the Administrative Appeals Office in accordance with 8 CFR 103.3(a)(1)(iii).

Automatic revocations cannot be appealed.

Notice to Appear (NTA)

If USCIS revokes or denies Form I-918 for an alien who was in proceedings that were terminated pursuant to 8 CFR 214.14(c)(1)(i), a new Notice To Appear (NTA) may be filed by DHS (see INA section 239).

Contact the local NTA unit for processing and policies regarding the issuance of NTAs for this and other scenarios involving revocations of Form I-918.

Appeals and Motions

Overview

- Appeal Rights**
- Denied Petitions for U Nonimmigrant Status can be appealed to the Administrative Appeals Office (AAO).
 - Appeals can be made pursuant to the provisions of 8 CFR 103.3.
 - The denial upon which an appeal is filed will not become final until the appeal is adjudicated.
 - Revocation on notice, those grounds cited in 8 CFR 214.14(h)(2), may be appealed pursuant to 8 CFR 103.3.
 - Automatic revocations (8 CFR 214.112(h)(1)) cannot be appealed.
 - Denials and revocations of waivers of inadmissibility cannot be appealed.
-

- Motion Rights**
- Denied applications for U Nonimmigrant Status are subject to the provisions for:
- a motion to reopen under the provisions of 8 CFR 103.3.
 - a motion to reconsider 8 CFR 103.5.
-

Motions to Reopen Denial for No. Supplement B

I-918 Denials Based on No. Form I-918, Supplement B

Refer to the table below to determine the appropriate action when adjudicating motions to reopen a denial based on no form I-918, Supplement B. The following are the three scenarios with recommended actions:

Scenario	Motion details	Action
Form I-918 denied for No Supplement B – all deficiencies addressed	Motion filed with only Supplement B. No additional evidence to address other deficiencies as noted in the denial	Grant motion to reopen and re-deny the Form I-918 for all remaining deficiencies as case is still not approvable.
Form I-918 denied for No Supplement B – all deficiencies NOT addressed	Motion filed with Supplement B	Grant motion and reopen to correct service error of not citing all deficiencies. RFE to address all remaining deficiencies.
Form I-918 denied for No Supplement B – no remaining deficiencies in the file	Motion filed with only Supplement B	Dismiss since the Supplement B is considered initial evidence and should not be accepted after the denial.

Immigration Proceedings

Effect of Immigration Proceedings

General

USCIS may institute removal proceedings for petitioners and derivatives for U Nonimmigrant Status.

Aliens in removal proceedings may petition for U nonimmigrant status.

Open proceedings at the time of filing

Aliens in removal proceedings under section 240 of the Act, 8 U.S.C. 1229a, or in exclusion or deportation proceedings initiated under the former sections 236 or 242 of the Act (as in effect prior to April 1, 1997) and who would like to petition for U nonimmigrant status must file Form I-918 directly with USCIS.

ICE counsel may agree to file, as a matter of discretion, at the request of the alien petitioner, a joint motion to terminate proceedings without prejudice with the immigration judge or the Board of Immigration Appeals (whichever is appropriate) while the I-918 is being adjudicated.

Final orders of removal, deportation or exclusion

- Aliens with a final order of removal, deportation or exclusion are not precluded from filing for U nonimmigrant status directly with USCIS.
 - Filing for U nonimmigrant status has **no effect** on ICE's authority to execute the final order. Aliens may file Form I-246, "Stay of Removal" with ICE for a stay of removal pursuant to 8 CFR 241.6(a) and 8 CFR 1241.6(a).
 - If the alien is in detention pending the execution of the final order, the time during which the stay is in effect will extend the period of detention necessary to bring about the alien's removal.
-

Effect of approvals on proceedings

Upon approval of Form I-918, orders of exclusion, deportation or removal issued by the Secretary for that alien will be deemed canceled as an operation of law as of the date of USCIS's approval of Form I-918.

Those subject to an order of exclusion, deportation, or removal issued by an immigration judge or the Board may seek cancellation of such order by filing, with the immigration judge or the Board, a motion to reopen and terminate proceedings. ICE counsel may agree, as a matter of discretion, to join in such a motion to overcome any applicable time and numerical limitations of 8 CFR 1003.2 and 1003.23

Trafficking Referrals

Trafficking Referrals

General

USCIS will make referrals to ICE/Office of Investigations for all cases that involve, appear to involve or claim to involve human trafficking.

Qualifying cases

Refer all cases where:

- the certified crime involves the crime of human trafficking or
 - human trafficking indicators are identified in the record.
-

Process

Follow the steps below as soon as the claims to human trafficking are identified.

Step	Action
1	Send a referral email to ICE at the following address: Trafficking.Icehuman@dhs.gov
2	Use call-up 0688 for the ICE Trafficking Referral Letter to make the referral.
3	Place a copy of the referral email to ICE on the non-record side of the file.
4	Continue adjudication on the I-918 after the referral is made.

NOTE: The alien will not be notified that the referral has been made.

Processing

General Processing

General

Perform TECS checks on all aliens seeking a benefit under the U nonimmigrant visa program.

Place files in the proper order and annotate worksheets appropriately prior to sending the file to clerical or outside the unit.

Record of Proceeding

Form I-918 Record of Proceeding (ROP)

The general order that will be used for basic file setup purposes is as follows:

Form I-918:

- 384 Warning Sheet
 - I-918 Safe Address Sheet
 - G-28 (if applicable)
 - I-918
 - I-918 Supplement B
 - Supporting evidence
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-192 Safe Address Sheet
 - G-28 (if applicable)
 - I-192 (if applicable)
 - Supporting evidence
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-193 (if applicable)
-

Form I-918A

Form I-918, Supplement A:

- 384 Warning Sheet
 - Safe Address Sheet
 - G-28 (if applicable)
 - I-918, Supplement A
 - Evidence of relationship to I-918 petitioner
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-192 Safe Address Sheet
 - G-28 (if applicable)
 - I-192 (if applicable)
 - Supporting evidence
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-193 (if applicable)
-

Duplicate Copies and Systems

Second Copy of Petition/ Application in file

Refer to the table below to determine how to process the second copy of the petition that is in the file.

If the I-918/I-918A (and accompanying I-192 or I-193 is...	Then ...
Approved and there is a 2 nd copy of the petition/application in the file,	<ul style="list-style-type: none"> • Sign and annotate the 2nd copy in the same manner as the original petition. • Place the 2nd copy of the approved petition on the non-record side of the file after all updating is complete.
Denied and there is a 2 nd copy of the petition/application in the file,	<ul style="list-style-type: none"> • Write “Support Only” in the action block. • Do not stamp or annotate the petition further.

The clerical unit is responsible for sending the approved copy to the KCC.

NOTE: If there is not a second copy of the petition/application in the file, the clerical unit will make copies of the approved petition/application to send to the KCC.

Systems HAVEN

Refer to the table below to determine which system to use to adjudicate the various forms.

Form	System
I-918 and I-918A	HAVEN
“dummy” I-765 (principals only)	GUI
NOTE: No actual I-765 will be filed on these cases. There will only be an electronic record.	
Any I-765 filed on behalf of a qualifying family member	GUI
Accompanying forms such as I-192	GUI
Accompanying forms such as I-193	GUI

Adjudication

Updating

Updating in GUI and HAVEN

HAVEN information is pulled from GUI. Follow the steps below to update a file in GUI and HAVEN.

Step	Action
1	Open the case in GUI.
2	Verify that all information is correct in GUI.
3	Make all needed corrections in GUI. Do not update GUI.
4	Open the case in HAVEN.
5	Update the case in HAVEN.
6	Update the case in GUI.

Important: You must update the case in HAVEN prior to updating in GUI.

Generating the Approval Notice

**Verify
Approval Info.
for I-918
Principal
Petitioner**

You will generate the approval notice at the time of final adjudication. You must ensure that information in the notice is correct.

Refer to the tables below to determine the information that you must verify is correct prior to updating an approval for an I-918 principal petitioner.

If the update is an approval for an I-918 principal petitioner who is...	Then ensure the following information is correct in both HAVEN and GUI prior to updating...
In the United States,	<ul style="list-style-type: none">• Name• DOB• Country of Citizenship• Classification• Validity Dates• A-number• Safe Address• I-94 Number (entered in HAVEN, only)
Outside of the United States,	<ul style="list-style-type: none">• Name• DOB• Classification• Validity Dates• A-number• Safe Address

Continued on next page

Generating the Approval Notice, Continued

**Verify
Approval Info.
for I-918A
Qualifying
Family
Member**

You will generate the approval notice at the time of final adjudication. You are responsible to ensure that information in the notice is correct.

You must verify that the information in the table below is correct prior to updating an approval for an I-918A Qualifying Family Member in HAVEN.

If the update is an approval for an applicant who is an I-918A Qualifying Family Member (QFM) who is.....	Then ensure the following information is correct in HAVEN...
In the United States,	<ul style="list-style-type: none">• Principal's Name*• Principal's A-number*• QFM's Name• QFM's A-number• QFM's Country of Citizenship• QFM's Classification• QFM's Validity Dates• QFM's I-94 Number (entered in HAVEN, only)• Principal's Safe Address (as it appears in the QFM's filing) <p>* Updates/changes to this information must be made in GUI.</p>
Outside of the United States,	<ul style="list-style-type: none">• Principal's Name*• Principal's A-number*• QFM's Name• QFM's A-number• QFM's Classification• QFM's Validity Dates• Principal's Safe Address (as it appears in the QFM's filing) <p>* Updates/changes to this information must be made in GUI</p>

Updating in HAVEN

Entering HAVEN

Follow the steps below to log into HAVEN:

Step	Action
1	Check the agreement box (a).
2	Enter your assigned user name and password (b).
3	Click the Login button at the bottom (c).

The screenshot shows the HAVEN login interface. At the top left is the U.S. Citizenship and Immigration Services logo. The header includes 'U.S. Citizenship and Immigration Services' and 'HAVEN'. Below the header is a 'Welcome to HAVEN' message. A 'WARNING!' section contains a disclaimer about accessing a U.S. Government information system. Below the warning is an 'Agreement required for login!' section with a checkbox and the text 'I have read, understand, and agree to abide by the above terms and conditions regarding the use of this system.' A callout 'a' points to this checkbox, with a 'Check to agree' button below it. To the right is a login form with fields for 'User ID:' and 'Password:', and a 'Login' button. A callout 'b' points to the 'Enter User ID and Password' label above the fields. A callout 'c' points to the 'Login' button, with a 'Click Login' button below it.

Searching for a Record in HAVEN

Follow the steps below to search for a record in HAVEN:

Step	Action
1	Click the Search Tab.
2	Type the criteria (b).
3	Click the Search button (c).
4	If you want to clear out all the search criteria, click Reset Criteria (d).

Continued on next page

Updating in HAVEN, Continued

HAVEN Search Screen

This is a screenshot of the HAVEN Search Screen.

The screenshot shows the HAVEN Application Search interface. At the top, there are tabs for 1914, 1918, 1929, Search, Reports, and Admin. The 'Search' tab is active. Below the tabs, the title 'HAVEN Application Search' is displayed. On the right, there is a 'Your Profile' section showing 'devuser1 (devuser1)' and 'Current Role: Administrator'. A 'Click Search' button is located next to the profile. The main search area is titled 'Search Criteria' and contains a section 'SEARCH HAVEN APPLICATIONS' with instructions: 'You may use any combination of the case criteria below to locate case(s). Only results matching all provided criteria are returned.' Below this, there are several input fields: 'A Number Contains', 'VTU Number Contains', 'EAC Number Contains', '194 Number Contains', 'Passport Number Contains', 'Last Name Contains', 'First Name Contains', 'Middle Name Contains', 'Birth Date From', and 'Birth Date To'. A 'Click Search' button is positioned to the right of these fields. At the bottom, there are 'Search' and 'Reset Criteria' buttons. Annotations with letters a, b, c, and d point to specific elements: 'a' points to the 'Search' tab, 'b' points to the search criteria input fields, 'c' points to the 'Search' button, and 'd' points to the 'Reset Criteria' button. A text box 'Type any or all search criteria' is also present.

Important: This is an exact search – the more data you enter, the less likely you are to get all match.

A numbers must have leading “0”

Sample HAVEN Search Results

Your search returned 34 records

Page 1 of 2

Applicant Name	Type	Receipt No.	A No.	DOB
<u>Benson-Davidson, Theresa</u>	1918	EAC111000444	A123345678	Jan 1, 1970
<u>David, Keith</u>	1918	EAC2221110000	A122345678	Oct 22, 1960
<u>Davidacum, Norman</u>	1918A	VTU3211234567	A112345678	Nov 15, 1958
<u>Davidina, Millie</u>	1918	EAC3331115555	A876543210	Mar 3, 1984
<u>Davidium, Monica</u>	1914	EAC3344556677	A765432109	Feb 20, 1955
<u>Davidson, Bronson</u>	1929	VTU9990001234	A654321098	Nov 7, 1963
<u>Davidson, Goliath</u>	1918	EAC0001234567	A543210987	Apr 9, 1943
<u>Davidson, Tonya</u>	1918A	VTU221198765	A432109876	Aug 22, 1934
<u>Davie, Jones</u>	1914	EAC2229876541	A321098765	Sep 13, 1973
<u>Davakim, Lisa</u>	1918B	VTU5550054321	A210987654	May 21, 1980
<u>Davis, Anderson</u>	1918	EAC7770123456	A109876543	Jun 2, 1954
<u>Davis, Bette</u>	1914A	VTU1230987654	A098765432	Jul 23, 1978
<u>Davis, Janice</u>	1914	EAC0088123456	A009876543	May 16, 1944
<u>Davis, Mavis</u>	1914	EAC1110123456	A098876543	Feb 17, 1956
<u>Davis, Wyncentie</u>	1918	EAC0077123455	A098876543	Mar 30, 1959
<u>Davisson, Keith</u>	1918A	VTU3219876540	A098776543	Apr 6, 1946
<u>Nixon-Davis, Samantha</u>	1918	EAC6600987654	A098766543	Oct 10, 1960

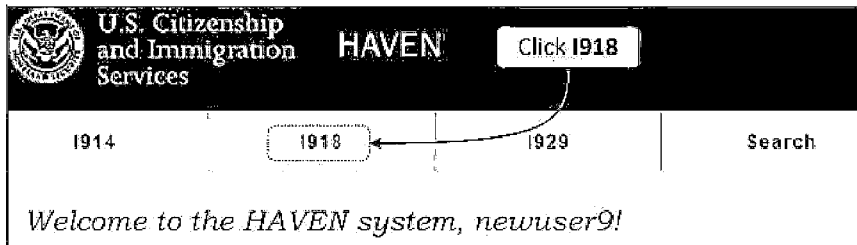
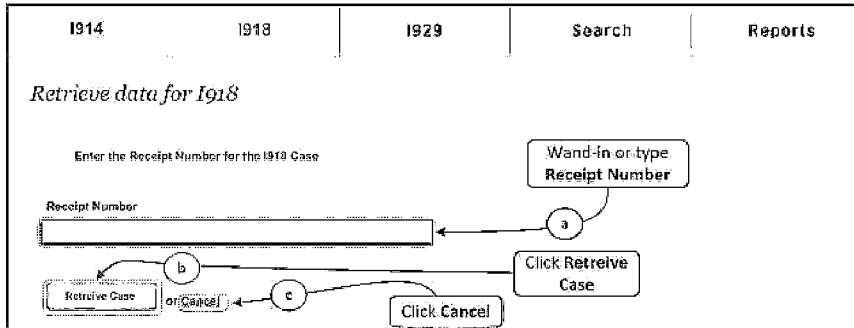
Continued on next page

Updating in HAVEN, Continued

Retrieving a Case in HAVEN

Follow the steps below to retrieve a case in HAVEN.

NOTE: The case first must have been created in GUI.

Step	Action
1	<p>Begin entering an I-918 receipt number by clicking the I-918 tab.</p>  <p>The screenshot shows the HAVEN system interface with the U.S. Citizenship and Immigration Services logo. The 'HAVEN' title is prominent. Below the title, there are tabs for '1914', '1918', and '1929'. The '1918' tab is selected and highlighted. A callout box labeled 'Click 1918' points to the '1918' tab. Below the tabs, there is a 'Search' button. At the bottom, a message reads 'Welcome to the HAVEN system, newuser9!'.</p>
2	<p>On the <i>Retrieve data for I918</i> page:</p> <ul style="list-style-type: none"> • Wand-in the I-918 application form's Receipt Number. • Click Retrieve Case button, or • End without retrieving a case by clicking <u>Cancel</u>.  <p>The screenshot shows the 'Retrieve data for I918' page. At the top, there are tabs for '1914', '1918', '1929', 'Search', and 'Reports'. The '1918' tab is selected. Below the tabs, the text 'Retrieve data for I918' is displayed. Underneath, it says 'Enter the Receipt Number for the I918 Case'. There is a text input field labeled 'Receipt Number'. To the right of the input field, there is a callout box labeled 'Wand-in or-type Receipt Number' with a circled 'a' pointing to the input field. Below the input field, there are two buttons: 'Retrieve Case' and 'or Cancel'. A callout box labeled 'Click Retrieve Case' with a circled 'b' points to the 'Retrieve Case' button. To the right of these buttons, there is a callout box labeled 'Click Cancel' with a circled 'c' pointing to the 'or Cancel' button.</p>

Continued on next page

Updating in HAVEN, Continued

Result Screenshot from Retrieving a Case in HAVEN

A message appears below the I918 Form heading,
“This case exists in the HAVEN database.” A 918 can only be viewed in HAVEN if it exists in CLAIMS.

The Cap Counter tracks the current number of approved cases for the fiscal year-to-date.

Important: Prior to proceeding, you must ensure that the CAP has not been reached and that a visa is available.

I918 Form

☒ This case exists in the HAVEN database.

Cap	Reserve	Cap Counter
<input type="text" value="100"/>	<input type="text" value="3"/>	<input type="text" value="5716"/>
Receipt Number	Received Date	
<input type="text" value="EAC1109850410"/>	<input type="text"/>	

☐ I-192 ☐ I-193 ☐ NTA Referral ☐ Sent to CFDO

Updates are entered through GUI
HAVEN will display the information that it retrieves from GUI.
The information on the screen that is grey is from GUI. You must update this information in GUI, not in HAVEN.

General Information

Personal Info

Last Name (Family Name)	First Name (Given Name)	Middle Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Date of Birth	Marital Status	Gender
<input type="text"/>	<input type="text"/>	<input type="text"/>
	A-Number	SSN
	<input type="text"/>	<input type="text"/>
Country of Birth	Country of Citizenship	
<input type="text"/>	<input type="text"/>	

Important: HAVEN can only capture cases that already exist in GUI; this information will be grayed out.

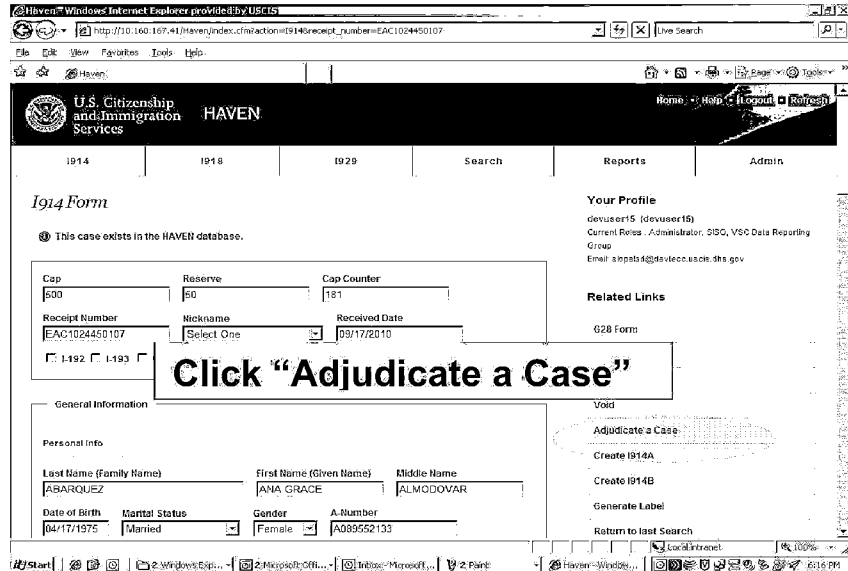
Continued on next page

Updating in HAVEN, Continued

Updating a Decision in HAVEN

You must update all adjudicative decisions on the I-918 (principal) in both GUI and HAVEN. Update qualifying family members' I-918As only in HAVEN. Update any accompanying I-765 for a qualifying family member in GUI following normal EAD updating requirements.

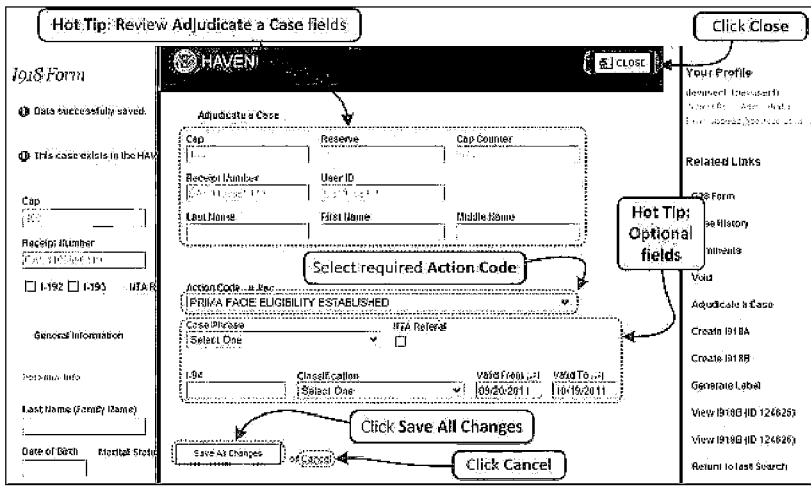
Follow the steps below to update a decision in HAVEN:

Step	Action
1	<p>Click "Adjudicate a Case"</p> 

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Updating in HAVEN, Continued

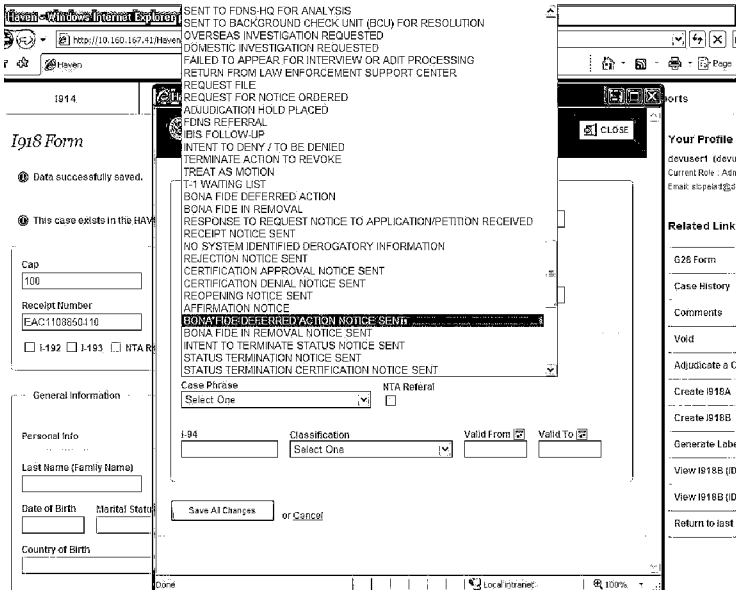
Updating a Decision in HAVEN (continued)

Step	Action
2	<p>Review the information in the window that pops up after clicking “Adjudicate a Case” from the Related Links sidebar.</p>  <p>Important: If approving a case for a principal, you must verify that the count is not more than 10,000 at the Cap Count menu screen.</p> <p>NOTE: All cases for principals that are over the 10,000 mark for a given fiscal year will be placed on a Wait List. (See instructions for “Wait List Approval”).</p>

Continued on next page

Updating in HAVEN, Continued


Updating a Decision in HAVEN (continued)

Step	Action
3	<ul style="list-style-type: none"> • Select action code/update phrase. • If approving, enter classification and validity dates. • Select “save all changes.” 

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Updating in HAVEN, Continued

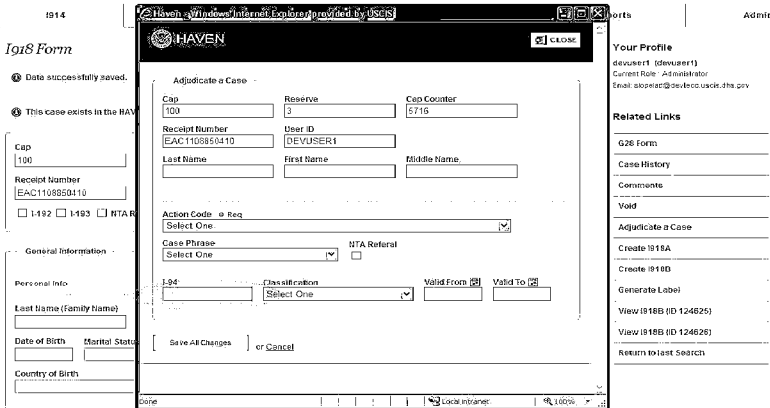
Updating a Decision in HAVEN (continued)

Step	Action
4	<p>Confirm the adjudication in HAVEN.</p>  <ul style="list-style-type: none">• You must confirm that all information is correct before updating.• Once a Visa is issued, it can not be re-used.• Notices are generated through HAVEN, there generally is no clerical action with exception of I-94 card processing. <p>Important: You must also update GUI after you update HAVEN.</p>

Continued on next page

Updating in HAVEN, Continued

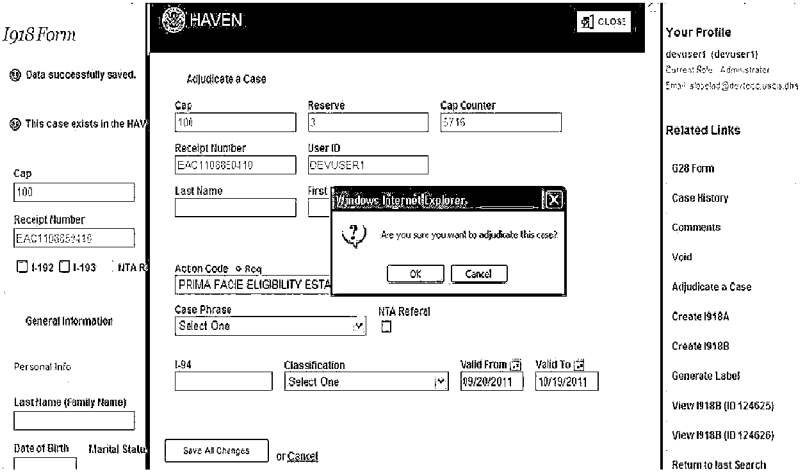
Updating a Decision in HAVEN (continued)

Step	Action
5	<p>If you are approving the case, and the petitioner and/or derivative is in the United States, enter the number from the I-94 card into HAVEN.</p>  <p>Important: Only issue an I-94 card to those petitioners and/or applicants who are in the United States at the time of approval. Do not issue an I-94 number to those petitioners and/or applicants who are outside of the United States.</p>

Continued on next page

Updating in HAVEN, Continued

Updating a Decision in HAVEN (continued)

Step	Action
6	<p>Verify that all information is correct, then select “ok”</p> <p>The Print Preview button is available to preview an approval notice prior to saving the changes.</p> <ul style="list-style-type: none"> • The class and I-94 number are currently missing on the approval preview screen. • This issue will be corrected on the next release of HAVEN. • You must verify all other data on the approval notice prior to saving. 

Processing an Approval

Processing an Approval

Follow the steps below to process an approval.

Step	Action
1	Verify that all information is correct and both HAVEN and GUI have been properly updated, including I-94 number. (See the instructions below for GUI updating).
2	Separate duplicate KCC copy from the record and stamp and make appropriate notations – leave this loose in the file.
3	Attach the I-94 Card(s) to the non-record side of the file.
4	Route the file to clerical for completion of the I-94 and subsequent routing of I-94 to KCC.

HAVEN Updating Errors

Refer to the table below to determine what steps to take if you update a case in HAVEN in error.

If you realize the case was updated in error...	Then ...
On the same day,	<ul style="list-style-type: none">• Immediately notify a Division 6 SISO or ISO3.• The SISO or ISO3 will pull the approval notice from the print queue.• Once the approval has been pulled, update the case as “approval ordered in error.”
After the date of approval and the case is approvable,	Issue an intent to revoke.
After the date of approval and the case is approvable but was granted the wrong class of admission, validity date, or I-94 number,	Notify a Division 6 SISO or ISO3 for instruction on issuing an amended notice.

GUI Updating

General

Form I-918 is also updated in GUI as the EAC# corresponds to a “dummy” I-765 that was entered for the purpose of generating an Employment Authorization Document if the case is ultimately approved.

Follow the normal directions for updating an I-765 in GUI. RFEs, Intents, Approvals and Denials will be updated in this system—mirroring the actions taken in HAVEN.

NOTE: Form I-918A does not have a “dummy” I-765 entered in GUI. If an I-765 is filed along with the Form I-918A, it will be adjudicated on its own.

For example: An I-918A that requires an RFE will not generate any update in GUI for a concurrently filed I-765. Should the I-765 require an RFE of its own (example: no signature), it will be adjudicated independently from the I-918A.

Overseas Safe Address

GUI does not allow for overseas addresses. If the safe address listed on the I-765 (either dummy principal I918 or for A19/A20 filings) is an overseas address, it is keyed in by data entry as the 75 Lower Welden Street address. If the safe address is an overseas address:

- Place a manual hold on the case.
- Send the file to clerical with the appropriate instructions for a clerical release of the approval, denial or the RFE

Approval (U-1 In the US)

Follow the steps below to update the card approval in GUI.

Step	Action
1	Enter the EAC# into the GUI search field.
2	Verify the information on the screen is correct.
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none">• Choose Approve Case.• Choose Approve—order notice.• Choose “Card Sent to Applicant” from drop down menu.
5	Enter validity dates assigned to the I-918.
6	Select “Save”.
7	Select “Okay”.
8	Exit from screens.

Continued on next page

GUI Updating, Continued

Approval (U-1 Outside of the US)

Follow the steps below to update the card approval in GUI.

Step	Action
1	Enter EAC# into GUI search field.
2	Change the address to: 75 Lower Welden Street St. Albans, VT 05479
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none">• Choose Approve Case.• Choose Approve—order notice.• Choose “Card Sent to Applicant” from drop down menu.
5	Enter validity dates assigned to the I-918.
6	Select “Save”.
7	Select “Okay”.
8	Exit from screens.

NOTE: PONDS may contact you when the card is returned. The card can be destroyed. The record can be reopened and a new card issued when the U-1 provides evidence of his/her lawful entry as a U nonimmigrant.

RFE

Follow the steps below to update the RFE in GUI.

Step	Action
1	Enter EAC# into GUI search field.
2	Verify information on screen is correct.
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none">• Choose Case Review.• Choose Place in Suspense.• Choose Order Request for Evidence (either initial and additional or just additional).
5	Select “Save”.
6	Select “Okay”.
7	Exit from screens.

Continued on next page

GUI Updating, Continued

Denial

Follow the steps below to update a denial in GUI.

Step	Action
1	Enter EAC# into GUI search field.
2	Verify information on screen is correct.
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none">• Choose “Deny the Case”.• Choose “Order Denial Notice”.
5	Select “Okay”.
6	Remove Supervisory Hold.
7	Exit record.

GUI Updating Errors

If an I-918 is erroneously updated as an approval, or the data entered for the update is incorrect, refer to the “Case Approved by Error – Stop Card Production” section of the Case Updated by Error in CLAIMS SOP.

For all other errors, follow the instructions in the Case Updated by Error in CLAIMS SOP.

Glossary of Terms

BIWPA Acronym for Battered Immigrant Women Protection Act of 2000 of the Victims of Trafficking and Violence Protection Act of 2000, div. B, Violence Against Women Act of 2000, tit. V, Pub. L. No. 106-386, 114 Stat. 1464, (2000), amended by Violence Against Women and Department of Justice Reauthorization Act of 2005, tit. VIII, Pub. L. 109-162, 119 Stat. 2960 (2006), amended by Violence Against Women and Department of Justice Reauthorization Act—Technical Corrections, Pub. L. 109-271, 120 Stat. 750 (2006).

Certifying Agency A Federal, State or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This includes agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Equal Employment Opportunity Commission, and the Department of Labor.

Certifying Official The 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 the agency; or a Federal, State, or local judge.

Indian Country Indian Country includes:

- All land within the limits of any Indian reservation under the jurisdiction of the U.S. Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;
- All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof; and whether within or without the limits of a state; and
- All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

Investigation or prosecution The detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.

Continued on next page

Glossary of Terms, Continued

Military Installation	Any facility, base, camp, post, encampment, station, yard, center, port, aircraft, vehicle, or vessel under the jurisdiction of the Department of Defense, including any leased facility, or any other location under military control.
Next friend	A person who appears in a lawsuit to act for the benefit of the alien under the age of 16 or incapacitated or incompetent, who has suffered substantial physical or mental abuse as the result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian.
Physical or mental abuse	Injury or harm to the victim's physical person, or harm to or impairment of the emotional or psychological soundness of the victim
Qualifying crime or qualifying criminal activity	Includes one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail, extortion; manslaughter; murder, felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.
Similar activity	Refers to criminal offenses in which the nature and the elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities in INA 101(a)(15)(U)(iii).
Qualifying family member	In the case of an alien victim 21 years of age or older who is eligible for U nonimmigrant status as described in section 101(a)(15)(U) of the Act, the spouse or child(ren). In the case of an alien victim under the age of 21 who is eligible for U nonimmigrant status as described in section 101(a)(15)(U) of the Act, qualifying family member means the spouse, child(ren), parents, or unmarried siblings under the age of 18 of such alien.

Continued on next page

Glossary of Terms, Continued

Territories and Possessions of the United States	American Samoa, Bajo Nuevo (the Petrel Islands), Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, Northern Mariana Islands, Palmyra Atoll, Serranilla Bank, and Wake Atoll.
United States	Except as otherwise specifically noted within the INA or regulations, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam and the Virgin Islands of the United States. (<i>see INA 101(a)(38)</i>).
U nonimmigrant status certification	Form I-918, Supplement B, “U Nonimmigrant Status Certification,” which confirms that the petitioner has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim.
U interim relief	Interim benefits that were provided by USCIS to petitioners for U nonimmigrant status, who requested such benefits and who were deemed prima facie eligible for U nonimmigrant status prior to the publication of the implementing regulations.
Victim of qualifying criminal activity	An alien who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity.

Appendix 1

I-918 Routing Worksheet for Withdrawals

Withdrawal I-918/I-918A

Pink Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER Place I-918/I918A Barcode Here **ISO #:** _____ **DATE:** _____

CLERICAL ACTION

RFE

- ☐ Additional Evidence (87 Days) ☐ Initial/Additional Evidence (87 Days)
☐ See Attached Document
☐ Saved on LAN under: EAC# _____ A# _____ ☐ No Action Needed by Clerical

APPROVAL

- In U.S. Outside U.S.
☐ U-1 NGO List ☐ U-1
☐ Derivative NGO List ☐ Derivative
U-2 U-3 U-4 U-5 U-2 U-3 U-4 U-5

- ☐ I-192 Release

DENIAL/ORDER

I-918 Order #: _____ Saved on LAN under: EAC# _____ A# _____
I-192 Order #: _____ Saved on LAN under: EAC# _____ A# _____

WAIT LIST

Date Received: _____ FBI Name DOB: _____
FD258 Date: _____ FD258 Results: IDENT /NONIDENT

FILE ROUTING

- ☐ Data Entry Scanning
Photos _____ Signature _____ Fingerprint _____ ☐ AAO: _____
(Supervisor/Control Sign-off)
- ③ ☒ D6 VAWA Sort ☒ Update CIS COA as: _____ (Previous COA) ① ☒ SISO Denial Sign-off: _____
(If denied, COA update after the appeal period.)
- ☐ PCU/ FMU ☐ Return to ISO# _____
At Cube # _____
☐ VAWA - Expedites T/O - Shelving ☐ NTA Referral: _____
☐ I-918 RFE Hold Shelf _____ 33 days _____ 87 days (Supervisor Sign-off)
☐ Consolidate: _____ into _____
- ② ☒ Denial/Appeal hold shelf 60 days ☐ Other: _____

④ ☒ RECORDS

Rev. April 9, 2014 Print on pink paper for normal processing or white paper for wait list cases

Appendix 2

I-918 Routing Worksheet for Intents to Deny

Intent to Deny I-918/I-918A

Pink Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER	Place I-918/1918A Barcode Here	ISO #: _____ DATE: _____						
CLERICAL ACTION								
RFE								
<input type="checkbox"/> Additional Evidence (87 Days) <input type="checkbox"/> Initial/Additional Evidence (87 Days) <input type="checkbox"/> See Attached Document <input type="checkbox"/> Saved on LAN under: BAC# A# <input type="checkbox"/> No Action Needed by Clerical								
APPROVAL								
<table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <u>In U.S.</u> <input type="checkbox"/> U-1 NGO List <input type="checkbox"/> Derivative NGO List <div style="display: flex; justify-content: space-around; font-size: small;"> U-2 U-3 U-4 U-5 </div> </td> <td style="width: 50%; vertical-align: top;"> <u>Outside U.S.</u> <input type="checkbox"/> U-1 <input type="checkbox"/> Derivative <div style="display: flex; justify-content: space-around; font-size: small;"> U-2 U-3 U-4 U-5 </div> </td> </tr> </table> <input type="checkbox"/> I-192 Release			<u>In U.S.</u> <input type="checkbox"/> U-1 NGO List <input type="checkbox"/> Derivative NGO List <div style="display: flex; justify-content: space-around; font-size: small;"> U-2 U-3 U-4 U-5 </div>	<u>Outside U.S.</u> <input type="checkbox"/> U-1 <input type="checkbox"/> Derivative <div style="display: flex; justify-content: space-around; font-size: small;"> U-2 U-3 U-4 U-5 </div>				
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DENIAL/ORDER								
<table style="width: 100%;"> <tr> <td style="width: 40%;">I-918 Order #: _____</td> <td style="width: 30%;">Saved on LAN under: _____</td> <td style="width: 30%;">EAC# A#</td> </tr> <tr> <td>I-192 Order #: _____</td> <td>Saved on LAN under: _____</td> <td>EAC# A#</td> </tr> </table>			I-918 Order #: _____	Saved on LAN under: _____	EAC# A#	I-192 Order #: _____	Saved on LAN under: _____	EAC# A#
I-918 Order #: _____	Saved on LAN under: _____	EAC# A#						
I-192 Order #: _____	Saved on LAN under: _____	EAC# A#						
WAIT LIST								
<table style="width: 100%;"> <tr> <td style="width: 50%;">Date Received: _____</td> <td style="width: 50%;">FBI Name DOB: _____</td> </tr> <tr> <td>FD258 Date: _____</td> <td>FD258 Results: IDENT /NONIDENT</td> </tr> </table>			Date Received: _____	FBI Name DOB: _____	FD258 Date: _____	FD258 Results: IDENT /NONIDENT		
Date Received: _____	FBI Name DOB: _____							
FD258 Date: _____	FD258 Results: IDENT /NONIDENT							
FILE ROUTING								
<table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> Data Entry Scanning Photos _____ Signature _____ Fingerprint _____ <input type="checkbox"/> D6 VAWA Sort <input type="checkbox"/> Update CIS COA as: _____ (U denied, COA update after the appeal period.) <input checked="" type="checkbox"/> FCU/ FMU <input type="checkbox"/> VAWA - Expedites T/O - Shelving <input checked="" type="checkbox"/> I-918 RFE Hold Shelf <input checked="" type="checkbox"/> 33 days _____ 87 days <input type="checkbox"/> Consolidate: _____ into _____ <input type="checkbox"/> Denial/Appeal hold shelf 60 days </td> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> AAO: _____ (Supervisor/Counsel Sign-off) <input type="checkbox"/> SISO Denial Sign-off: _____ <input type="checkbox"/> Return to ISO# _____ At Cube # _____ <input type="checkbox"/> NTA Referral: _____ (Supervisor Sign-off) <input type="checkbox"/> Other: _____ _____ <input type="checkbox"/> RECORDS </td> </tr> </table>			<input type="checkbox"/> Data Entry Scanning Photos _____ Signature _____ Fingerprint _____ <input type="checkbox"/> D6 VAWA Sort <input type="checkbox"/> Update CIS COA as: _____ (U denied, COA update after the appeal period.) <input checked="" type="checkbox"/> FCU/ FMU <input type="checkbox"/> VAWA - Expedites T/O - Shelving <input checked="" type="checkbox"/> I-918 RFE Hold Shelf <input checked="" type="checkbox"/> 33 days _____ 87 days <input type="checkbox"/> Consolidate: _____ into _____ <input type="checkbox"/> Denial/Appeal hold shelf 60 days	<input type="checkbox"/> AAO: _____ (Supervisor/Counsel Sign-off) <input type="checkbox"/> SISO Denial Sign-off: _____ <input type="checkbox"/> Return to ISO# _____ At Cube # _____ <input type="checkbox"/> NTA Referral: _____ (Supervisor Sign-off) <input type="checkbox"/> Other: _____ _____ <input type="checkbox"/> RECORDS				
<input type="checkbox"/> Data Entry Scanning Photos _____ Signature _____ Fingerprint _____ <input type="checkbox"/> D6 VAWA Sort <input type="checkbox"/> Update CIS COA as: _____ (U denied, COA update after the appeal period.) <input checked="" type="checkbox"/> FCU/ FMU <input type="checkbox"/> VAWA - Expedites T/O - Shelving <input checked="" type="checkbox"/> I-918 RFE Hold Shelf <input checked="" type="checkbox"/> 33 days _____ 87 days <input type="checkbox"/> Consolidate: _____ into _____ <input type="checkbox"/> Denial/Appeal hold shelf 60 days	<input type="checkbox"/> AAO: _____ (Supervisor/Counsel Sign-off) <input type="checkbox"/> SISO Denial Sign-off: _____ <input type="checkbox"/> Return to ISO# _____ At Cube # _____ <input type="checkbox"/> NTA Referral: _____ (Supervisor Sign-off) <input type="checkbox"/> Other: _____ _____ <input type="checkbox"/> RECORDS							

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Appendix 3

I-918 Routing Worksheet for Intents to Revoke

Intent to Revoke I-918/I-918A

Pink Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER	Place I-918/I918A Barcode Here	ISO #: _____ DATE: _____
CLERICAL ACTION		
RFE		
<input type="checkbox"/> Additional Evidence (87 Days) <input type="checkbox"/> See Attached Document <input checked="" type="checkbox"/> Saved on LAN under: EAC# A#		
<input type="checkbox"/> Initial/Additional Evidence (87 Days) <input type="checkbox"/> No Action Needed by Clerical		
APPROVAL		
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><u>In U.S.</u></p> <input type="checkbox"/> U-1 NGO List <input type="checkbox"/> Derivative NGO List <div style="display: flex; justify-content: space-around; font-size: small;"> U-2U-3U-4U-5 </div> </div> <div style="width: 45%;"> <p><u>Outside U.S.</u></p> <input type="checkbox"/> U-1 <input type="checkbox"/> Derivative <div style="display: flex; justify-content: space-around; font-size: small;"> U-2U-3U-4U-5 </div> </div> </div>		
<input type="checkbox"/> I-192 Release		
DENIAL/ORDER		
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> I-918 Order #: _____ I-192 Order #: _____ </div> <div style="width: 50%;"> Saved on LAN under: _____ EAC# _____ A# _____ Saved on LAN under: _____ EAC# _____ A# _____ </div> </div>		
WAIT LIST		
Date Received: _____ FBI Name DOB: _____ FD258 Date: _____ FD258 Results: IDENT /NONIDENT		
FILE ROUTING		
<input type="checkbox"/> Data Entry Scanning Photos _____ Signature _____ Fingerprint _____		
<input type="checkbox"/> AAO: _____ <small>(Supervisor/Council Sign-off)</small>		
<input type="checkbox"/> D6 VAWA Sort <input type="checkbox"/> Update CIS COA as: _____ <small>(If denied, COA update after the appeal period.)</small>		
<input checked="" type="checkbox"/> SISO Denial Sign-off: _____		
<input checked="" type="checkbox"/> FCU/ FMU <input type="checkbox"/> VAWA - Expedites T/O - Shelving <input checked="" type="checkbox"/> I-918 RFE Hold Shelf <input checked="" type="checkbox"/> 33 days _____ 87 days <input type="checkbox"/> Consolidate: _____ into _____		
<input type="checkbox"/> Denial/Appeal hold shelf 60 days		
<input type="checkbox"/> Return to ISO# _____ At Cube # _____		
<input type="checkbox"/> NTA Referral: _____ <small>(Supervisor Sign-off)</small>		
<input type="checkbox"/> Other: _____		
<input type="checkbox"/> RECORDS		

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Appendix 4

I-918 Routing Worksheet for Revocations

Revocation of I-918/I-918A

Pink Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER	ISO #: _____
	DATE: _____

CLERICAL ACTION

RFE

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Additional Evidence (87 Days)
<input type="checkbox"/> See Attached Documents
(2) <input checked="" type="checkbox"/> Saved on IAN under: (EAC#) A# | <input type="checkbox"/> Initial/Additional Evidence (87 Days)

<input type="checkbox"/> No Action Needed by Clerical |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|

APPROVAL

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>In U.S.</u>
<input type="checkbox"/> U-1 NGO List
<input type="checkbox"/> Derivative NGO List
<div style="display: flex; justify-content: space-around; font-size: small;"> U-2 U-3 U-4 U-5 </div> | <u>Outside U.S.</u>
<input type="checkbox"/> U-1
<input type="checkbox"/> Derivative
<div style="display: flex; justify-content: space-around; font-size: small;"> U-2 U-3 U-4 U-5 </div> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

☐ I-192 Release

DENIAL/ORDER

I-918 Order #: _____	Saved on IAN under: _____	EAC# _____	A# _____
I-192 Order #: _____	Saved on IAN under: _____	EAC# _____	A# _____

WAIT LIST

Date Received: _____	FBI Name DOB: _____
FD258 Date: _____	FD258 Results: IDENT /NONIDENT

FILE ROUTING

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Data Entry Scanning
Photos _____ Signature _____ Fingerprint _____
(4) <input checked="" type="checkbox"/> D6 VAWA Sort
<input checked="" type="checkbox"/> Update CIS COA as: _____ (Previous COA)
(if denied, COA update after the appeal period.) | <input type="checkbox"/> AAO: _____
(Supervisor/Counsel Sign-off)
(1) <input checked="" type="checkbox"/> SISO Denial Sign-off: _____ |
| <input type="checkbox"/> FCU/ FMU
<input type="checkbox"/> VAWA - Expedites T/O - Shelving
<input type="checkbox"/> I-918 RFE Hold Shelf _____ 33 days _____ 87 days
<input type="checkbox"/> Consolidate: _____ into _____ | <input type="checkbox"/> Return to ISO# _____
At Cube # _____
<input type="checkbox"/> NTA Referral: _____
(Supervisor Sign-off) |
| (3) <input checked="" type="checkbox"/> Denial/Appeal hold shelf 60 days | (5) <input checked="" type="checkbox"/> RECORDS |

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I-918 SOP Revisions

**Changes Prior
to Current
Revision Date**

The revisions below represent changes that were made to this document prior to the current revision date.

Revision #	Date	Subject	Pages
1	5/8/08	FBI name check process for I-912 added	38-40
2	5/29/08	Filing deadline for Interim Relief recipients suspended.	33
3	5/29/08	<ul style="list-style-type: none"> • Process for notifying ICE for trafficking referrals refined • Note regarding supervisory consultation on waivers for violent criminal acts, terrorism, foreign policy concerns or national security issues added. • Form I-192 to be used to waive passport requirements (INA 212(a)(7)(B)) for U status seekers who are in the US. • Added necessity to annotate on the form what grounds are being waived with Form I-192 	53 36 36 37
4	6/4/08	Procedure for contacting law enforcement agencies refined	27
5	7/3/08	IBIS clarification for I-918A	10
6	8/18/08	Revised and reformatted (info mapped) entire document.	Throughout
7	1/22/09	<ul style="list-style-type: none"> • Fee waiver on I-192 added • Clarification of passport/BCC requirement • Extension of status provisions • Process for FD-258s that are not scanned • GUI updating steps added • Waiver criteria added • Missing RAP Sheet procedure 	Throughout 12 Throughout 43 79 49 44
8	2/6/09	<ul style="list-style-type: none"> • Added to initial evidence required - photos for consular processing • Principal's EAC# to be entered into the Remarks block on I-918A 	36 38

Continued on next page

I-918 Routing Worksheet for Revocations, Continued

Changes Prior to Current Revision Date (continued)

Revision #	Date	Subject	Pages
9	04/10/09	<ul style="list-style-type: none"> • ICE referral process and Record of Contact refined. 	67
10	05/01/09	<ul style="list-style-type: none"> • Process for correcting GUI errors added. • Added a new block titled "Fingerprint Response". • Updated ICE email address. 	80 43-45 69
11	06/12/09	<ul style="list-style-type: none"> • Added third paragraph to "General" table regarding relationship documents. • Added new block titled "Age Out Restrictions". • Added new block titled "Worksheet Annotations". • Added new block titled "Needing Biometrics (in the US)". • Added new block titled "Needing Biometrics (outside the US)". • Added new block titled "Multiple I-192 Waivers Filed". • Added new block titled "Form I-193 Waiver Filed". • Modified text in "General" block regarding validity dates. • Added section titled "Validity Dates". • Included more information in the "General" block under Employment Authorization section. • Employment Authorization validity dates clarified and "GUI Claims Updating Errors" lock added. • Validity date information removed from updating blocks titled "Approval of I-918 in HAVEN" and "Approval of I-918A in HAVEN". 	39 41 44 47 48 59 60 64 64-67 71 73 88
12	7/22/09	<ul style="list-style-type: none"> • Moved "Glossary of Terms" to back of document. • Corrected formatting issues. 	84-86 Throughout
13	09/18/09	<ul style="list-style-type: none"> • Added another row at the end of the "If/Then" table in the Age-out Restrictions block. • Added second paragraph to the Waiver Approval and Validity Dates block. • Corrected validity date in the example from 3/29/09 to 3/22/09. 	34 48 58

Continued on next page

I-918 Routing Worksheet for Revocations, Continued

Changes Prior to Current Revision Date (continued)

Revision #	Date	Subject	Pages
14	12/04/09	Modified I-193 process.	50
15	12/18/09	<ul style="list-style-type: none"> • FBI name check validation added • Section 384: Adverse Information expanded 	52 62-66
16	2/19/10	<ul style="list-style-type: none"> • A/T-file processing guidance added • Denial for lack of I-918, Supplement B • Victim definitions clarified • Officer required to locate derivative filings • Overseas photo requirements modified • Fingerprint issues clarified (missing prints and unclassifiable prints) • Decisions on multiple filings for the same alien 	13 17 20-23 35 41 45-47 67
17		<ul style="list-style-type: none"> • Notification process for 384 violations added • ROP changed (I-918 and I-192 ROPs separated) 	71 81
18		<ul style="list-style-type: none"> • Passport/BCC validity clarification 	15
19	05/05/10	<ul style="list-style-type: none"> • Update the FBI Name and DOB check process 	58-60
20	05/28/10	<ul style="list-style-type: none"> • A new scenario to assist when assigning validity dates was added 	67
21	7/9/10	<ul style="list-style-type: none"> • Waiting List Process replaces Visa Cap/Waiting List section • Trafficking referrals email address updated 	76-80 85
22	10/19/2010	<ul style="list-style-type: none"> • Exception circumstances option added to U-1 extension possibilities • Interim relief termination options added • Blank I-918B may result in denial • Age-out restrictions for table updated for U-3 • Denial requirement for pending I-918A when principal adjusts • Interim relief termination date added • U-3 validity periods for age out cases added • SISO sign off requirement for NTA 	12 15 17 38 39 43 66 70
23	12/2/2010	KCC routing reference removed.	41
		Validity scenario added for Qualifying Family Members U-1 when the U-1 has a pending I-485 or is expired	66
24	01/31/2011	<ul style="list-style-type: none"> • Fee reference for biometrics removed • Replaced duplicate RAP sheet process with BBSS process 	44 49

Continued on next page

I-918 Routing Worksheet for Revocations, Continued

Changes Prior to Current Revision Date (continued)

Revision #	Date	Subject	Pages
25	04/26/2011	<ul style="list-style-type: none"> • Clarified what constitutes “No I-918B filed” • Fingerprint age requirements clarified 	17 44
26	06/18/2011	<ul style="list-style-type: none"> • Added requirement to use the most up-to-date routing worksheet • Requesting an I-693 for health related grounds. • Added Form I-693 Validity Chart. • Added instructions for I-918A deferred action review. • Added instruction for sending a second copy of an approved petition/application for KCC Processing. • Added instructions for updating in GUI and HAVEN. • Added instructions for correcting an updating error in HAVEN. • Added instructions for updating approvals in GUI • Added instruction to issue I-192 denials through Correspondence Generator. • Removed references related to ACCESS database update. 	10 55 56 70-72 92 94 -106 106 107 110 Throughout
27	5/24/12	<ul style="list-style-type: none"> Added section entitled “Withdrawal of U Non Immigrant Status Certification Form I-918B Corrected information regarding how to calculate the age of the child for U3 Qualifying Family Members Deleted instructions for requesting fingerprint fees for principals and derivatives who reach the age of 14 while their Form I-918 or Form I-918A is pending. Updated instructions for requesting updated IDENT fingerprint results Deleted the block entitled “Requesting Duplicate or Updated RAP Sheets for IDENT cases. Updated the I-192 Name Check Process to indicate that FBI Name Check results for the I-192 are valid indefinitely Added table to identify recommended action when adjudicating a motion to reopen a denial based upon no Form I-918, Supplement B. Added call-up information when making Trafficking referrals to ICE 	17 36 44 49 51 59 87 90

Continued on next page

I-918 Routing Worksheet for Revocations, Continued

Changes Prior to Current Revision Date (continued)

Revision #	Date	Subject	Pages
		Added information regarding GUI updates when the Safe Address is a foreign address	106
28	10/22/2012	Renamed block labeled “Credible Evidence Standard”	10
		Added statutory and regulatory authority	11
		Renamed block labeled “Waiver Authority”	11
		Blocks relating to U-1, U-2, U-3, U-4, U-5 Eligibility Requirements – added “and” to penultimate item in both lists.	11
		Corrected instructions for accessing the Div 6 MRD FP Scheduling worksheet to reflect correct name and folder location. The worksheet is titled “VAWA Biometrics & FP Scheduling” but labeled “Div 6 MRD FP Scheduling” in the Div 6 ADJ Worksheets folder	54
		Added instructions to request refreshed fingerprint responses for expired Non-ident and Ident responses	54
		Renamed block labeled “Unusually Direct Victim” to “Bystanders Who Suffer Unusually Direct injuries” Added Federal Register citation where this term is discussed.	54
		Added information regarding the U1 validity period for U Derivatives who subsequently file their own I-918 seeking principal status	65 and 67
		“Overseas Safe Address” – placed in separate block	108
		Corrected Approval instructions to indicate “Send to Clerical” field should indicate “N” for I-192 approvals	111
		Added Previous Revisions at the end of the document	115
		Created hyperlinks to worksheets and referenced citations	Throughout
29	1/9/13	Revision 29 includes revisions in the SOP that were uploaded two different dates. These have been consolidated at the request of the Division. <ul style="list-style-type: none"> • Added block entitled “212(a)(2)(D) Prostitution” • Updated information regarding a Positive FBI Fingerprint response. • Changed references to ACCESS to read HAVEN • Updated age-out section • Added instruction for the officer to list the I-94 number on the worksheet prior to sending the file to clerical. 	57 64 Throughout 77 108

Continued on next page

I-918 Routing Worksheet for Revocations, Continued

Changes Prior to Current Revision Date (continued)

Revision #	Date	Subject	Pages
30	5/1/13	Added requirement that LPRs are not eligible for U related nonimmigrant status.	7, 8
		Added note – U3 Derivatives will get full four year validity period.	40
		Explained examples of Health Related Grounds	54
		Added block for “Subsequent I-192 Filed	58
		In the “U-3 Reaching 21 before Validity Expires” block, removed reference to the same ending date as principal and change the ending date to just a full four years. Also corrected HAVEN validity date for a derivative approved on 3/22/09.	68
		Revised second block title to “U-2, U-4 and U-5 - Neither Principal nor Derivative had Interim Relief.”	72
		Added requirement that all Intents to Revoke and Revocations must be completed on the LAN and not in Correspondence Generator	93

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I-918 Routing Worksheet for Revocations, Continued

Changes Prior to Current Revision Date (continued)

Revision #	Date	Subject	Pages
		Updated references of ACCESS to reflect HAVEN	Entire Document
31	6/24/13	Updated blocks relating to derivatives to indicate that they will receive a full four year validity period, even if that exceeds the validity period of the principal.	8, 9
		Added requirement that IBIS ROIQ be included for KCC processing	10
		Added instruction that guardian or next friend may write the personal statement on behalf of principals who are incapacitated or under the age of 16.	11
		Updated table regarding statutory criminal activity	16
		Updated block entitled "Substantial Mental or Physical Abuse" to include information regarding preexisting conditions and a series of acts.	22
		Updated block entitled "Prohibition for Certain Family Members" to indicate that the officer must enter culpable family members into HAVEN when adjudicating domestic violence related cases.	35
		Updated sections relating to age-out provisions.	36, 58, 60
		Removed chapters entitled "Inadmissibility Waivers", "I-192 FBI Name Checks", and "I-918 Age Out Deferred Action Review"	
		Updated hyperlinks	Entire Document
32	8/6/13	Removed U-3 from Duration of Status section	8
		Added requirement that the petitioner submit initial evidence of passport that was valid at the time of filing.	11
		Changed system that I-192's are processed in from CLAIMS to GUI.	89
		Changed 4 to four.	8,55,57
		Updated information for calculating the age of the qualifying family member.	33
		Added block entitled "A file Requests"	62
		Updated SOP for formatting, spelling, and branding	Entire Document

Continued on next page

I-918 Routing Worksheet for Revocations, Continued

Changes Prior to Current Revision Date (continued)

Revision #	Date	Subject	Pages	
33	8/13/13	Renamed Chapter entitled "Wait List" That chapter is now named "Post U Visa CAP Process". Updated maps to include current processing.	74	
34	8/27/13	Removed references to requesting a finger print fee	42, 43	
		Updated block entitled "Needing Biometrics (in the United States) to reflect that fingerprint scheduling should be requested by using the Div 6 MRD Fingerprint Scheduling worksheet.	43	
		Replaced references to "IBIS" with "TECS"	Throughout	
35	10/8//13	Deleted requirement that the petitioner must submit three passport style photographs of a derivative who is outside of the United States.	34	791
		Removed custody and residency requirement related to adopted children. Combined information relating to biological and adopted children into one block.	37	803
36	11/4/13	Added map instructing the officer to completely fill out the Div 6 MRD Fingerprint Scheduling worksheet.	43	874
		Corrected hyperlink	43	874
		Added clarification that the officer should look to the age at the victim at the time the qualifying crime occurred when determining who qualifies as an indirect victim.	19	947
		Updated TECS map to include instructions for officers to send a copy of the Resolution Memo when sending copies to the KCC.	10	945

Continued on next page

I-918 Routing Worksheet for Revocations, Continued

Changes Prior to Current Revision Date (continued)

Revision #	Date	Subject	Pages	
37	11/14/13	Added instructions for sending names of updated certifying officials to ISO3s for ECN updating	14	990
		Added instruction that the officer is not required to obtain a valid fingerprint response prior to issuing a denial.	15,42	
		Corrected hyperlink	10	960
38	12/2/13	Updated map entitled “U-1 Initial Evidence” to reflect that petitioners may submit evidence of a valid Border Crossing Card (BCC), in addition to a passport.	11	1032
		Corrected validity dates for derivatives when the U-1 has a pending I-485.	59	1093
		Updated Wait List Process	74-81	1084
		Deleted maps entitled “Case Actions” and “Validity Dates”.	76	
39	1/16/14	Updated map entitled, “FD-258 in File but No Results in System” to include dead scan instructions.	50	1169
		Updated Wait-list process Table	76-77	1209



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

July 11, 2014

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1 General

1.1 Purpose

This SOP sets forth the procedures for the adjudication and processing of Form I-918, Petition for U Nonimmigrant Status, within the Vermont Service Center (VSC).

1.2 Disclaimer

This SOP is not intended to be, and should not be taken as, an authoritative statement of the rules of decision for Form I-918, Petition for U Nonimmigrant Status. This SOP is only a guide for the consistent processing of Form I-918. USCIS bases the actual decision in a particular case on the record for that case, the Immigration and Nationality Act (INA), regulations, precedent administrative and judicial decisions, and general statements of USCIS policy. Thus, nothing in this SOP creates any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

1.3 Applicability/ Scope

This SOP is applicable to all VSC SISOs, officers and clerical personnel performing adjudicative or clerical functions or review of those functions. Personnel performing other duties pertaining to Form I-918 will be similarly bound by those provisions of this SOP that apply to their specific task or duties.

1.4 Conflict Resolution

Any provision of the INA or 8 CFR that conflicts with this SOP will take precedence over the SOP. If you identify a conflict, report the matter immediately to your supervisor or to any SISO.

If any conflict is noted between this SOP and policy or guidance documents issued by HQSCOPS, report the matter through the supervisory chain for resolution.

This SOP supersedes all prior Vermont Service Center guidance documents, policy memoranda, training packets, or other materials pertaining to clerical operations and processing; these documents should be discarded.

1.5 Revisions

The *revisions* section should include the following information:

Numbered revisions to this SOP will be issued as required; no other document will be considered a valid modification.

Electronic Copies

Electronic copies of the SOP will be modified to reflect changes as they are issued. A summary of all revisions will be included in the electronic SOP.

Proposed Changes

Submit proposed changes with appropriate supporting documents through first-line supervisors.

Current Revisions

Current revisions will be posted in the beginning of the document and all new changes will be highlighted in yellow. *NOTE: The KM# column indicates the Knowledge Management change request number associated with the change.

Revision #	Date	Subject	Page(s)	KM#
46	7/11/14	Added statement about who can collect fingerprints overseas.	58	1853
--	--	Added notes related to placing applicants on the Wait List when there are subsequent filings.	77, 91	1788
--	--	Added reminder and instructions to correct Name/DOB discrepancies for Wait List cases.	90, 124	1852
--	--	Added steps for I918/I918As that need RFE/NOID issuance to the Wait List processing table.	92	1799
--	--	Added instructions to band more than one A-file together for Wait List cases.	93	1852
--	--	Added processing instructions for Wait List cases.	93	1852
--	--	Updated all routing sheets.	132-135	1852

•-----•

2 General Adjudication Information

2.1 De Novo Review

USCIS will conduct a *de novo* review of the petition and supporting evidence during all stages of the adjudication process.

USCIS is permitted to investigate any aspect of the petition.

2.2 Burden of Proof

The burden of proof is on the petitioner at all times during the initial adjudication of a Petition for U nonimmigrant Status (Form I-918 and Form I-918, Supplement A).

The petitioner is required to fully establish all elements of eligibility for the desired benefit.

2.3 Credible Evidence Standard

The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by USCIS. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence.

USCIS may use any previously submitted evidence for this or any other immigration benefit or relief in evaluating eligibility.

USCIS is not bound by previous factual determinations.

2.4 Routing Worksheets

You are required to use the most current worksheet each time you take an adjudicative or routing action on an I-918 or I-918A filing.

3 Overview

3.1 Statutory and Regulatory Authorities

Refer to the chart below for the appropriate statutory and regulatory authority for the U Nonimmigrant Status Program:

If you are referencing the ...	Then the appropriate statutory and regulatory authority is ...
U Nonimmigrant Status Program	<u>INA Section 101(a)(15)(U)</u>
Implementing regulation	<u>8 CFR 214.14</u>
Filing fees for U nonimmigrant petitions	<u>8 CFR 103.7</u>
Waiver of inadmissibility	<u>8 CFR 212.17</u>
Regulation requiring certain U nonimmigrants to file an application when seeking employment authorization	<u>8 CFR 274a.13(a)</u>
Regulation allowing U nonimmigrant status recipients to accept employment	<u>8 CFR 274a.12(a)</u>
Interim Rule	<u>72 FR 53014</u>

3.2 U-1 Eligibility Requirements

Basic Eligibility Requirements for U-1 (Principal):

1. Petitioner must be a victim of one of the enumerated crimes found in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (INA).
2. Petitioner must have suffered substantial physical or mental abuse as a result of being a victim of one of those enumerated crimes.
3. Crime(s) must have violated the laws of the United States or occurred in the United States.
4. Petitioner has been/is being/likely to be helpful to the investigation and/or prosecution of the crime for which he/she was a victim, and
5. Petitioner is admissible to the United States. Refer to the I-192 SOP for information related to inadmissibility grounds and Requests for Evidence.

NOTE: Must be a non-immigrant. LPR's are not eligible to be granted U status.

3.3 U-2, U-3, U-4, U-5 Eligibility Requirements

Basic Eligibility Requirements for U-2, U-3, U-4, U-5 (Derivative):

1. Alien must be a qualifying family member of a U-1 (Principal) with an approved Petition for U Nonimmigrant Status (Form I-918). and
2. Alien must be admissible to the United States. Refer to the I-192 SOP for information related to inadmissibility grounds and Requests for Evidence.

NOTE: Must be a non-immigrant. LPR's are not eligible to be granted U status.

3.4 Visa Cap/ Wait List

- A limit of 10,000 U-1s (principals) can be approved in any fiscal year.
 - All those who apply but whose petition cannot be approved solely because there are no visa numbers remaining will be placed on a Wait List.
 - Those on the Wait List may be eligible for deferred action, parole and stays of removal for the U-1 petitioners and eligible family members.
-

3.5 Duration of Status

- Generally, U nonimmigrant status may be approved for a period not to exceed four years in the aggregate.
 - Exceptions are made for cases with more than three years in interim relief. These cases will be granted one year of validity in addition to the time already accrued in interim relief. This will allow the alien time to file for adjustment while still in valid U nonimmigrant status.
 - A qualifying family member granted U-2, U-4 and U-5 status will be approved for an initial period that does not exceed the expiration date of the initial period approved for the principal alien. Extensions are possible in limited circumstances.
 - A qualifying family member granted U-3 status will be approved for an initial period of four years even if this validity exceeds the expiration date of the initial period approved for the principal alien. Extensions are possible in limited circumstances.
-

3.6 Extension of U-1 Status

Extensions of U-1 nonimmigrant status beyond the four-year period are available upon attestation by the certifying official that the alien's presence in the United States continues to be necessary to assist in the investigation or prosecution of qualifying criminal activity or if the U-1 can demonstrate he/she qualifies for an extraordinary exception circumstance.

3.7 Extension of status (U2 through U-5)

When a U nonimmigrant's initial approved period of stay on Form I-94 is less than four years, he or she may file the Application to Extend/Change Nonimmigrant Status (Form I-539) to request an extension of U nonimmigrant status for an aggregate period not to exceed four years.

This most commonly occurs when a principal (U-1) has time in interim relief that counts toward time in U status but the approved derivatives (U-2 through U-5) do not have time in interim relief, or when the derivative's filing is not approved at the same time as the principal's.

As required by 8 CFR 214.14(g)(1), the initial validity period given to U-2, U-4, and U-5 derivatives cannot exceed the expiration date given to the principal; the initial validity period given to U-3 derivatives may exceed the expiration date given to the principal. In some instances, the derivative may need to file Form I-539 to seek an extension of status to ensure that the qualifying family member is able to attain at least three years in U nonimmigrant status for the purposes of adjusting under 245(m) of the Act.

Additionally, qualifying family members may be approved beyond the date of the U-1 nonimmigrant's status when the qualifying family member is unable to enter the United States timely due to delays in consular processing. Form I-539 needs to be filed in this instance as well.

The U-visa team is responsible for the adjudicating I-539s filed for the purpose of extending U nonimmigrant status.

3.8 Aliens outside the United States

Petitioners for U nonimmigrant status do not need to be physically present in the United States to file Form I-918, Petition for U Nonimmigrant Status. Qualifying family members do not need to be physically present in the United States to have the I-918A approved.

3.9 Jurisdiction

- Petitions for U nonimmigrant status will be filed with the Vermont Service Center (VSC).
 - VSC has sole jurisdiction for the adjudication of this form type.
-

3.10 TECS

You must conduct a TECS check on the name of the principal and all aliases discovered in the course of the adjudication of the I-918.

You must conduct a TECS check on the name of the qualifying family member and all aliases discovered in the course of the adjudication of the I-918, Supplement A. When adjudicating an I-918, Supplement A, you must also conduct a TECS check on the principal. A copy of the TECS check used in the final decision of the principal's I-918 may be used if it is still within time limits. If there is a hit, copies of the Resolution Memo, ROIT, and TECS manifest print out must be included with the KCC copy.

Age restrictions cited in the TECS SOP apply. Refer to that document for more specifics on the TECS check process.

3.11 A-file Requirement

Form I-918 and I-918, Supplement A, are adjudicated in A-files. If the petition(s) are in T-files, follow the ISO File Maintenance Procedures SOP instructions before issuing a final decision.

4 Filing Requirements

4.1 Initial Evidence

4.1.1 U-1 Initial Evidence

Failure to provide this initial evidence may result in a request for additional evidence, a notice of intent to deny or a denial being issued on the petition.

Initial Evidence Required for U-1 Nonimmigrant Status (Form I-918):

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification” signed by a certifying official within six months immediately preceding the filing of Form I-918.
2. Any additional evidence to establish that:
 - The petitioner is a victim of qualifying criminal activity;
 - The petitioner has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity;
 - The petitioner possesses information about the qualifying criminal activity;
 - The petitioner has been, is being or is likely to be helpful to law enforcement concerning the qualifying criminal activity;
 - The criminal activity is qualifying and occurred in the United States, including Indian country and military installations, or the territories and possessions of the United States, or violated a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. Federal Court.
3. A statement signed by the petitioner describing the facts of the victimization. If the petitioner is incapacitated or under 16 years of age, the parent or next friend can write this statement.
4. Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) with fee or fee waiver request (*If the petitioner is inadmissible*)
5. Passport/BCC valid at the time the Form I-918 was filed.

NOTE: Petitioners filing from outside the United States do not need to provide evidence of a valid passport/BCC.

4.2 U-2, U-3, U-4, U-5 Initial Evidence

Failure to provide this initial evidence may result in a request for additional evidence, a notice of intent to deny or a denial being issued on the petition.

Initial Evidence Required for U-1 Nonimmigrant Status (Form I-918 Supplement A):

1. Evidence demonstrating the relationship of a qualifying family member,
2. Passport or border crossing card valid at the time the I-918A is filed; and
3. (*If inadmissible*) Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) with fee or fee waiver request.

NOTE: Derivatives who are outside the United States do not need to provide evidence of a valid passport.

4.3 Interim Relief

A petitioner who previously received interim relief is not required to submit initial evidence with the Form I-918 if he or she wishes to rely on the law enforcement certification and the other evidence that was submitted with the request for interim relief.

Interim relief is considered terminated if:

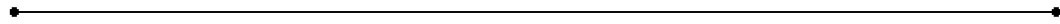
- The alien did not file his or her Form I-918 or have an I-918, Supplement A, filed on his or her behalf prior to February 1, 2010.
 - His or her Form I-918 or Form I-918, Supplement A, is denied.
-

4.4 Passport or Border Crossing Card

U nonimmigrant status seekers are required to present a passport or border crossing card valid at the time of filing or a passport or border crossing card that was valid for some period of time while the petition for U nonimmigrant status was pending.

Those without a passport or border crossing card valid at the time of filing for U nonimmigrant status may seek a waiver by filing the Application for Advance Permission to Enter as a Nonimmigrant Pursuant to Section 212(d)(3) of the Immigration and Nationality Act (Form I-192).

- The authority to waive the documentary requirement resides with the USCIS office having jurisdiction over the adjudication of Form I-918.
- The waiver may be revoked at any time after approval.
- There is no appeal from the revocation or denial of such a waiver.



5 Law Enforcement Certification

5.1 General

A certification from a qualified certifying official must accompany all Petitions for U Nonimmigrant Status (Form I-918) at the time of filing. In most cases, this certification takes the form of Supplement B of Form I-918. Exceptions exist for cases that were approved for Interim Relief purposes.

Deny any Form I-918 filed on or after November 1, 2009 that did not previously receive an approval under the Interim Relief program.

5.2 Properly executed I-918 Supplement B

A properly executed certification on Form I-918, Supplement B, is required for an alien seeking U nonimmigrant status. The burden is on the petitioner to provide the law enforcement certification.

The certifying agency conducting an investigation or prosecution of the qualifying criminal activity must prepare the Form I-918, Supplement B. It must be signed by the certifying official with an **original** signature **within the six months immediately preceding** the submission of Form I-918.

Special consideration will be given to those petitioners who received an Interim Relief approval.

5.3 Evidentiary Weight of the Law Enforcement Certification

The law enforcement certification will be given significant weight but will not be considered conclusive evidence that the petitioner has met the eligibility requirements.

Petitioners may be requested to submit additional supporting evidence to establish their claims.

5.4 Certification Requirements

All law enforcement certifications must contain the following details:

1. Name of the qualifying law enforcement agency
 2. Signature of a qualifying law enforcement official (specifically the head of the agency or someone in a supervisory role specifically designated by the head of the agency to issue U nonimmigrant certifications. (See exceptions for Interim Relief on page 33)
 3. Statement that the subject of the certification is the victim of a qualifying crime
 4. Statement that the subject of the certification possesses information necessary to the investigation/prosecution
 5. Statement that the subject of the certification has been, is being, or is likely to be helpful to the investigation/prosecution of the criminal activity.
-

5.5 Qualifying Law Enforcement Official

All law enforcement certifications must contain the signature of a qualifying law enforcement official. When the certifying official named on page one of the Certification is not the head of the agency, officers should determine whether the certifying officer holds a supervisory role within the agency.

If there is affirmative evidence in the file suggesting that the certifying official has not been designated by the head of the agency or is not properly affiliated with the certifying agency, the officer should speak with a supervisor before referring the file to CFDO for signature confirmation.

Officers should not ask for evidence that a certifying official is qualified without first discussing the RFE with a supervisor. The list of Certifying Officials on the Humanitarian Division VSC ECN website is a reference tool. Officers should not issue an RFE only because the certifying official is not on the list.

Refer to the table below to determine the appropriate adjudicative action based on the COL.

If the signature on law enforcement certification....	Then ...
Matches the name on the COL	Proceed with adjudication
Does not match the name on the COL	<ul style="list-style-type: none"> • RFE for evidence that the person who signed the law enforcement certification is authorized by the head of the agency to issue law enforcement certifications. • If, in response to that RFE, you receive the name of a recently designated certifying official, send that information to an ISO3 with a request to update the COL.

5.6 Failure to Submit U Nonimmigrant Status Certification (Form I-918, Supplement B)

Deny any Form I-918 filed on or after November 1, 2009 without issuing an RFE or NOID if it:

- Was not accompanied by a properly executed U Nonimmigrant Status Certification (Form I-918, Supplement B) at the time of filing; **and**
- Did not previously receive an approval under the Interim Relief program.

If a Form I-918 is filed with a blank I-918B (none of the fields of the form are filled out), you may immediately deny the Form I-918 as though there was no certification submitted. Note any other deficiencies in the record in the denial.

If a Form I-918 is filed with an I-918B that has no signature, you may immediately deny the Form I-918 as though there was no certification submitted. Note any other deficiencies in the record in the denial. You are not required to obtain a valid fingerprint response before denying the Form I-918.

NOTE: This does not pertain to photocopied signatures. If an I-918B has a photocopied signature of a certifying official, you must issue an RFE or NOID requesting the original signature.

5.7 Withdrawal of U Nonimmigrant Status Certification (Form I-918, Supplement B)

The law enforcement agency that issued the Form I-918, Supplement B may withdraw it at any time.

Follow the steps below when you receive a request to withdraw Form I-918, Supplement B.

Step	Action						
1	Verify that the request to withdraw is from the agency that issued the Form I-918, Supplement B.						
2	Determine the current status of the Form I-918. <table border="1"> <tr> <th>If the Form I-918...</th><th>Then issue an ...</th></tr> <tr> <td>Is pending,</td><td>Intent to Deny.</td></tr> <tr> <td>Has been approved,</td><td>Intent to Revoke.</td></tr> </table>	If the Form I-918...	Then issue an ...	Is pending,	Intent to Deny.	Has been approved,	Intent to Revoke.
If the Form I-918...	Then issue an ...						
Is pending,	Intent to Deny.						
Has been approved,	Intent to Revoke.						
3	Place the Withdrawal letter on the record side of the file, on top of the Form I-918, Supplement B.						
4	Annotate "Withdrawn" in the remarks block on the Form I-918, Supplement B.						
5	Indicate the date of withdrawal in the remarks block on the Form I-918, Supplement B.						

6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Fraud in Foreign Labor Contracting	Prostitution	Stalking
Hostage		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

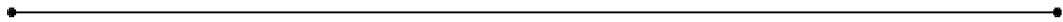
6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

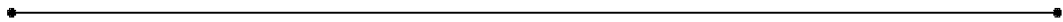
Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

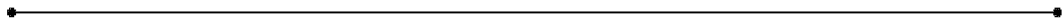
6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

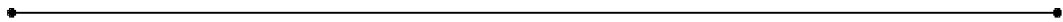


6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.



6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.



6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

7 Qualifying Family Members

7.1 Overview

7.1.1 General

Certain qualifying family members of the petitioner/principal (U-1) may accompany or follow to join the alien victim and obtain U nonimmigrant status, regardless of whether the family member(s) is in the United States or overseas.

A separate “Petitioner for Qualifying Family Member of U-1 Recipient” (Form I-918, Supplement A) must be submitted for each family member.

Evidence to prove the relationship is needed. Documentary requirements for civil registration and timeliness of registration for relationship documents apply. See the *I-130 SOP* for specifics.

7.1.2 Locating Qualifying Family Member Petitions

The officer adjudicating an I-918 is responsible for checking for associated I-918, Supplement A filings. Conduct the check for a qualifying family member petition (Form I-918, Supplement A) by viewing the I-918A screen in HAVEN.

If an I-918, Supplement A is filed and still pending but is not riding with the I-918, the officer adjudicating the I-918 must obtain each pending I-918, Supplement A associated with the principal’s filing. Once an I-918, Supplement A is obtained, that officer will adjudicate it to completion. In general, I-918, Supplement A cannot be adjudicated to finality prior to the principal’s I-918 receiving a final decision.

7.1.3 Form Annotations

Write the EAC# of the I-918 principal in the remarks block on the I-918A. This will assist clerical in updating HAVEN as the only way to identify an I-918A filing is through opening the record for the principal.

7.2 Eligibility

7.2.1 Determining Qualifying Family Members

Qualifying family members are determined by the age of the principal on the date the principal filed Form I-918.

If the principal is...	Then the qualifying family members can be...
UNDER the age of 21 at the time of filing,	U-2 – principal's spouse U-3 – principal's children (unmarried and under age 21*) U-4 – principal's parents U-5 – principal's unmarried siblings (under age 18*)
Age 21 or OLDER at the time of filing,	U-2 – principal's spouse U-3 – principal's children (unmarried and under age 21*)

***NOTE:** Age of the qualifying family member is calculated based on the age of the qualifying family member at the time the principal filed the I-918.

7.2.2 Existence of the relationship

The relationship between the principal and the family member must exist at the time Form I-918 was filed.

The relationship must also continue to exist at the time Form I-918, Supplement A, is adjudicated and at the time the qualifying family member is admitted to the United States in U nonimmigrant status.

If the principal proves he or she became the parent of a child after Form I-918 was filed, the child will be eligible to accompany or follow to join.

7.2.3 Initial Evidence

Each Form I-918 Supplement A must be accompanied by the following:

1. Evidence of principal's filing:
 - a) If the principal's Form I-918 is pending, a copy of the Principal's Form I-918 filing must accompany the derivative petition; or
 - b) If the principal has already been granted U-1 nonimmigrant status, he or she may submit a copy of the I-94 showing his/her admission in U-1 status.
 2. Evidence of the qualifying family member's relationship with the principal
 3. *(If the beneficiary is inadmissible)* Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) with fee or fee waiver request.
-

7.2.4 Prohibition for Certain Family Members

Do NOT grant U-2, U-3, U-4 or U-5 nonimmigrant status to a qualifying family member who committed the qualifying criminal activity in a family violence or trafficking context which established the principal alien's eligibility for U nonimmigrant status.

Example:

A woman applies for U nonimmigrant status as victim of domestic violence. Her spouse, who perpetrated the certified crime of domestic violence, is excluded from consideration as a U-2 as he is culpable for the qualifying criminal activity.

IMPORTANT: In cases where the certified crime is Domestic Violence, carefully review the I918B and add the abuser's name and DOB in the comment block of HAVEN. Adding the name of the perpetrator to HAVEN will help to identify any QFM's that are culpable and ensure we do not grant a benefit to the person who created the victim. Remember, this information is subject to FOIA. Please list the name and DOB of the perpetrator only.

7.2.5 Principal has Adjusted to LPR status

If the principal (U-1) has adjusted to that of an LPR while the I-918A remained pending, the I-918A must be denied.

7.2.6 Age-out Restrictions

Regulation and policy accords protections from aging-out of eligibility for certain qualifying family members (QFM):

If...	Then...	Pursuant to...
Interim relief was granted to the QFM as a child of the principal and that QFM was under 21 at the time of interim relief filing,	QFM remains eligible for consideration as a U-3 even if the QFM will be over 21 at the time the I-918A is approved.	<u>AFM Chapter 39</u> <u>Section (f)(4)(iv)</u>
A sibling was under the age of 18 at the time the I-918A was filed and the principal was under the age of 21 at the time the I-918 was filed but the principal is no longer 21 at the time of final adjudication,	QFM remains eligible for U-5 consideration as long as the QFM remains unmarried.	<u>8 CFR</u> <u>214.14(f)(4)(ii)</u>
The principal becomes the parent to a child after the I-918 is filed,	The child can be considered as a QFM (U-3) despite the relationship not existing at the time the I-918 was filed.	<u>8 CFR</u> <u>214.14(f)(4)(i)</u>

Continued on next page

Age-out Restrictions (continued)

If...	Then...	Pursuant to...
The principal was under 21 at the time the I-918 was filed and filed for a parent or a sibling (who was unmarried and under 18) and the principal is no longer under 21 at the time the I-918 is approved or adjudicated,	The parent or unmarried sibling remains eligible for U-4 (parent) or U-5 (sibling) consideration despite the principal no longer being under 21 and the sibling no longer being under 18 (but still must be unmarried).	<u>AFM Chapter 39</u> <u>Section (f)(4)(iii)</u>
The principal was over 21 and filed for a U-3 (derivative child) who was under 21 at the time of filing but who is over 21 at the time of adjudication or final decision,	The QFM U-3 was under 21 at the time the petition was filed. The QFM remains eligible.	Violence Against Women Act of 2013
The filing for a U-3 arrives on the QFM's 21 st birthday,	The U3 is no longer under 21 so most likely will not qualify but <i>may still be eligible</i> . Check to see when the petition arrived at the VSC to be sure the receive date is correct.	<i>Discuss with SISO or ISO3</i>

7.3 Evidence of Qualifying Relationship**7.3.1 Spouse of U-1**

The following evidence is needed to establish a qualifying relationship of a **spouse** of a U-1 petitioner (principal):

1. Marriage Certificate
2. Termination of all previous marriages of the U-1 (principal)
3. Termination of all previous marriages of the U-2 (derivative)

7.3.2 Biological or Adopted Child of U-1

The following evidence is needed to establish a qualifying relationship of a **biological or adopted child** of a U-1 petitioner (principal):

1. Birth certificate of the child showing the parents' names
 2. Legal adoption decree of the child.
-

7.3.3 Step Child of U-1

The following evidence is needed to establish a qualifying relationship of a **step child** of a U-1 petitioner (principal):

1. Birth certificate of the child showing the parents' names
 2. Marriage certificate for the U-1 principal and child's biological parent (prior to the child turning age 18)
 3. Termination of the U-1's previous marriage(s)
 4. Termination of the biological parent's previous marriage(s)
-

7.3.4 Parent of U-1

The following evidence is needed to establish a qualifying relationship of a **parent** of a U-1 petitioner (principal):

Documentation cited above for appropriate category of "child" relationship whether it is biological, step or adopted.

NOTE: To qualify as a parent of the U-1, the principal must be under 21 at the time the U-1 filed his or her form I-918.

7.3.5 Sibling of U-1

The following evidence is needed to establish a qualifying relationship of a **sibling** of a U-1 (principal):

1. Birth certificate of U-1 showing parents' names
2. Birth certificate of sibling showing parents' names
3. Marriage documentation and marriage termination documentation needed for a step relationship (if applicable)
4. Adoption documentation (if applicable)

NOTE: To qualify as a sibling of a U-1, the principal must be under 21 at the time the U-1 filed Form I-918 and the sibling must be under the age of 18

8 Special Considerations

8.1 Filing From Outside the United States

8.1.1 General

Aliens outside the United States are allowed to file for U Nonimmigrant Status.

Eligibility requirements for U Nonimmigrant Status for those filing from outside the United States are the same as for those filing from within the United States.

8.1.2 Filing

The required forms and evidence are sent to the Vermont Service Center for adjudication.

8.1.3 Evidence

Petitioners filing from outside the United States must meet the same eligibility requirements for principal's and qualifying family members as those filing from within the United States.

Evidentiary requirements and standards are the same.

8.1.4 Photo Requirements

Photos are not required for:

- Approvals that will be processed at the Kentucky Consular Center (KCC).
- A Form I-918 or Form I-918, Supplement A with no deficiencies or discrepancies in the record that would require an RFE or NOID at the time of initial adjudication.

Photos should be requested for a Form I-918 or Form I-918, Supplement A with deficiencies or discrepancies in the record that would require an RFE or NOID. Include the request for photos in the RFE or NOID seeking other additional evidence.

NOTE: Do not deny any petitions solely because photos were not submitted.

8.1.5 Worksheet Annotations

Do not route the file to FCU for updating. There is no update to the COA for overseas filings. Aliens who are processing overseas for their visas are not placed in U nonimmigrant status until they are inspected at a port of entry and permitted to enter as a U nonimmigrant.

8.2 Interim Relief Considerations

8.2.1 General

There is no deadline for submission of U nonimmigrant status petitions for those who previously filed for interim relief.

Petitioners and accompanying or following to join family members who were granted interim relief were initially encouraged to file Form I-918 by April 14, 2008 (within 180 days of the effective date of the rule). Guidance issued in 2009 delayed that date until February 1, 2010. Interim relief was terminated for all recipients that did not file the Form I-918 or have a Form I-918, Supplement A, filed on their behalf prior to February 1, 2010.

8.2.2 Interim Relief Continuation

The U rule became effective on of October 17, 2007.

Aliens who received deferred action issued by the Interim Relief program who have filed Form I-918 but whose form has not yet been adjudicated, may have that deferred action extended until USCIS completes the adjudication of the I-918. Extensions are granted upon written request of the alien or by the filing of an I-765 seeking work authorization under 8 CFR 274a.12(c)(14).

8.2.3 Initial evidence requirements

Individuals who received an interim relief approval are not required to submit initial evidence when filing Form I-918.

8.2.4 Law enforcement certifications

Generally, USCIS will consider the certification submitted for interim relief to meet requirements for interim relief purposes in lieu of Form I-918, Supplement B. However, aliens who received interim relief are not precluded from submitting Form I-918, Supplement B if they choose.

USCIS will be lenient regarding the signing official (whether or not it is the head of the agency or someone in a supervisory role specifically designated by the head of the agency) if the document meets all other requirements for a certification.

8.2.5 Approvals

Petitioners whose I-918 is approved and who were granted interim relief will be accorded U nonimmigrant status as of the date that the U interim relief was initially approved.

9 Classification and Duration of Status

9.1 Classification and Validity Dates

9.1.1 General

The U-visa accords aliens nonimmigrant status. As such, upon approval of Form I-918 (and Form I-192, as necessary) they will be provided an Arrival-Departure Record (Form I-94) showing their classification and the validity period of their nonimmigrant status.

After three years in U nonimmigrant status, the alien may apply for adjustment to that of a lawful permanent resident by filing the Application to Register Permanent Residence or Adjust Status (Form I-485).

9.1.2 Nonimmigrant classifications

Refer to the chart below for the appropriate classification:

If the alien is the...	Then the classification is...
Principal,	U-1
Spouse of the principal,	U-2
Child (<i>unmarried and under 21</i>) of the principal	U-3
Parent of the principal	U-4
Siblings (under 18 and unmarried) of the principal	U-5

9.1.3 Validity Dates

The initial approval of U-1 nonimmigrant status shall be for a period of four years minus one day from the date of approval of Form I-918.

Extensions of this nonimmigrant status are possible in certain circumstances when the initial validity period was less than four years. U nonimmigrant status may be approved for a period not to exceed four years in the aggregate.

Generally, a derivative family member granted U-2 through U-5 nonimmigrant status will be approved for an initial period that does not exceed the expiration date of the initial period granted to the principal.

NOTE: U3 Derivatives will be granted the full four year validity period even if it is longer than the principal petitioner's validity period.
See memo dated Dec 2012.

9.1.4 Interim Relief

Petitioners granted U interim relief will be accorded U nonimmigrant status as of the date that a request for U interim relief was initially approved.

10 Biometrics

10.1 Overview

10.1.1 General

All aliens between the ages of 14 and 79 seeking U nonimmigrant status must submit to biometrics capture. The biometrics are fee exempt.

10.1.2 Process

Fingerprinting will be conducted pursuant to 8 CFR 103.2(e).

USCIS will notify the applicant of the time and location to appear for fingerprinting after the petitioner files Form I-918.

Do not approve an I-918 or I-918, Supplement A, until the FBI fingerprint response is received.

If an I-918 or I-918, Supplement A, is otherwise deniable, you may deny the case without first obtaining a valid fingerprint response. If you determine that criminality issues exist, you may request biometrics capture (or a refresh of an expired fingerprint response) if that information will assist in properly adjudicating the petition or application.

10.1.3 Form FD-258

Form FD-258, Applicant Card, will only be accepted if prepared by a:

- USCIS office,
 - Registered state or local law enforcement agency designated by a cooperative agreement with USCIS to provide fingerprinting services (designative law enforcement agency),
 - U.S. consular office at U.S. embassies and consulates, or
 - U.S. military installation.
-

10.2 Filing Location

10.2.1 Needing Biometrics (in the United States)

Fingerprints are needed for all U nonimmigrant status seekers age 14 and older. If an alien in the United States was under 14 at the time he/she filed the I-918 or had the I-918A filed on his or her behalf, but is 14 or older at the time the form is adjudicated, you must obtain fingerprint results prior to final adjudication.

To request fingerprints for aliens who “age-in,” complete and send the Div 6 MRD Fingerprint Scheduling worksheet from the LAN (Add'l Resources/ADJ Worksheets tab) along with the file, to Data Entry. Route the file to MRD using the MRD worksheet on the LAN.

Indicate in the “Type of processing requested” section whether Code 1 (prints only) or Code 3 (prints and photos) is needed.

10.2.2 Needing Biometrics (outside the United States)

Aliens outside the United States must provide fingerprints using the overseas process. If an alien outside the United States was under 14 at the time he or she filed the I-918 or had the I-918A filed on his/her behalf, but is 14 or older at the time the form is adjudicated, an overseas fingerprint notice must be issued. No fee solicitation is needed as USCIS does not take fees for prints obtained overseas.

Route the file to Data Entry using the Div 6 MRD Fingerprint Scheduling worksheet. Indicate “Overseas fingerprint scheduling” on the worksheet. In the alternative, you may issue an RFE for the fingerprints and provide the alien with FD-258 cards and the instruction sheet for obtaining fingerprints at an overseas location. Only a consulate or military installation can take fingerprints overseas.

10.2.3 Annotating Worksheet

You must fill out the Div 6 MRD Fingerprint Scheduling worksheet completely.

- Check “Return to Officer”
- Enter your NFTS code and cube number.

IMPORTANT: You must ensure the worksheet is completed for aliens needing biometrics, whether they are inside or outside of the United States.

10.3 Failure to appear or provide fingerprints

10.3.1 Failure to Appear for Biometric Capture (in the United States)

Generally, aliens in the United States must appear for the capturing of biometrics at an Application Support Center (ASC).

The regulations state that the initial failure to appear shall be excused if the notice for the biometric capture appointment was not mailed to the alien’s current address and such address had been provided to USCIS unless USCIS determines that the alien received reasonable notice of the appointment.

VSC policy is that you will send the filing for rescheduling if the first appointment does not result in biometrics being captured for any reason.

Failure to appear for biometric capture after the second scheduling at an ASC in the United States will result in an abandonment denial of the petition. Refer to the table below when processing a case following a scheduled ASC appointment:

If the alien...	Then...
appears for the second scheduled ASC appointment,	Continue adjudicating the file.
fails to appear for the second scheduled ASC appointment,	<ul style="list-style-type: none"> • Wait 90 days after that appointment; • Check the SNAP and the FD-258 screen in National CLAIMS. • Deny the case for abandonment if the system checks do not establish that the biometrics have been captured.

NOTE: The burden of proof is on the alien to establish that he or she failed to receive reasonable notice of an appointment. The alien must notify USCIS of any change of address (per 8 CFR 265.1) prior to the date on which the notice for biometric capture was mailed to the alien.

10.3.2 Failure to Provide Fingerprints (outside the United States)

Failure to return FD-258 cards after making a second request for the fingerprints will result in an abandonment denial of the petition.

10.3.3 Excusing Failure to Appear

Failure to appear for biometric capture may be excused at the discretion of USCIS if:

1. The alien promptly contacts USCIS; and
2. The alien demonstrates that the failure to appear was the result of exceptional circumstances.

You must receive permission from the SISO to grant more extensions to submit fingerprints after a second ASC appointment is scheduled or after a second overseas request is made.

10.4 Fingerprint Results

10.4.1 Unclassifiable Fingerprints

Refer to the chart below when a file contains unclassifiable fingerprints:

If the...	Then...						
First FD-258 card Scanned and Print Response is unclassifiable (Overseas prints),	Send second FD-258 for dead scanning.						
Second FD-258 card Scanned and Print Response is still unclassifiable (Overseas prints),	Send RFE for local clearances.						
First fingerprint response is "R"(ASC prints),	<table border="1"> <tr> <th>If there is...</th><th>Then...</th></tr> <tr> <td>A new appointment date,</td><td>Stop the adjudication until the fingerprint date.</td></tr> <tr> <td>No new appointment date,</td><td> <ul style="list-style-type: none"> • Prepare the <u>Div 6 MRD FP Scheduling</u> worksheet for "rejected". • Print and route the VAWA Biometrics and FP Scheduling worksheet for scheduling to MRD. </td></tr> </table>	If there is...	Then...	A new appointment date,	Stop the adjudication until the fingerprint date.	No new appointment date,	<ul style="list-style-type: none"> • Prepare the <u>Div 6 MRD FP Scheduling</u> worksheet for "rejected". • Print and route the VAWA Biometrics and FP Scheduling worksheet for scheduling to MRD.
If there is...	Then...						
A new appointment date,	Stop the adjudication until the fingerprint date.						
No new appointment date,	<ul style="list-style-type: none"> • Prepare the <u>Div 6 MRD FP Scheduling</u> worksheet for "rejected". • Print and route the VAWA Biometrics and FP Scheduling worksheet for scheduling to MRD. 						
Second fingerprint response is "R" (ASC prints),	Send RFE for local clearances.						
Exceptional circumstances impede attending ASC appointment or getting overseas prints taken,	See your SISO or an ISO(3).						

NOTE: Access the Div 6 MRD FP Scheduling worksheet (located in the ADJ Worksheets, Div 6 folder).

10.4.2 Check CLAIMS for FP Response

A fingerprint response is valid if it is within 15 months of the “Date Processed by the FBI”.

Follow the steps below to check for a fingerprint response:

Step	Action						
1	Access CLAIMS mainframe in National Systems.						
2	Select Option 15 for FD-258 Fingerprint Tracking Inquiry and press [Enter].						
3	Place an “X” at the first Option: FBI Fingerprint Tracking System and press [Enter]. <table border="1"> <tr> <th>If the alien has been fingerprinted...</th><th>Then the next screen will display...</th></tr> <tr> <td>once and only in relation to the I-918,</td><td>The FBI response record for the I-918 (appears as Form X-999).</td></tr> <tr> <td>more than once,</td><td> <ul style="list-style-type: none"> • a listing of each record by form type (i.e. I-485, I-751), • tab to the record for the X-999 or any valid FD-258 response generated by any form type, • press [Enter] to display the FBI response record. </td></tr> </table>	If the alien has been fingerprinted...	Then the next screen will display...	once and only in relation to the I-918,	The FBI response record for the I-918 (appears as Form X-999).	more than once,	<ul style="list-style-type: none"> • a listing of each record by form type (i.e. I-485, I-751), • tab to the record for the X-999 or any valid FD-258 response generated by any form type, • press [Enter] to display the FBI response record.
If the alien has been fingerprinted...	Then the next screen will display...						
once and only in relation to the I-918,	The FBI response record for the I-918 (appears as Form X-999).						
more than once,	<ul style="list-style-type: none"> • a listing of each record by form type (i.e. I-485, I-751), • tab to the record for the X-999 or any valid FD-258 response generated by any form type, • press [Enter] to display the FBI response record. 						
4	Verify that the FBI response record relates to the alien named on the I-918/I-918A.						

10.4.3 Fingerprint Response

Print a copy of the FBI response record and place it on the non-record side of the file. Refer to the table below after checking CLAIMS for a fingerprint response.

If a valid FBI response record is...	And the “Date Processed by the FBI” is...	Then ...
“N” Non-Ident,	less than 15 months old,	Proceed with adjudication.
	more than 15 months old,	Check SNAP for a new appointment; if none, go to the map entitled <u>“Fingerprint Refresh Procedure”</u> .
“I” Ident (does not contain RAP sheet),	less than 15 months old,	<ul style="list-style-type: none"> • Print the RAP sheet from BBSS. • Refer to “Reviewing IDENT Response” section later in this SOP.
“I” Ident (file contains RAP sheet),	less than 15 months old,	Refer to “Reviewing IDENT Response” section later in this SOP.
“I” Ident,	more than 15 months,	<ul style="list-style-type: none"> • Go to the map entitled <u>“Fingerprint Refresh Procedure”</u>. An updated RAP sheet can usually be viewed in BBSS within 72 hours of the refresh request. • When RAP sheet has been obtained, refer to “Reviewing IDENT Response.”

Continued on next page

Fingerprint Response (continued)

If a valid FBI response record is...	And the “Date Processed by the FBI” is...	Then ...
Only 1 “R” (Unclassifiable),	more than 6 months old,	Check SNAP for a new appointment; if none, prepare an MRD worksheet for “rejected” print and route to MRD for scheduling.
	less than 6 months old,	<ul style="list-style-type: none"> • Return the file to the FP shelf. The ASC should automatically reschedule. • If still no new response after 6 months, proceed as above.
Only 1 “Unclassifiable” and an “N” or “I” valid response within 15 months generated by any form type,	N/A	See applicable process for “N” or “I” above.
More than 1 “R” (Unclassifiable),	N/A	<ul style="list-style-type: none"> • Prepare an RFE seeking police clearances. • When a response is received, review evidence for criminal convictions. If no convictions, proceed with adjudication.

10.4.4 FD-258 in File but No Results in System

If the file contains an FD-258 for the alien that was generated based on the I-918/I-918A filing, but there are no results in national systems, verify whether the prints have been dead scanned. If there is no barcode on the FD-258, the card has not been scanned. Determine if there is sufficient data on the card for scanning.

The following fields must be completed on behalf of the alien being printed in order to have the card scanned (see below):

1. Alien's name
2. Signature of the alien
3. Residence of the alien
4. Signature of official taking the prints and date
5. Embassy/consulate or military installation where prints were taken
6. Reason for fingerprints (may write in I-918 if space left blank)
7. Country of Citizenship of the alien
8. Alien's A#
9. Date of birth of the alien
10. Place of birth of the alien

If the fields are all completed, send the file to the dead scan shelf in FCU.

10.4.5 No Record Found

Refer to the table below when there is no record found:

If ...	Then ...
A message appears at the bottom of the screen stating that no records were found relating to the A-number,	Search for a record using the Name and DOB function. <i>This step is important as the FD-258 response is posted to CIS by A-number. If the response is posted with an incorrect A-number, the response will not appear when using the A-number search.</i>
Still unable to locate a record,	Check SNAP to verify the alien was scheduled for Code 3 processing. See <u>Verifying Appointment data in SNAP</u> in this section.
Child was under the age of 14 at the time of the biometric appointment, but has since attained the age of 14 at time of adjudication,	Send the file to MRD for fingerprint scheduling using Code 1. <i>The alien will be scheduled for Code 1 as only the fingerprint (10 print) is needed.</i>

10.4.6 Reviewing IDENT Response

An individual will have an IDENT response after being fingerprinted if they have an FBI rap sheet. The rap sheet contains immigration violations as well as criminal arrests, charges, and convictions.

An IDENT response may impact the eligibility requirements. Review the information carefully and determine if there is any impact on the eligibility requirements (including inadmissibility issues).

Step	Action						
1	<p>Review the RAP sheet which is usually located on the non-record side of the file to identify criminal convictions that make the individual inadmissible under section 212(a) of the Immigration and Nationality Act (INA) or otherwise might impact the eligibility requirements.</p> <table><tr><th>If the rap sheet shows....</th><th>Then determine if the</th></tr><tr><td>Immigration violations,</td><td>Violations make the alien inadmissible and require a waiver.</td></tr><tr><td>Criminal convictions,</td><td>Convictions make the alien inadmissible.</td></tr></table>	If the rap sheet shows....	Then determine if the	Immigration violations,	Violations make the alien inadmissible and require a waiver.	Criminal convictions,	Convictions make the alien inadmissible.
If the rap sheet shows....	Then determine if the						
Immigration violations,	Violations make the alien inadmissible and require a waiver.						
Criminal convictions,	Convictions make the alien inadmissible.						
2	<p>Review the evidence of record as it relates to the convictions identified on the rap sheet.</p> <table><tr><th>If you...</th><th>Then...</th></tr><tr><td>Cannot determine the disposition of the arrests or charges,</td><td>Prepare an RFE using call-up requesting information regarding the charges.</td></tr><tr><td>Can determine that the:<ul style="list-style-type: none">• criminal convictions do not make the individual inadmissible, or• charges were dismissed, or• arrests and/or charges did not result in convictions,</td><td><ul style="list-style-type: none">• Write “Rap Sheet Reviewed” and your Officer ID code in the Remarks section on the front of the petition.• Proceed with adjudication.</td></tr></table>	If you...	Then...	Cannot determine the disposition of the arrests or charges,	Prepare an RFE using call-up requesting information regarding the charges.	Can determine that the: <ul style="list-style-type: none">• criminal convictions do not make the individual inadmissible, or• charges were dismissed, or• arrests and/or charges did not result in convictions,	<ul style="list-style-type: none">• Write “Rap Sheet Reviewed” and your Officer ID code in the Remarks section on the front of the petition.• Proceed with adjudication.
If you...	Then...						
Cannot determine the disposition of the arrests or charges,	Prepare an RFE using call-up requesting information regarding the charges.						
Can determine that the: <ul style="list-style-type: none">• criminal convictions do not make the individual inadmissible, or• charges were dismissed, or• arrests and/or charges did not result in convictions,	<ul style="list-style-type: none">• Write “Rap Sheet Reviewed” and your Officer ID code in the Remarks section on the front of the petition.• Proceed with adjudication.						

10.5 Fingerprint Refresh Procedure

10.5.1 When To Use

Use the Fingerprint Refresh Procedure to request:

- an updated RAP sheet (Ident fingerprint response in FD-258 Tracking), or
- a refresh or resubmission of an expired Non-Ident fingerprint response in FD-258 Tracking

NOTES:

- A refreshed fingerprint result may be requested to support the same benefit for which the fingerprints were initially submitted.
- A resubmission may be requested when the fingerprints are at least 12 months old and are likely to expire prior to a decision being entered on the case.

10.5.2 Process of Requesting a Fingerprint Refresh

Follow the steps below to request a refresh on a fingerprint response.

Step	Action
1	Open the <i>Fingerprint Refresh Request Template</i>
2	<p>Enter the following data requirements on the form:</p> <ul style="list-style-type: none"> • A-number <ul style="list-style-type: none"> – must be entered as an A followed by nine digits; – if there are only eight digits in the A-number then insert “0”s between the A and the first digit, Example: A0#####. • Last Name – enter the name as it appears on the application or petition. • First Name – enter the name as it appears on the application or petition. • Date of Birth (DOB) – enter in the format of: YYYYMMDD where: <ul style="list-style-type: none"> – Y = digits of year, – M = digits of month and – D = digits of day of month
3	<p>Save the request form to your local drive</p> <p>IMPORTANT: Be sure to rename it so that you don’t alter the original.</p>
4	<p>Once you have completed and saved the form, submit the request as an attachment in Outlook email to: SCOSS VSC RAP SHEET REQUEST.</p>

11 Validity Dates

11.1 General

Validity dates for U Nonimmigrant status periods depend on:

- Whether the alien received Interim Relief.
- Whether the alien was previously granted U derivative status

See the scenarios below for specifics.

11.2 U-1 with Interim Relief

Time spent in U Nonimmigrant Interim Relief counts as time spent in U nonimmigrant status. An approved I-918 for an alien who was previously approved under the interim relief provisions shall be accorded U nonimmigrant status starting on the date that interim relief was first approved.

Instances where the alien has more than three years in interim relief at the time the I-918 is approved will have his/her U nonimmigrant status begin on the date that interim relief was initially approved until one year following the date the I-918 is approved.

NOTE: The I-94 dates will not match the EAD dates. EADs cannot be back dated to reflect the initial Interim Relief approval date. EADs are dated from day of I-918 approval forward to the end of the U nonimmigrant status period.

11.3 U-1 Scenarios

Examples of U-1 scenarios are listed below:

Scenario	Validity Period/Example
<p><i>More than 3 years since Interim Relief at the time I-918 is approved:</i></p> <p>Interim Relief initially approved 10/17/2003; I-918 approved on 5/4/2009,</p>	<p>Beginning date for the U Nonimmigrant status is the date on which U Interim Relief was first granted. Ending date for U Nonimmigrant status will be one year (minus one day) from the date of approval.</p> <p>I-918/ HAVEN dates: 10/17/2003 to 5/3/2010</p> <p>GUI dates: 5/4/2009 to 5/3/2010</p>
<p><i>Less than 3 years since Interim Relief at the time I-918 is approved:</i></p> <p>Interim Relief initially approved 6/8/2007; I-918 approved on 4/12/2009,</p>	<p>Beginning date for U Nonimmigrant status is the date on which U Interim Relief was first granted. Ending date for U Nonimmigrant status is 4 years after that date (minus one day) to give the alien at least 4 years in U Nonimmigrant status.</p> <p>I-918/ HAVEN dates: 6/8/2007 to 6/7/2011</p> <p>GUI dates: 4/12/2009 to 6/7/2011</p>

11.4 U-1 Without Interim Relief

Principals who never received Interim Relief are granted U Nonimmigrant status for four years starting on the date that the I-918 is approved.

Example: I-918 approved 8/17/08:

I-918 / HAVEN validity dates: 8/17/2008 to 8/16/2012

GUI/ EAD validity dates: 8/17/2008 to 08/16/2012

11.5 U-1 with Previous Derivative Status

Principals who were previously granted U derivative status until their 21st birthday, but did not benefit from the full four years of U nonimmigrant status required to file for an adjustment of status may later file their own I-918 seeking principal U1 status.

The validity period granted depends on whether the subsequent I-918 is based on the same crime for which they were granted U derivative status, or whether the subsequent I-918 is based on a different crime than that for which they were granted U derivative status.

Refer to the chart below to determine the correct validity period for a U principal applicant who was previously afforded U derivative status.

If the crime is ...	Then grant U1 nonimmigrant status from the date of ...
The same crime as the one for which he or she was granted U derivative status,	Original approval of the U derivative status to the end of the four year period. Example: if the principal was previously granted U3 status from 10/1/10 to 3/1/11, the new U1 status will be 10/1/10 to 9/30/14.
A different crime than that for which he or she was granted U derivative status,	Adjudication of the I-918 to the end of the four year period. Example: We are approving the petition on 10/17/12. The new U1 status will be 10/17/12 to 10/16/16.

11.6 U-2 through U-5, Principal and Derivative Had Interim Relief

Generally, a derivative family member granted U-2 through U-5 nonimmigrant status will be approved for an initial period that does not exceed the expiration date of the initial period granted to the principal. However, U-3s may be extended past the principal's ending validity. See memo dated Dec 2012. If the qualifying family member and the principal were both granted Interim Relief, the time previously accorded to the qualifying family member in Interim Relief may be counted toward time in U nonimmigrant status.

In some instances, the derivative will receive less time in U Nonimmigrant status as the principal. In order to obtain sufficient time to file for adjustment, derivatives in this scenario would need to file the I-539 and follow the extension of status procedures.

NOTE: The qualifying family member's starting date cannot pre-date the date on which the principal's U Nonimmigrant status began.

11.7 U-2, U-4 and U-5 Scenarios with Interim Relief

Example #1 (Principal's and derivative interim relief dates are the same. I-918 and I-918A approved on same day)

Principal's and derivative's Interim Relief approved 9/7/05. The I-918 and I-918A are approved 10/31/07:

- Principal's I-918 / HAVEN validity dates: 9/7/05 to 9/6/09
- Principal's EAD/GUI validity dates: 10/31/07 to 9/6/09
- Derivative's I-918A / HAVEN validity dates: 9/7/05 to 9/6/09

Derivative has no EAD/GUI update unless he/she has separately filed an I-765 as (a)(20). If one is filed, the validity dates would be 10/31/07 to 9/6/09.

Example #2: (Principal's and derivative's interim relief dates are different. I-918 and I-918A approved on different dates):

Principal's Interim Relief approved 4/22/04. Principal's I-918 approved 2/12/09:

- Principal's I-918 / HAVEN validity dates: 4/22/04 to 2/11/2010
- Principal's EAD/GUI validity dates: 2/12/2009 to 2/11/2010

Derivative approved for Interim Relief 4/22/04. Derivative's I-918A approved 3/22/09: Derivative's I-918A / HAVEN validity dates: 4/22/04 to 2/11/2010

Derivative has no EAD/GUI update unless he/she has separately filed an I-765 as (a)(20). If one is filed, the validity dates are date of I-765 approval to 2/11/2010.

11.8 U-3 Neither Principal nor Derivative had Interim Relief

The U-3 must be under 21 at the time his or her petition is accepted. U-3 derivatives will be granted the full four year validity period even if the end date goes beyond the principal petitioner's validity period.

11.9 U-2, U-4, and U-5 Neither Principal nor Derivative had Interim Relief

If neither the principal nor the derivative ever had interim relief, the validity dates for both will begin from the date of the form's approval. The derivative's ending date will always be the same as the principal's—even if the principal was approved prior to the derivative. This will result in some derivative's not receiving an initial validity period of four years. Those who will require an extension of time to acquire sufficient time in U status to meet the adjustment of status requirements will need to follow the procedures for requesting an extension of status.

11.10 U-2 through U-5 Scenarios Without Interim Relief

Example #1 (Principal and derivative approved for U status on the same date)

Principal's I-918 approved 8/17/08. Derivative's I-918A approved 8/17/08:

- Principal's I-918 / HAVEN validity dates: 8/17/2008 to 8/16/2012
- Principal's GUI/ EAD validity dates: 8/17/2008 to 08/16/2012
- Derivative's I-918A / HAVEN validity dates: 8/17/2008 to 8/16/2012
- Derivative has no EAD/GUI update unless he or she has separately filed an I-765 as (a)(20). If one is filed, the validity dates would be: date of I-765 approval to 8/16/2012

Example #2 (Principal approved for U status before the derivative)

Principal's I-918 approved 2/12/09:

- Principal's I-918 / HAVEN validity dates: 2/12/2009 to 2/11/2013
- Principal's EAD/GUI validity dates: 2/12/2009 to 2/11/2013

Derivative's I-918A approved 3/22/09:

- Derivative's I-918A / HAVEN validity dates: 3/22/09 to 2/11/2013.

Derivative has no EAD/GUI update unless he/she has separately filed an I-765 as (a)(20). If one is filed, the validity dates would be: date of I-765 approval to 2/11/2013

U3 Derivatives ONLY will be granted the full four year validity period even if it is longer than the principal's validity period.

11.11 U-2 through U-5: Principal's time expired but U-1 has I-485 pending

The U-1's pending I-485 automatically extends his or her U nonimmigrant status until there is a final decision on the I-485. For this reason, the U-2, U-4, and U-5 will be granted one year of validity from the date the I-918A is approved. U3s will be granted four years of validity from the date the I918A is approved.

11.12 U-2 through U-5: Principal's time expired U-1 has not filed the I-485

The I-918A will be denied as the principal no longer holds U-1 status.

11.13 U-2 through U-5 Interim Relief for the Principal Only

If a derivative was not granted interim relief but the principal was granted interim relief, he or she cannot benefit from the principal's time in interim relief. The principal's time in U status will begin on the date that interim relief was first approved. The derivative's U status will begin on the date his or her I-918A is approved. In some instances, the derivative may receive as little as one day of validity if his/her I-918A is approved a significant time after the principal's I-918.

Example: Principal's Interim Relief approved 4/22/04. Principal's I-918 approved 2/12/09:

- Principal's I-918 / HAVEN validity dates: 4/22/04 to 2/11/2010
- Principal's EAD/GUI validity dates: 2/12/2009 to 2/11/2010

Derivative had no time in interim relief. Derivative's I-918A approved 3/22/09:

- Derivative's I-918A / HAVEN validity dates: 3/22/09 to 2/11/2010

NOTE: If a derivative's I-918A is not approvable until a date after the expiration date of the principal's validity period, discuss the I-918A with the ISO(3) point of contact for the U program.

11.14 U-2 Through U-5 Interim Relief for Derivative Only or Derivative's Interim Relief Predates the Principal's

This scenario is currently under policy discussion. Bring cases falling into this scenario to the ISO(3) point of contact for the U program.

11.15 U-1 through U-5 Interim Relief terminated for failure to file I-918/I-918A timely

Interim relief recipients were required to file (or have a petition filed on his/her behalf) for U nonimmigrant status no later than February 1, 2010. All interim relief recipients who did not have a petition for U status filed (or filed on his/her behalf) had their interim relief terminated.

The validity dates will be treated as if there was no termination of interim relief if:

- the alien's interim relief was terminated due to failure to file timely,
- the alien subsequently filed the I-918 (or had an I-918A filed on his or her behalf), and
- the petition is ultimately approved.

Refer to the appropriate scenario for an alien with interim relief when making the determination for the assignment of validity dates.

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12 Decisions

12.1 Overview

12.1.1 General

Written decisions will be issued after a de novo review of the petition and evidence.

12.1.2 A File Requests

In general, you cannot adjudicate an I-918 to completion (i.e., approve or deny) if it has not been consolidated into the relating A-file. If you are in possession of a T file containing an I-918, you must request the relating A file.

Follow the steps below to request the A file for T files in your possession.

Step	Action							
1	Check the 9504 screen in CIS to determine the location of the A file.							
2	Email ISA Dianne McLaughlin, with a CC to your SISO. Include: <ul style="list-style-type: none">• A number• Name of petitioner/applicant• Form type• Location of the A file.							
3	<table><tr><th>If the A file is...</th><th>Then ...</th></tr><tr><td>Received within 30 days</td><td>Proceed with your final adjudication.</td></tr><tr><td>Not received within 30 days</td><td><ul style="list-style-type: none">• Dianne will email you and your SISO, advising that we were unable to obtain the A file.• Your SISO will send you and Dianne an email telling you whether you may work the case in a T file, or if Dianne should make a 2nd request for the A file.</td></tr></table>		If the A file is...	Then ...	Received within 30 days	Proceed with your final adjudication.	Not received within 30 days	<ul style="list-style-type: none">• Dianne will email you and your SISO, advising that we were unable to obtain the A file.• Your SISO will send you and Dianne an email telling you whether you may work the case in a T file, or if Dianne should make a 2nd request for the A file.
If the A file is...	Then ...							
Received within 30 days	Proceed with your final adjudication.							
Not received within 30 days	<ul style="list-style-type: none">• Dianne will email you and your SISO, advising that we were unable to obtain the A file.• Your SISO will send you and Dianne an email telling you whether you may work the case in a T file, or if Dianne should make a 2nd request for the A file.							
4	Refer to your SISO's instruction to proceed with your final adjudication.							

12.2 Approvals

12.2.1 Approval for U-1 (petitioner in the U.S.)

U-1 nonimmigrant status will be concurrently granted with the approval of the petition, subject to the annual limitations for visa allocation.

The following documents will be issued to the petitioner upon approval:

1. Notice of approval (Form I-797).
 2. Arrival-Departure Record (Form I-94) valid until the end of the U Nonimmigrant status.
 3. List of nongovernmental organizations to which the petitioner can refer regarding his or her options while in the United States and available resources.
-

12.2.2 Approval for U-1 (petitioner outside the U.S.)

A notice of approval (Form I-797) will be issued to the petitioner.

A notice of approval will be forwarded to the U.S. Embassy or Consulate having jurisdiction over the area where the alien is located or (for a visa exempt alien) to the appropriate port of entry.

12.2.3 Approval of U-2 through U-5 (qualifying family member in the U.S.)

When Form I-918, Supplement A, is approved, the qualifying family member will be concurrently granted U-2, U-3, U-4 or U-5 nonimmigrant status.

The following documents will be issued to the principal (U-1) regarding the approval of the U-2, U-3, U-4 or U-5:

1. Notice of approval of the qualifying family member's U nonimmigrant status (Form I-797)
 2. Arrival-Departure Record (Form I-94)
-

12.2.4 Approval of U-2 through U-5 (qualifying family member outside the U.S.)

A notice of approval (Form I-797) will be issued to the petitioner.

The approved Form I-918, Supplement A, will be forwarded to the U.S. Embassy or Consulate having jurisdiction over the area where the qualifying family member is located or (for a visa exempt alien) to the appropriate port of entry.

12.2.5 Multiple Filings

Aliens seeking U nonimmigrant status may also seek any other immigration benefit or status for which they are eligible. Therefore, nothing limits a qualified petitioner from applying for U nonimmigrant status as well as other immigration benefits. Nothing limits qualifying family members from applying for other benefits or having other petitions or applications filed on their behalf. However, USCIS will only grant one nonimmigrant or immigrant status at a time.

Once the I-918 or the I-918A is approved, any subsequent I-918 or I-918A for that alien that is pending with the VSC will be denied. If the initial approval is revoked, the alien is again eligible to seek U nonimmigrant status.

If you are placing the I-918 or I-918A on the Wait List, refer to the Wait List Process with Subsequent I-918 or I-918A section of this SOP.

12.3 Denials

12.3.1 Denial (principals)

Written notification of the reasons for denial will be issued to the petitioner.

The decision will cite the specific reasons for denial and notify the petitioner of his/her appeal rights.

12.3.2 Denial (qualifying family members)

Written notification of the reasons for denial will be issued to the principal.

The decision will cite the specific reasons for denial and notify the principal of his/her appeal rights.

12.3.3 NTA issuance

If USCIS revokes or denies the Form I-918 for an alien who was in proceedings that were terminated pursuant to 8 CFR 214.14(c)(1)(i), a new Notice To Appear (NTA) may be filed by DHS (see INA section 239).

SISO sign off is required prior to forwarding any file for issuance of an NTA based on the denial of the Form I-918 or the Form I-918, Supplement A.

13 Section 384

13.1 Disclosure of Information

13.1.1 General

The use or disclosure (other than to a sworn officer or employee of the Department, or a bureau or agency of the Department, for legitimate department, bureau, or agency purposes) of any information relating to the beneficiary of a pending or approved petition for U nonimmigrant status is prohibited unless the disclosure falls within specified exceptions.

13.1.2 Exceptions for Disclosure of Information

Exceptions for disclosure of information are as follows:

1. By the Secretary of Homeland Security, at his discretion, in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under 13 U.S.C. 8;
 2. By the Secretary of Homeland Security, at his discretion, to law enforcement officials to be used solely for a legitimate law enforcement purpose;
 3. In conjunction with a judicial review of a determination in a manner that protects the confidentiality of such information;
 4. After adult petitioners for U nonimmigrant status or U nonimmigrant status holders have provided written consent to waive the restrictions prohibiting the release of information;
 5. To Federal, State, and local public and private agencies providing benefits, to be used solely to make determinations of eligibility for benefits pursuant to 8 U.S.C. 1641(c);
 6. After a petition for U nonimmigrant status denied in a final decision;
 7. To the chairmen and ranking members of the Committee on Judiciary of the Senate, or the Committee on Judiciary of the House of Representatives, for the exercise of congressional oversight authority, provided the disclosure relates to information about a closed case and is made in a manner that protects the confidentiality of the information and omits personally identifying information (including locational information about individuals);
 8. With prior consent from the principal petitioner or derivative family members, to nonprofit, nongovernmental victims' service providers for the sole purpose of assisting the victim in obtaining services from programs with expertise working with immigrant victims; or
 9. To federal prosecutors to comply with constitutional obligations to provide statements by witnesses and certain other documents to defendants in pending federal criminal proceedings.
-

13.1.3 Confidentiality Provisions

Agencies receiving information under this section, whether governmental or nongovernmental, are bound by the confidentiality provisions and other restrictions set out in 8 U.S.C. 1367.

13.1.4 Disciplinary Action for Violation

Appropriate disciplinary action must be taken and a monetary penalty of up to \$5,000 may be imposed on anyone who willfully uses, publishes, or permits information to be disclosed in violation of nondisclosure provisions.

13.2 Use of Evidence in the File

13.2.1 General

You are not permitted to use information provided by the alleged perpetrator of the certified criminal activity in making an adverse determination on the petition for U nonimmigrant status. All U related filings are protected by the provisions of section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). See 8 USC 1367(a)(1).

13.2.2 Prohibition for Usage of Certain Adverse Information

Officials of the Department of Homeland Security are prohibited from making adverse determinations of admissibility or deportability based on information obtained solely from the perpetrator of substantial physical or mental abuse and the criminal activity.

This prohibition includes all letters, statements or any other documentation provided by the alleged perpetrator (or his/her representative).

You may consider any independent, third-party evidence provided regarding the U petitioner or qualifying family members.

13.2.3 Source Determination

You must determine how USCIS came into possession of the evidence in the file.

If there is indication that the evidence was sent to USCIS by the alleged perpetrator but is not in the form of a squeal letter, you must determine:

- if the evidence was generated by a credible and reliable source.
- whether the evidence would lead to an adverse decision for the petitioner or qualifying family member.

You will refer the case to your supervisor for consultation regarding usage of the evidence if you determine that the information:

- is from a credible, reliable source;
- is relevant to the adjudication; and
- would result in an adverse decision for the self-petitioner.

In order to use the information in making an adverse determination, you must either verify the information through available systems and file review or receive its own independent copy of the adverse information using USCIS resources. This should be done to ensure that the information was not altered while in the possession of the alleged abuser.

13.2.4 Information from Public Sources

If the file contains information from a public source, such as a court or other law enforcement entity, the information may be used in the adjudication. Such evidence includes but is not limited to the following:

- protection orders against the petitioner;
- police reports made involving the petitioner;
- court transcripts and findings regarding the petitioner or petitioner's claims.

If you determine that the evidence is complete and unaltered, the evidence may be used. Be certain that the source behind the creation of the documentation is not the alleged perpetrator of the certified criminal activity.

Example 1: A protection order obtained by the alleged abuser against the self-petitioner. This evidence is prohibited from usage in making an adverse determination as it is based on the claims of the alleged perpetrator of the certified criminal activity.

Example 2: Documentation in the record includes transcripts of the criminal proceedings upon which the I-918 is based. In the transcript, the petitioner recants his testimony and states the crime never occurred.

You must determine whether the transcript is accurate and whether the recanting contradicts other assertions in the record submitted in support of the I-918.

Example 3: Results of a criminal trial for the certified criminal activity show the alleged perpetrator was acquitted of the charge(s).

This, by itself, does not constitute adverse information. A conviction is not an eligibility requirement for U nonimmigrant status.

13.2.5 Information Generated from Non-Public Sources

If the file contains evidence issued by a non-public source (example: medical records), you must first determine who provided the information for the file.

If it was sent by the alleged abuser or member of the alleged abuser's family (as cited above), you are prohibited from using the information to make an adverse determination on the I-918 or I-918, Supplement A.

If adverse information is received that is neither from a public source nor from the alleged perpetrator, then you must determine the credibility and relevance of the evidence. If you find that the evidence would have a negative impact on the adjudication, you must discuss the evidence with supervision prior to issuing any notices to the petitioner based on that evidence.

Example: Insurance billing statement for the petitioner (on the alleged abusive spouse's policy) indicating the petitioner was treated for injuries in a car accident on the date the petitioner reported to police she was assaulted by her spouse.

13.2.6 Acknowledging Information in the File

If the file contains information that, if used, would result in an adverse determination but the use of that information is prohibited by section 384, you must place an acknowledgement of the information in the file.

Generate the Adverse Information Memo and briefly state what specific information was reviewed and why usage of the information was prohibited by section 384 (ex: information provided by the alleged perpetrator). Place the memo on the non-record side of the file.

13.2.7 Discovery of an apparent violation

If you discover an apparent violation of section 384 (either disclosure of information or use of prohibited information), you must bring the violation to the attention of your SISO and the ACD who oversees the unit.

1. Notify VSC management via email detailing the specific filing and all relevant information about the violation.
 2. Place a copy of the notification email on the non-record side of the file.
 3. Hold the file pending instructions from the ACD or a SISO.
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14 Employment Authorization

14.1 Overview

14.1.1 General

All U Nonimmigrants are eligible for an employment authorization document (EAD). Validity dates for EADs begin the date that the I-918 is approved for principals or (in the case of derivatives, who separately file the I-765) on the date that the I-765 is approved. Validity for work authorization ends on the last date of U nonimmigrant status.

14.2 U-1

14.2.1 U-1 Employment (alien in the U.S.)

1. Aliens granted status as a U-1 are eligible for employment pursuant to 8 CFR 247a.12(a)(19).
 2. Employment authorization is incident to the approval of the U-1 nonimmigrant status. The alien is **not** required to file an Application for Employment Authorization (Form I-765) for the initial card.
 3. Filing procedures for Form I-918, Petition for U Nonimmigrant Status, direct the alien to submit three current photos as described in 8 CFR 333.1
 4. Employment authorization will expire upon the expiration of the underlying U-1 nonimmigrant status.
 5. Alien must be in the United States to obtain the employment authorization document.
-

14.2.2 U-1 Employment (alien outside the U.S.)

An EAD will be automatically produced for a U-1 nonimmigrant when the case is approved and the alien is outside the United States. Update the address to the VSC's prior to approving in GUI. Once the card has been returned, have it destroyed and change the address on the case back to the attorney's address on the G-28. An EAD can be produced once the alien is admitted to the United States in U nonimmigrant status.

To receive the EAD, the U-1 need only submit a request for the EAD to the VSC. No forms or fees are required to produce this EAD.

Required evidence:

1. A request for the EAD; and
 2. A copy of the I-94 showing admission as U-1
-

14.3 U-2 through U-5

14.3.1 U-2 through U-5 Employment (alien in the U.S.)

Aliens granted status as a qualifying family member of a U nonimmigrant may apply for employment authorization by filing, with appropriate fee or with application for fee waiver, on Application for Employment Authorization (Form I-765), pursuant to 8 CFR 247a.12(a)(20).

Form I-765 may be filed concurrently with the alien's application for U-2, U-3, U-4, or U-5 nonimmigrant status or it may be filed later.

Employment authorization will be valid from the date of the I-765 approval until the expiration of the alien's U nonimmigrant status.

14.3.2 U-2 through U-5 Employment (alien outside the U.S.)

After admission to the United States as a U nonimmigrant, the alien should submit an Application for Employment Authorization (Form I-765) to the VSC.

Employment authorization will be valid from the date of the I-765 approval until the expiration of the alien's U nonimmigrant status.

Evidence required in support of the I-765 is:

1. A copy of the approval for U nonimmigrant classification;
 2. A copy of his/her Arrival-Departure Record (Form I-94); and
 3. Proper photos and signature.
-

14.4 Denial and Updating Errors

14.4.1 Denial

A denial of U Nonimmigrant status will result in the denial of any accompanying I-765 predicated on the approval of the I-918, Supplement A.

14.4.2 GUI CLAIMS Updating Errors

If an I-918 or derivative's I-765 is updated incorrectly in GUI CLAIMS, refer to the instructions in the "Case Updated by Error in CLAIMS" SOP on the LAN

15 Wait List Process

15.1 Overview

15.1.1 General

If more than 10,000 approvable I-918s are filed in a fiscal year, all cases determined to be approvable after reaching the cap will be placed under the Wait List Process.

15.1.2 Process for approvable I-918s and accompanying I-918As after the cap is reached

After 10,000 U-1 approvals have been issued in a fiscal year, do not update any Form I-918, I-918A, or I-192 approvals in HAVEN or GUI until the new fiscal year begins (October 1).

Follow the steps below to process approvable I-918s, I-918As and accompanying I-192s after the cap is reached.

Step	Action
1	Complete TECS checks and ensure any hits are resolved before placing the U Visa petition on the wait list.
2	If the file contains an I-192, verify that FBI NDOB check is valid at the time the U Visa petition is placed on the Wait List.
3	Verify that fingerprints are valid at the time the U Visa petition is placed on the Wait List.
4	Update I-192 in GUI as “pre-adjudicated, under review.”
5	Open the I-918 in HAVEN. For each identified inadmissibility, check the inadmissibility blocks under “Inadmissibility/Waiver/Status.” Do not check the block under “Waiver Grounds” until final adjudication.
6	Annotate all inadmissibility grounds to be waived on the Form I-192 Instructions page in blue or black ink.

NOTE: You must ensure that name, DOB, images, safe address, etc. are correct in all systems, including GUI. Ensure that the name and date of birth matches in CIS, GUI, and for I-918As, in HAVEN. You must correct errors. Submit CIS correction requests for name discrepancies. However, do not update approvals in HAVEN or GUI until the new fiscal year begins.

You must ensure that all steps above are complete and valid at the time the I-918, I-918A, and I-192 are placed on the Wait List.

15.1.3 Wait List Process with Second or Subsequent I-918 or I-918A

At the time of placing an I-918 or I-918A on the Wait List, if there is a second or subsequent I-918 or I-918A in the filing, follow the steps below.

Step	Action
1	Place the initial (oldest filing) I-918 or I-918A on waitlist and update the case appropriately in HAVEN and GUI.
2	Complete appropriate waitlist letter in CG and send out letter.
3	Do not update the second or subsequently filed I-918 or I-918A in HAVEN or GUI. Do not complete a Wait List letter in CG for the subsequently filed I-918 or I-918A.

15.1.4 I-918, I-918A, and I-192 Wait List Decision

Refer to the table below to determine the appropriate I-918, I-918A, and I-192 Wait List action.

If the ...	Then ...
I-918 does not meet the eligibility requirements,	<ul style="list-style-type: none"> • Issue an RFE or NOID. • Adjudicate up to the point of approval using the normal I-918/I-918A procedure. • Use the PINK I-918 Routing Worksheet when issuing the RFE. • Keep all family members together.
I-918A meets all eligibility requirements and principal was approved prior to the cap (Prior to Wait List),	<ul style="list-style-type: none"> • Approve using normal I-918A procedure. • Approve any related I-765 (A20) using the normal I-765 (A20) procedure.
I-918/I-918As and/or I-192s do not meet the eligibility requirements after the issuance of an RFE or NOID,	<ul style="list-style-type: none"> • Issue a denial using the normal I-918, I-918A, and I-192 procedures. • Use the PINK I-918 Routing Worksheet when issuing the denial.
I-918/I-918A is placed under the Wait List Process and is accompanied by an I-192 that will be denied as unnecessary,	<ul style="list-style-type: none"> • Follow the Wait List Process. Update GUI with “Pre-Adjudicated – Under Review” for I-192.
I-918 meets all eligibility requirements but the family group contains I-918A(s) requiring RFE or ITD,	<ul style="list-style-type: none"> • Adjudicate the I-918 up to the point of approval using the normal I-918 procedure. • If the applicant has more than one A-file, band them together, but do not consolidate until after final approval. • Update the I-918 as pre-adjudicated in GUI and the proper WAITLIST NOTICE in HAVEN. • Issue the appropriate WAITLIST NOTICE in HAVEN. • Place the WHITE I-918 Routing Worksheet inside the waitlisted I-918 file. • Issue an RFE or NOID on the I-918A. • Use the PINK I-918 Routing Worksheet when issuing the RFE. • Send the group to the RFE shelf, keeping all the family members together.

15.1.5 Updating Petition / Application

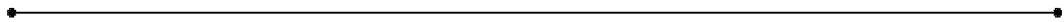
Refer to the chart below for the Wait List Process for I-918/I-918As and I-192 cases:

When you have...	Then...
I-918/I-918As placed under the Wait List Process to be approved,	<ul style="list-style-type: none"> • Prepare and send the appropriate Wait List Notice in CG. The notice is located in the “Informational Section.” • Place the file copy notice on the top of the I-918/I-918A (Record Side). (Do not place the file copy on top of the 384 cover sheet.) • Update HAVEN & GUI. <i>Refer to table below for appropriate update depending on scenario.</i> • If the applicant has more than one A-file, band them together, but do not consolidate until after final approval. • Complete WHITE I-918 Routing Worksheet (Revision Date 11-24-2013). Refer to <u>Routing and Annotations Section</u>.
File with more than one I-918, all meeting eligibility requirements for the Wait List,	<ul style="list-style-type: none"> • Prepare and send the appropriate Wait List Notice in CG for only the earliest filed I-918. The notice is located in the “Informational Section.” Do not issue a notice for subsequently filed I-918s. • Place the file copy notice on the top of the relevant I-918 (Record Side). (Do not place the file copy on top of the 384 cover sheet.) • Update HAVEN & GUI for only the earliest I-918. Leave subsequently filed I-918s in pending status in HAVEN & GUI. <i>Refer to table below for appropriate update depending on scenario.</i> • Complete WHITE I-918 Routing Worksheet (Revision Date 11-24-2013). Refer to <u>Routing and Annotations Section</u>.
File with I-918 and I-918A,	<ul style="list-style-type: none"> • Prepare and send the appropriate Wait List Notice in CG for each family member’s I-918 and I-918A. • Place the file copy notice on the top of the relevant I-918 and I-918A (Record Side). (Do not place the file copy on top of the 384 cover sheet.) • Update HAVEN & GUI for the I-918 and I-918A for each family member’s file. <i>Refer to table below for appropriate update depending on scenario.</i> • Complete WHITE I-918 Routing Worksheet (Revision Date 11-24-2013). Refer to <u>Routing and Annotations Section</u>. • Keep all family members together. Place the earliest receipted I-918 on top.
Accompanying I-192 to be approved,	<ul style="list-style-type: none"> • Annotate all inadmissibility grounds being waived. • Update GUI. <i>Refer to table below for appropriate updates.</i>
I-192 to be denied as unnecessary,	<ul style="list-style-type: none"> • Update GUI. <i>Refer to table below for appropriate updates.</i>

15.1.6 Updating Petition / Application

Refer to the chart below for a summary of appropriate Wait List letter, HAVEN and GUI Updates.

Scenario	Letter	HAVEN Update #1	HAVEN Update #2	GUI Update
I-918 in the US	WL918DAS	“WAITLIST NOTICE ORDERED WITH DAS”	“WAITLIST NOTICE SENT”	“Pre Adjudicated Under Review”
I-918A in the US	WL918ADAS	“WAITLIST NOTICE ORDERED WITH DAS”	“WAITLIST NOTICE SENT”	
I-918 outside the US	WL918NO	“WAITLIST NOTICE ORDERED”	“WAITLIST NOTICE SENT”	“Pre Adjudicated Under Review”
I-918A outside the US	WL918ANO	“WAITLIST NOTICE ORDERED”	“WAITLIST NOTICE SENT”	
I-192	N/A	N/A	N/A	“Pre Adjudicated Under Review”



15.2 Routing and Annotations

15.2.1 Worksheet

Follow the steps below to complete the **WHITE** I-918-Routing Worksheet. You must use the I-918 Routing Worksheet dated 11-25-2013.

NOTE: Do not adjudicate or annotate I-765 (A19/A20) files riding with an I-918/I-918A until October 1.

Step	Action	
1	Write the I-918 and I-192 receipt numbers on the upper left of the Routing Worksheet or use stickers identifying the receipt numbers.	
2	Record your NFTS code on the line designated ISO #.	
3	Record the date on the designated line.	
4	Complete all sections of the Wait List section:	
	Part	Description
	Date Received	Indicate the receipt stamp date on the I-918 or I-918A.
	FD258 Date	Indicate the date the FBI fingerprint check was last run.
	FD258 Results: IDENT/NON IDENT	Indicate the results of the last FBI fingerprint check.
	FBI NAME DOB	Indicate the processing date of the last FBI name check.
5	If the applicant has been granted deferred action status and CIS indicates "384," not "DAS," route the file to D6 VAWA Sort , and mark the box "Update CIS COA as: ____" with "DAS"	

15.2.2 Routing for all Files Placed Under the Wait List

Follow the steps below to route files that were placed under the Wait List. FCU shelving has been identified and labeled as “U Visa Wait List Process.” (Keep family members together.)

Site Location	Action
St. Albans, with DAS	Refer to Step 5, above, and complete the I-918 Wait List Routing Sheet. Charge out files in NFTS and place those files in the clerical sort boxes marked “COA Update, No Clerical Action” at the VAWA/humanitarian file staging area.
St. Albans, no DAS	Charge out files in NFTS and place those files in the waitlist boxes marked at the VAWA/humanitarian file staging area.
Essex, with DAS	Refer to Step 5, above, and complete the I-918 Wait List Routing Sheet. Charge out files in NFTS and place in the identified clerical sort boxes in the file staging area.
Essex, no DAS	Charge out files in NFTS and place those files in the assigned boxes in the FCU room.

15.3 Unlawful Presence and Revocations**15.3.1 Unlawful presence accrual**

Time on the Wait List while granted deferred action or parole will not result in the accrual of unlawful presence under INA 212(a)(9)(B).

A petitioner may be removed from the Post U Visa CAP Process and deferred action or parole terminated at the discretion of USCIS.

15.3.2 Effect of Revocation on numerical limit

Revocation of an individual’s U-1 status will have no effect on the numerical limit.

15.4 Case Updated as Wait List in Error

15.4.1 Overview

This section provides detailed steps for removing petitions from Wait List as evidence in the record may indicate the petitioner or derivative may be ineligible for U nonimmigrant status.

15.4.2 ISA Process

Once a case is identified as being Wait Listed in Error, the ISAs will complete the following steps in the correction process.

Steps	Action
Retrieve Files	Pull identified file(s) from the Wait List hold area and deliver to the appropriate SISO.
Return Files to Wait List Shelving	After officers complete action on a wait-listed case, The ISA(s) will update the excel spreadsheet prior to returning the files to the I-918 Wait List shelves.

15.4.3 SISO Responsibilities

When a SISO receives a file identified as waitlisted in error, he or she will review the file to determine if corrective action is needed. If corrective action is needed, he or she will deliver the file to the appropriate officer.

15.4.4 Officer Responsibilities

If you receive a case identified as wait-listed in error, follow the steps below to correct the error:

Step	Action						
1	Determine if an RFE or ITD is needed on the I-918, I-918A and/or I-192.						
2	If an RFE or ITD is needed, update Haven/GUI with “Previous Action Canceled”. This will alert others reviewing the electronic case history that the case was removed from the Wait List.						
3	Update GUI/Haven with RFE or ITD notice ordered, etc.						
4	Issue RFE or ITD with one of the introductory paragraphs below: <table border="1"> <tr> <th>If the case was wait-listed...</th><th>Then use the introductory paragraph...</th></tr> <tr> <td>With DAS,</td><td>On DATE, you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on Wait List. You were also notified that you have been placed in deferred action. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.</td></tr> <tr> <td>With no DAS,</td><td>On DATE, you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on a Wait List. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.</td></tr> </table>	If the case was wait-listed...	Then use the introductory paragraph...	With DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on Wait List. You were also notified that you have been placed in deferred action. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.	With no DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on a Wait List. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.
If the case was wait-listed...	Then use the introductory paragraph...						
With DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on Wait List. You were also notified that you have been placed in deferred action. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.						
With no DAS,	On DATE , you were notified that your Petition for U Nonimmigrant Status (Form I-918) or Petition for Qualifying Family Member of U-1 Recipient (I-918 Supplement A) was placed on a Wait List. This notice is to advise you that the petition has been removed from the Wait List as evidence in the record indicates you or your family member may be ineligible for U nonimmigrant status. A discussion follows.						
5	Email the I-918waitlistrequest email account letting the ISA(s) know that an RFE/ITD was issued and ask that the Excel spreadsheet used to track these cases be updated.						

Continued on next page

Officer Responsibilities (continued)

Step	Action						
6	<p data-bbox="462 310 1291 373">Follow the steps below once you receive the response to the RFE or ITD:</p> <table border="1" data-bbox="462 415 1291 1434"> <thead> <tr> <th data-bbox="462 415 711 531">If the outcome of the RFE/ITD results in...</th><th data-bbox="711 415 1291 531">Then...</th></tr> </thead> <tbody> <tr> <td data-bbox="462 531 711 1224">A denial,</td><td data-bbox="711 531 1291 1224"> <ul style="list-style-type: none"> • Issue denial and include a statement in the denial that DAS is terminated as of the date of the denial e.g., “Any deferred action previously granted to you / your family member in connection with this petition is hereby terminated as of the date of this notice. Any employment authorization that may have been granted to you in connection with the deferred action grant is also terminated as of the date of this notice.” • After appeal time has passed, advise contractor to update COA field in CIS appropriately, e.g., UU. • Email the I-918waitlistrequest email account letting the ISA(s) know that the case was denied and ask that the Excel spreadsheet used to track these cases be updated. </td></tr> <tr> <td data-bbox="462 1224 711 1434">Wait listing the case again,</td><td data-bbox="711 1224 1291 1434"> <ul style="list-style-type: none"> • Issue appropriate Wait List letter in CG, • Update GUI/Haven, and • Send case to I-918 Wait List. NFTS to AC0019 and drop off in the crates outside EX280. </td></tr> </tbody> </table>	If the outcome of the RFE/ITD results in...	Then...	A denial,	<ul style="list-style-type: none"> • Issue denial and include a statement in the denial that DAS is terminated as of the date of the denial e.g., “Any deferred action previously granted to you / your family member in connection with this petition is hereby terminated as of the date of this notice. Any employment authorization that may have been granted to you in connection with the deferred action grant is also terminated as of the date of this notice.” • After appeal time has passed, advise contractor to update COA field in CIS appropriately, e.g., UU. • Email the I-918waitlistrequest email account letting the ISA(s) know that the case was denied and ask that the Excel spreadsheet used to track these cases be updated. 	Wait listing the case again,	<ul style="list-style-type: none"> • Issue appropriate Wait List letter in CG, • Update GUI/Haven, and • Send case to I-918 Wait List. NFTS to AC0019 and drop off in the crates outside EX280.
If the outcome of the RFE/ITD results in...	Then...						
A denial,	<ul style="list-style-type: none"> • Issue denial and include a statement in the denial that DAS is terminated as of the date of the denial e.g., “Any deferred action previously granted to you / your family member in connection with this petition is hereby terminated as of the date of this notice. Any employment authorization that may have been granted to you in connection with the deferred action grant is also terminated as of the date of this notice.” • After appeal time has passed, advise contractor to update COA field in CIS appropriately, e.g., UU. • Email the I-918waitlistrequest email account letting the ISA(s) know that the case was denied and ask that the Excel spreadsheet used to track these cases be updated. 						
Wait listing the case again,	<ul style="list-style-type: none"> • Issue appropriate Wait List letter in CG, • Update GUI/Haven, and • Send case to I-918 Wait List. NFTS to AC0019 and drop off in the crates outside EX280. 						

16 Revocations

16.1 Overview

16.1.1 General

Approvals of U nonimmigrant status can be revoked. The alien shall immediately inform USCIS of any changes in the terms and conditions of the alien's circumstances that may affect eligibility 8 CFR 214.14(o).

All Intents to Revoke and Revocations must be completed on the LAN and not in Correspondence Generator.

Revocation may occur at any time after the approval of the U nonimmigrant status—even after the status of validity has expired. There are two types of revocation: Automatic and by notice.

16.1.2 Automatic Revocation

Automatic Revocation 8 CFR 214.14(h)(1)

Principal with an approved U nonimmigrant petition who applied from outside the United States notifies USCIS that he or she will not use the approved petition to enter the United States

NOTE: Automatic revocations cannot be appealed.

16.1.3 Revocation on Notice

A petition for U nonimmigrant status also may be revoked following a **notice of intent to revoke** based on one or more of the following reasons:

Revocation on notice 8 CFR 214.14(h)(2)

- (A) The certifying official withdraws the U nonimmigrant status certification referred to in 8 CFR 214.14(c)(2)(i) or disavows the contents in writing;
- (B) The approval of the petition was in error;
- (C) There was fraud in the petition;
- (D) (*In the case of U-2 through U-5*), the relationship to the principal has terminated; or
- (E) (*In the case of U-2 through U-5*), the principal's U-1 nonimmigrant status is revoked.

NOTE: Revocations on notice may be appealed.

16.1.4 Notice of Intent

The notice of intent to revoke must be in writing and contain a detailed statement of the grounds for revocation. The U nonimmigrant will be granted 30 days to present rebuttal evidence.

Consider all relevant evidence presented in deciding whether to revoke the petition. Determination of what is relevant evidence and the weight to be given that evidence is within the sole discretion of USCIS.

16.1.5 Notification of revocation

USCIS will provide the alien with a written notice of revocation explaining the specific reasons for revocation.

16.2 Effects of Revocation

16.2.1 Effect of revocation on principal

- Revocation of a principal's I-918 approval will result in the termination of the principal's U-1 status.
 - If a petition for U-2, U-3, U-4, U-5 is still pending at the time the principal's U-1 status is revoked, deny the U-2, U-3, U-4, or U-5's petition.
 - Revocation of an approved I-918 also revokes any waiver of inadmissibility granted in conjunction with the petition.
-

16.2.2 Effect of revocation on derivative

- The revocation of the principal's Form I-918 approval will result in the denial of any pending Forms I-918, Supplement A, for qualifying family member of that principal.
 - Revocation of the qualifying family member's Form I-918, Supplement A, will result in the termination of status for that qualifying family member.
 - Revocation of an approved I-918 also revokes any waiver of inadmissibility granted in conjunction with the petition.
-

16.2.3 Appeal rights

A **revocation on notice** may be appealed to the Administrative Appeals Office in accordance with 8 CFR 103.3(a)(1)(iii).

Automatic revocations cannot be appealed.

16.2.4 Notice to Appear (NTA)

If USCIS revokes or denies Form I-918 for an alien who was in proceedings that were terminated pursuant to 8 CFR 214.14(c)(1)(i), a new Notice To Appear (NTA) may be filed by DHS (see INA section 239).

Contact the local NTA unit for processing and policies regarding the issuance of NTAs for this and other scenarios involving revocations of Form I-918.

17 Appeals and Motions

17.1 Overview

17.1.1 Appeal Rights

- Denied Petitions for U Nonimmigrant Status can be appealed to the Administrative Appeals Office (AAO).
 - Appeals can be made pursuant to the provisions of 8 CFR 103.3.
 - The denial upon which an appeal is filed will not become final until the appeal is adjudicated.
 - Revocation on notice, those grounds cited in 8 CFR 214.14(h)(2), may be appealed pursuant to 8 CFR 103.3.
 - Automatic revocations (8 CFR 214.112(h)(1)) cannot be appealed.
 - Denials and revocations of waivers of inadmissibility cannot be appealed.
-

17.1.2 Motion Rights

Denied applications for U Nonimmigrant Status are subject to the provisions for:

- a motion to reopen under the provisions of 8 CFR 103.3.
 - a motion to reconsider 8 CFR 103.5.
-

17.2 Motions to Reopen Denial for No. Supplement B

17.2.1 I-918 Denials Based on No. Form I-918, Supplement B

Refer to the table below to determine the appropriate action when adjudicating motions to reopen a denial based on no form I-918, Supplement B. The following are the three scenarios with recommended actions:

Scenario	Motion details	Action
Form I-918 denied for No Supplement B – all deficiencies addressed	Motion filed with only Supplement B. No additional evidence to address other deficiencies as noted in the denial	Grant motion to reopen and re-deny the Form I-918 for all remaining deficiencies as case is still not approvable.
Form I-918 denied for No Supplement B – all deficiencies NOT addressed	Motion filed with Supplement B	Grant motion and reopen to correct service error of not citing all deficiencies. RFE to address all remaining deficiencies.
Form I-918 denied for No Supplement B – no remaining deficiencies in the file	Motion filed with only Supplement B	Dismiss since the Supplement B is considered initial evidence and should not be accepted after the denial.

18 Immigration Proceedings

18.1 Effect of Immigration Proceedings

18.1.1 General

USCIS may institute removal proceedings for petitioners and derivatives for U Nonimmigrant Status.

Aliens in removal proceedings may petition for U nonimmigrant status.

18.1.2 Open proceedings at the time of filing

Aliens in removal proceedings under section 240 of the Act, 8 U.S.C. 1229a, or in exclusion or deportation proceedings initiated under the former sections 236 or 242 of the Act (as in effect prior to April 1, 1997) and who would like to petition for U nonimmigrant status must file Form I-918 directly with USCIS.

ICE counsel may agree to file, as a matter of discretion, at the request of the alien petitioner, a joint motion to terminate proceedings without prejudice with the immigration judge or the Board of Immigration Appeals (whichever is appropriate) while the I-918 is being adjudicated.

18.1.3 Final orders of removal, deportation or exclusion

- Aliens with a final order of removal, deportation or exclusion are not precluded from filing for U nonimmigrant status directly with USCIS.
 - Filing for U nonimmigrant status has **no effect** on ICE's authority to execute the final order. Aliens may file Form I-246, "Stay of Removal" with ICE for a stay of removal pursuant to 8 CFR 241.6(a) and 8 CFR 1241.6(a).
 - If the alien is in detention pending the execution of the final order, the time during which the stay is in effect will extend the period of detention necessary to bring about the alien's removal.
-

18.1.4 Effect of approvals on proceedings

Upon approval of Form I-918, orders of exclusion, deportation or removal issued by the Secretary for that alien will be deemed canceled as an operation of law as of the date of USCIS's approval of Form I-918.

Those subject to an order of exclusion, deportation, or removal issued by an immigration judge or the Board may seek cancellation of such order by filing, with the immigration judge or the Board, a motion to reopen and terminate proceedings. ICE counsel may agree, as a matter of discretion, to join in such a motion to overcome any applicable time and numerical limitations of 8 CFR 1003.2 and 1003.23

19 Trafficking Referrals

19.1 General

USCIS will make referrals to ICE/Office of Investigations for all cases that involve, appear to involve or claim to involve human trafficking.

19.2 Qualifying cases

Refer all cases where:

- the certified crime involves the crime of human trafficking or
- human trafficking indicators are identified in the record.

19.3 Process

Follow the steps below as soon as the claims to human trafficking are identified.

Step	Action
1	Send a referral email to ICE at the following address: Trafficking.Icehuman@dhs.gov
2	Use call-up 0688 for the ICE Trafficking Referral Letter to make the referral.
3	Place a copy of the referral email to ICE on the non-record side of the file.
4	Continue adjudication on the I-918 after the referral is made.

NOTE: The alien will not be notified that the referral has been made.

20 Processing

20.1 General Processing

20.1.1 General

Perform TECS checks on all aliens seeking a benefit under the U nonimmigrant visa program.

Place files in the proper order and annotate worksheets appropriately prior to sending the file to clerical or outside the unit.

20.2 Record of Processing

20.2.1 Form I-918 Record of Proceeding (ROP)

The general order that will be used for basic file setup purposes is as follows:

Form I-918:

- 384 Warning Sheet
 - I-918 Safe Address Sheet
 - G-28 (if applicable)
 - I-918
 - I-918 Supplement B
 - Supporting evidence
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-192 Safe Address Sheet
 - G-28 (if applicable)
 - I-192 (if applicable)
 - Supporting evidence
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-193 (if applicable)
-

20.2.2 Form I-918A

Form I-918, Supplement A:

- 384 Warning Sheet
 - Safe Address Sheet
 - G-28 (if applicable)
 - I-918, Supplement A
 - Evidence of relationship to I-918 petitioner
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-192 Safe Address Sheet
 - G-28 (if applicable)
 - I-192 (if applicable)
 - Supporting evidence
 - RFE/NOID (if applicable)
 - Evidence submitted in response to RFE/NOID
 - I-193 (if applicable)
-

20.3 Duplicate Copies and Systems

20.3.1 Second Copy of Petition/ Application in file

Refer to the table below to determine how to process the second copy of the petition that is in the file.

If the I-918/I-918A (and accompanying I-192 or I-193 is...	Then ...
Approved and there is a 2 nd copy of the petition/application in the file,	<ul style="list-style-type: none"> • Sign and annotate the 2nd copy in the same manner as the original petition. • Place the 2nd copy of the approved petition on the non-record side of the file after all updating is complete.
Denied and there is a 2 nd copy of the petition/application in the file,	<ul style="list-style-type: none"> • Write “Support Only” in the action block. • Do not stamp or annotate the petition further.

The clerical unit is responsible for sending the approved copy to the KCC.

NOTE: If there is not a second copy of the petition/application in the file, the clerical unit will make copies of the approved petition/application to send to the KCC.

20.3.2 Systems HAVEN

Refer to the table below to determine which system to use to adjudicate the various forms.

Form	System
I-918 and I-918A	HAVEN
“dummy” I-765 (principals only)	GUI
NOTE: No actual I-765 will be filed on these cases. There will only be an electronic record.	
Any I-765 filed on behalf of a qualifying family member	GUI
Accompanying forms such as I-192	GUI
Accompanying forms such as I-193	Adjudicate a Case

21 Adjudication

21.1 Updating

21.1.1 Updating in GUI and HAVEN

HAVEN information is pulled from GUI. Follow the steps below to update a file in GUI and HAVEN.

Step	Action
1	Open the case in GUI.
2	Verify that all information is correct in GUI.
3	Make all needed corrections in GUI. Do not update GUI.
4	Open the case in HAVEN.
5	Update the case in HAVEN.
6	Update the case in GUI.

IMPORTANT: You must update the case in HAVEN prior to updating in GUI.

21.2 Generating the Approval Notice

21.2.1 Verify Approval Info. for I-918 Principal Petitioner

You will generate the approval notice at the time of final adjudication. You must ensure that information in the notice is correct.

Refer to the tables below to determine the information that you must verify is correct prior to updating an approval for an I-918 principal petitioner.

If the update is an approval for an I-918 principal petitioner who is...	Then ensure the following information is correct in both HAVEN and GUI prior to updating...
In the United States,	<ul style="list-style-type: none">• Name• DOB• Country of Citizenship• Classification• Validity Dates• A-number• Safe Address• I-94 Number (entered in HAVEN, only)
Outside of the United States,	<ul style="list-style-type: none">• Name• DOB• Classification• Validity Dates• A-number• Safe Address

21.2.2 Verify Approval Info. for I-918A Qualifying Family Member

You will generate the approval notice at the time of final adjudication. You are responsible to ensure that information in the notice is correct.

You must verify that the information in the table below is correct prior to updating an approval for an I-918A Qualifying Family Member in HAVEN.

If the update is an approval for an applicant who is an I-918A Qualifying Family Member (QFM) who is.....	Then ensure the following information is correct in HAVEN...
In the United States,	<ul style="list-style-type: none"> • Principal's Name* • Principal's A-number* • QFM's Name • QFM's A-number • QFM's Country of Citizenship • QFM's Classification • QFM's Validity Dates • QFM's I-94 Number (entered in HAVEN, only) • Principal's Safe Address (as it appears in the QFM's filing) <p>*Updates/changes to this information must be made in GUI.</p>
Outside of the United States,	<ul style="list-style-type: none"> • Principal's Name* • Principal's A-number* • QFM's Name • QFM's A-number • QFM's Classification • QFM's Validity Dates • Principal's Safe Address (as it appears in the QFM's filing) <p>*Updates/changes to this information must be made in GUI</p>

21.3 Updating in HAVEN

21.3.1 Entering HAVEN

Follow the steps below to log into HAVEN:

Step	Action
1	Check the agreement box (a).
2	Enter your assigned user name and password (b).
3	Click the Login button at the bottom (c).

The screenshot shows the HAVEN login interface. At the top left is the U.S. Citizenship and Immigration Services logo. The header reads "U.S. Citizenship and Immigration Services HAVEN". Below the header is a "Welcome to HAVEN" message. A "WARNING!" box contains a disclaimer about accessing a U.S. Government information system. Below the warning is a box titled "Agreement required for login!" with a checkbox and the text "I have read, understand, and agree to abide by the above terms and conditions regarding the use of this system." An annotation 'a' points to this checkbox, with a callout box saying "Check to agree". To the right of the agreement box is a login form with fields for "User ID:" and "Password:". An annotation 'b' points to the "Enter User ID and Password" label above the form. Below the form is a "Login" button. An annotation 'c' points to the "Login" button, with a callout box saying "Click Login".

21.3.2 Searching for a Record in HAVEN

Follow the steps below to search for a record in HAVEN:

Step	Action
1	Click the Search Tab.
2	Type the criteria (b).
3	Click the Search button (c).
4	If you want to clear out all the search criteria, click Reset Criteria (d).

21.3.3 HAVEN Search Screen

This is a screenshot of the HAVEN Search Screen.

The screenshot shows the HAVEN Application Search interface. At the top, there are tabs for I914, I918, I929, Search, Reports, and Admin. The Search tab is active. Below the tabs, the title "HAVEN Application Search" is displayed. To the right, there is a "Your Profile" section showing the user's name (devuser1), current role (Administrator), and email address. A "Click Search" button is located next to the profile. The main search area is titled "SEARCH HAVEN APPLICATIONS" and includes a note: "You may use any combination of the case criteria below to locate case(s). Only results matching all provided criteria are returned." The search criteria are organized into a grid of input fields: A Number Contains, VTU Number Contains, EAC Number Contains, I94 Number Contains, Passport Number Contains, Last Name Contains, First Name Contains, Middle Name Contains, Birth Date From, and Birth Date To. A "Click Search" button is positioned to the right of the grid. Below the grid, there are "Search" and "Reset Criteria" buttons. Annotations with letters a, b, c, and d are placed around the interface: 'a' points to the Reports tab, 'b' points to the search criteria grid, 'c' points to the Search button, and 'd' points to the Reset Criteria button. A text box with the instruction "Type any or all search criteria" is placed near the grid.

IMPORTANT: This is an exact search – the more data you enter, the less likely you are to get all match.

A numbers must have leading “0”.

I-918, PETITION FOR U NONIMMIGRANT STATUS

21.3.4 Sample HAVEN Search Results

Your search returned 34 records

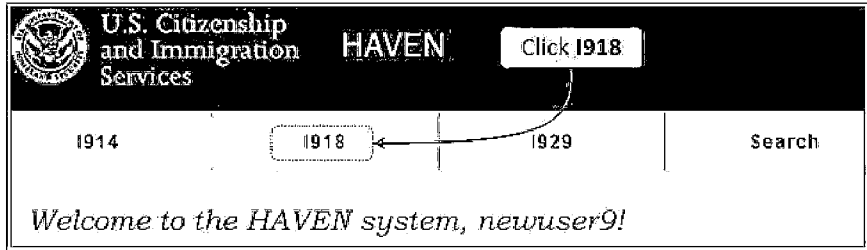
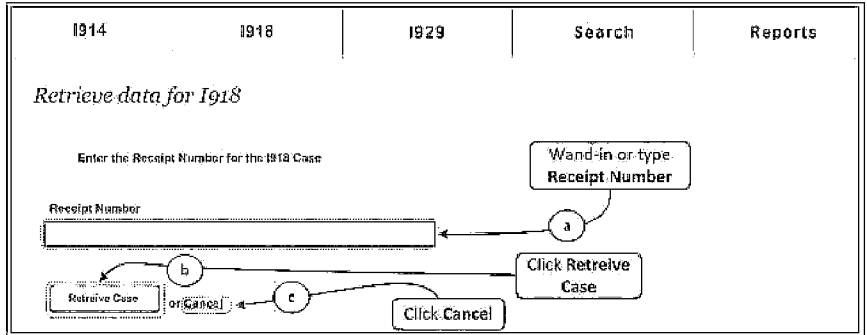
Page 1 of 2

Applicant Name	Type	Receipt No.	A No.	DOB
<u>Benson-Davidson, Theresa</u>	I918	EAC1110004444	A123345678	Jan 1, 1970
<u>David, Keith</u>	I918	EAC2221110000	A122345678	Oct 22, 1960
<u>Davidson, Norman</u>	I918A	VTU3211234567	A112345678	Nov 15, 1958
<u>Davidina, Millie</u>	I918	EAC3331115555	A876543210	Mar 3, 1984
<u>Davidson, Monica</u>	I914	EAC3344556677	A765432109	Feb 20, 1955
<u>Davidson, Bronson</u>	I929	VTU9990001234	A654321098	Nov 7, 1963
<u>Davidson, Goliath</u>	I918	EAC0001234567	A543210987	Apr 9, 1943
<u>Davidson, Tonya</u>	I918A	VTU221198765	A432109876	Aug 22, 1934
<u>Davie, Jones</u>	I914	EAC2229876541	A321098765	Sep 13, 1973
<u>Davikini, Lisa</u>	I918B	VTU5550054321	A210987654	May 21, 1980
<u>Davis, Anderson</u>	I918	EAC7770123456	A109876543	Jun 2, 1954
<u>Davis, Bette</u>	I914A	VTU1230987654	A098765432	Jul 23, 1978
<u>Davis, Janice</u>	I914	EAC0088123456	A009876543	May 16, 1944
<u>Davis, Mavis</u>	I914	EAC1110123456	A099876543	Feb 17, 1956
<u>Davis, Wyncentle</u>	I918	EAC0077123455	A098876543	Mar 30, 1959
<u>Davisson, Keith</u>	I918A	VTU3219876540	A098776543	Apr 8, 1948
<u>Nixon-Davis, Samantha</u>	I918	EAC6600987654	A098766543	Oct 10, 1960

21.3.5 Retrieving a Case in HAVEN

Follow the steps below to retrieve a case in HAVEN.

NOTE: The case first must have been created in GUI.

Step	Action
1	<p>Begin entering an I-918 receipt number by clicking the I-918 tab.</p> 
2	<p>On the <i>Retrieve data for I918</i> page:</p> <ul style="list-style-type: none"> • Wand-in the I-918 application form's Receipt Number. • Click Retrieve Case button, or • End without retrieving a case by clicking <u>Cancel</u>. 

21.3.6 Result Screenshot from Retrieving a Case in HAVEN

A message appears below the I918 Form heading,

“This case exists in the HAVEN database.” A 918 can only be viewed in HAVEN if it exists in CLAIMS.

The Cap Counter tracks the current number of approved cases for the fiscal year-to-date.

IMPORTANT: Prior to proceeding, you must ensure that the CAP has not been reached and that a visa is available.

I918 Form

☒ This case exists in the HAVEN database.

Cap 100	Reserve 3	Cap Counter 5716
Receipt Number EAC1108850410	Received Date 	

☐ I-192 ☐ I-193 ☐ NTA Referral ☐ Sent to CFDO

Updates are entered through GUI. HAVEN will display the information that it retrieves from GUI. The information on the screen that is grey is from GUI. You must update this information in GUI, not in HAVEN.

- General Information -

Personal Info

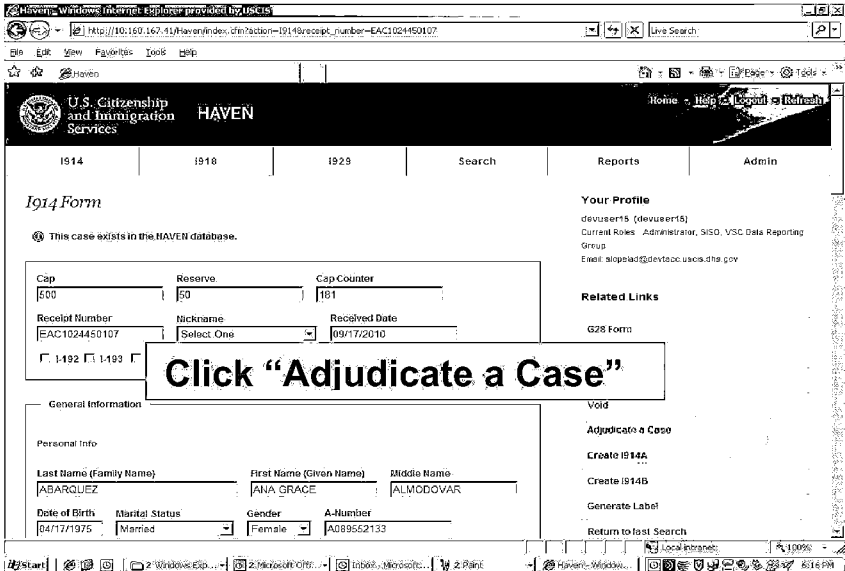
Last Name (Family Name)	First Name (Given Name)	Middle Name
Date of Birth	Marital Status	Gender
A-Number	SSN	
Country of Birth	Country of Citizenship	

IMPORTANT: HAVEN can only capture cases that already exist in GUI; this information will be grayed out.

21.3.7 Updating a Decision in HAVEN

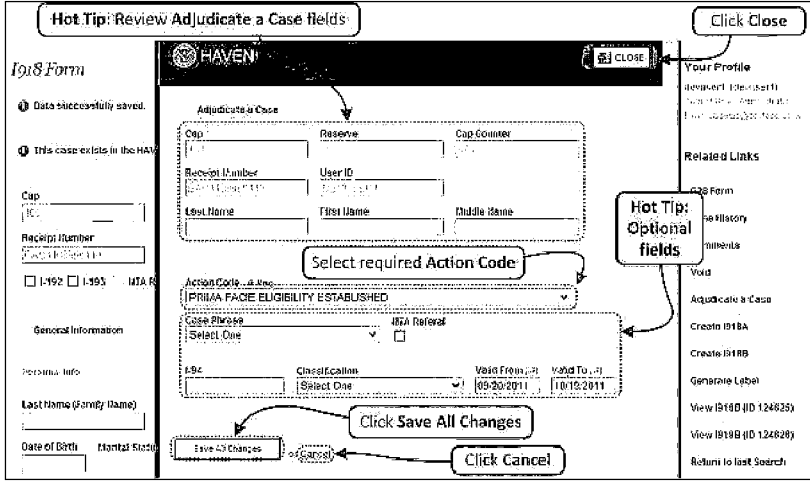
You must update all adjudicative decisions on the I-918 (principal) in both GUI and HAVEN. Update qualifying family members' I-918As only in HAVEN. Update any accompanying I-765 for a qualifying family member in GUI following normal EAD updating requirements.

Follow the steps below to update a decision in HAVEN:

Step	Action
1	<p>Click “Adjudicate a Case”</p> 

Continued on next page

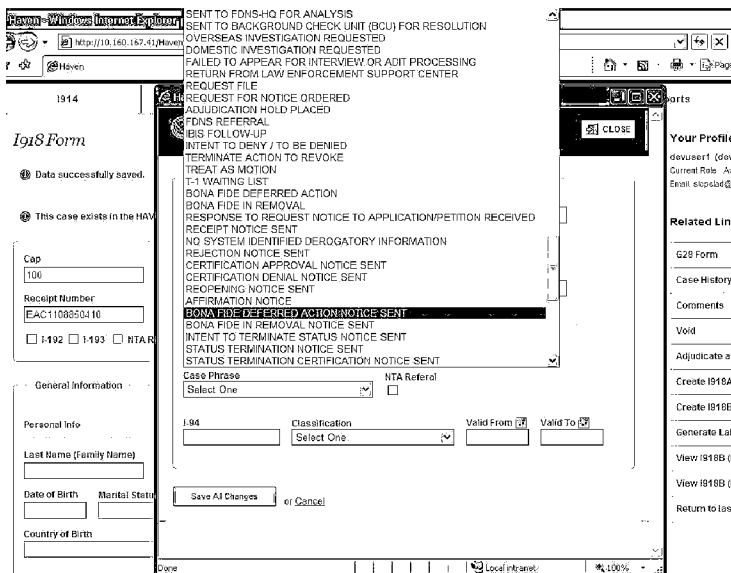

Updating a Decision in HAVEN (continued)

Step	Action
2	<p>Review the information in the window that pops up after clicking “Adjudicate a Case” from the Related Links sidebar.</p>  <p>IMPORTANT: If approving a case for a principal, you must verify that the count is not more than 10,000 at the Cap Count menu screen.</p> <p>NOTE: All cases for principals that are over the 10,000 mark for a given fiscal year will be placed on a Wait List. (See instructions for “Wait List Approval”).</p>

Continued on next page

I-918, PETITION FOR U NONIMMIGRANT STATUS

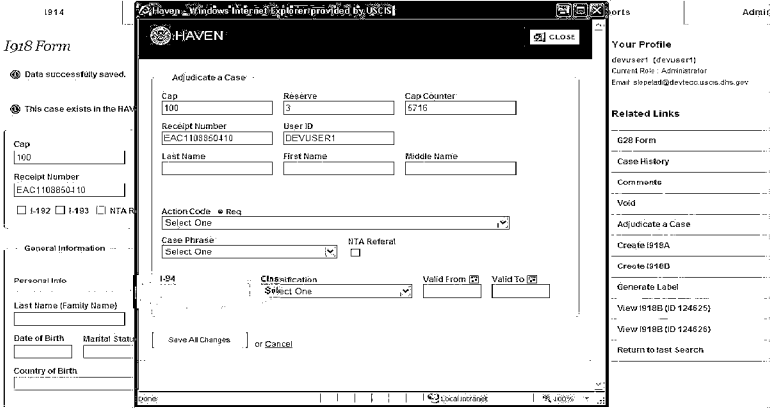
Updating a Decision in HAVEN (continued)

Step	Action
3	<ul style="list-style-type: none"> • Select action code/update phrase. • If approving, enter classification and validity dates. • Select “save all changes.”  <p>The screenshot shows the HAVEN system interface. On the left is the 'I-918 Form' with fields for 'Cap' (set to 100), 'Receipt Number' (EAC1100550410), and checkboxes for 'I-192', 'I-193', and 'NTA Ref'. Below this is the 'General Information' section with fields for 'Last Name (Family Name)', 'Date of Birth', 'Marital Status', and 'Country of Birth'. On the right is a list of action codes, including 'SENT TO FDN-HQ FOR ANALYSIS', 'SENT TO BACKGROUND CHECK UNIT (BCU) FOR RESOLUTION', 'OVERSEAS INVESTIGATION REQUESTED', 'DOMESTIC INVESTIGATION REQUESTED', 'FAILED TO APPEAR FOR INTERVIEW OR ADIT PROCESSING', 'RETURN FROM LAW ENFORCEMENT SUPPORT CENTER', 'REQUEST FILE', 'REQUEST FOR NOTICE ORDERED', 'ADJUDICATION HOLD PLACED', 'FONS REFERRAL', 'BIS FOLLOW-UP', 'INTENT TO DENY / TO BE DENIED', 'TERMINATE ACTION TO REVOKE', 'TREAT AS MOTION', 'T-1 WAITING LIST', 'BONA FIDE DEFERRED ACTION', 'BONA FIDE IN REMOVAL', 'RESPONSE TO REQUEST NOTICE TO APPLICATION/PETITION RECEIVED', 'RECEIPT NOTICE SENT', 'NO SYSTEM IDENTIFIED DEROGATORY INFORMATION', 'REJECTION NOTICE SENT', 'CERTIFICATION APPROVAL NOTICE SENT', 'CERTIFICATION DENIAL NOTICE SENT', 'REOPENING NOTICE SENT', 'AFFIRMATION NOTICE', 'BONA FIDE DEFERRED ACTION NOTICE SENT', 'BONA FIDE IN REMOVAL NOTICE SENT', 'INTENT TO TERMINATE STATUS NOTICE SENT', 'STATUS TERMINATION NOTICE SENT', and 'STATUS TERMINATION CERTIFICATION NOTICE SENT'. Below the list are fields for 'Case Phrase' (Set to One), 'NTA Referral' (checkbox), 'I-94', 'Classification' (Set to One), 'Valid From', and 'Valid To'. At the bottom are buttons for 'Save All Changes' and 'or Cancel'.</p>
4	<p>Confirm the adjudication in HAVEN.</p>  <ul style="list-style-type: none"> • You must confirm that all information is correct before updating. • Once a Visa is issued, it can not be re-used. • Notices are generated through HAVEN, there generally is no clerical action with exception of I-94 card processing. <p>IMPORANT: You must also update GUI after you update HAVEN.</p>

Continued on next page

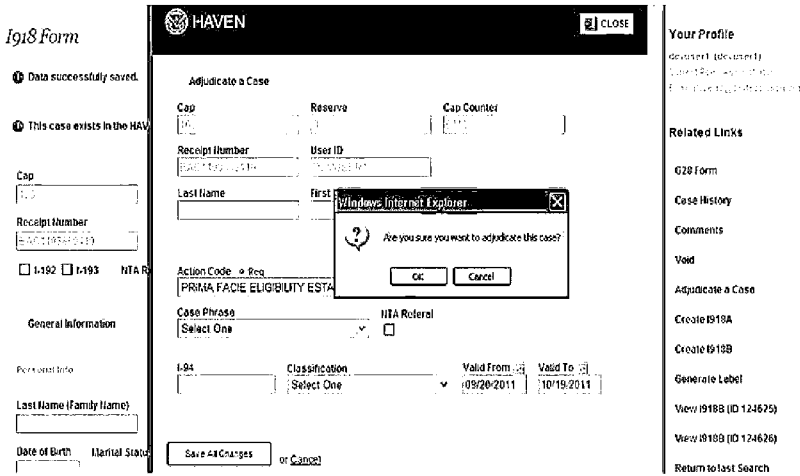
I-918, PETITION FOR U NONIMMIGRANT STATUS

Updating a Decision in HAVEN (continued)

Step	Action
5	<p>If you are approving the case, and the petitioner and/or derivative is in the United States, enter the number from the I-94 card into HAVEN.</p>  <p>IMPORTANT: Only issue an I-94 card to those petitioners and/or applicants who are in the United States at the time of approval. Do not issue an I-94 number to those petitioners and/or applicants who are outside of the United States.</p>

Continued on next page

Updating a Decision in HAVEN (continued)

Step	Action
6	<p>Verify that all information is correct, then select “ok”</p> <p>The Print Preview button is available to preview an approval notice prior to saving the changes.</p> <ul style="list-style-type: none"> • The class and I-94 number are currently missing on the approval preview screen. • This issue will be corrected on the next release of HAVEN. • You must verify all other data on the approval notice prior to saving. 

21.4 Processing an Approval

21.4.1 Processing an Approval

Follow the steps below to process an approval.

Step	Action
1	Verify that all information is correct and both HAVEN and GUI have been properly updated, including I-94 number. Verify that applicant's name and date of birth in GUI, CIS, and HAVEN match. Submit CIS correction requests if necessary. (See the instructions below for GUI updating).
2	Separate duplicate KCC copy from the record and stamp and make appropriate notations – leave this loose in the file.
3	Attach the I-94 Card(s) to the non-record side of the file.
4	Route the file to clerical for completion of the I-94 and subsequent routing of I-94 to KCC.

21.4.2 HAVEN Updating Errors

Refer to the table below to determine what steps to take if you update a case in HAVEN in error.

If you realize the case was updated in error...	Then ...
On the same day,	<ul style="list-style-type: none"> • Immediately notify a Division 6 SISO or ISO3. • The SISO or ISO3 will pull the approval notice from the print queue. • Once the approval has been pulled, update the case as “approval ordered in error.”
After the date of approval and the case is approvable,	Issue an intent to revoke.
After the date of approval and the case is approvable but was granted the wrong class of admission, validity date, or I-94 number,	Notify a Division 6 SISO or ISO3 for instruction on issuing an amended notice.

21.5 GUI Updating

21.5.1 General

Form I-918 is also updated in GUI as the EAC# corresponds to a “dummy” I-765 that was entered for the purpose of generating an Employment Authorization Document if the case is ultimately approved.

Follow the normal directions for updating an I-765 in GUI. RFEs, Intentions, Approvals and Denials will be updated in this system—mirroring the actions taken in HAVEN.

NOTE: Form I-918A does not have a “dummy” I-765 entered in GUI. If an I-765 is filed along with the Form I-918A, it will be adjudicated on its own.

For example: An I-918A that requires an RFE will not generate any update in GUI for a concurrently filed I-765. Should the I-765 require an RFE of its own (example: no signature), it will be adjudicated independently from the I-918A.

21.5.2 Overseas Safe Address

GUI does not allow for overseas addresses. If the safe address listed on the I-765 (either dummy principal I918 or for A19/A20 filings) is an overseas address, it is keyed in by data entry as the 75 Lower Welden Street address. If the safe address is an overseas address:

- Place a manual hold on the case.
 - Send the file to clerical with the appropriate instructions for a clerical release of the approval, denial or the RFE
-

21.5.3 Approval (U-1 In the US)

Follow the steps below to update the card approval in GUI.

Step	Action
1	Enter the EAC# into the GUI search field.
2	Verify the information on the screen is correct.
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none"> • Choose Approve Case. • Choose Approve—order notice. • Choose “Card Sent to Applicant” from drop down menu.
5	Enter validity dates assigned to the I-918.
6	Select “Save”.
7	Select “Okay”.
8	Exit from screens.

21.5.4 Approval (U-1 Outside of the US)

Follow the steps below to update the card approval in GUI.

Step	Action
1	Enter EAC# into GUI search field.
2	Change the address to: 75 Lower Welden Street St. Albans, VT 05479
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none"> • Choose Approve Case. • Choose Approve—order notice. • Choose “Card Sent to Applicant” from drop down menu.
5	Enter validity dates assigned to the I-918.
6	Select “Save”.
7	Select “Okay”.
8	Exit from screens.

NOTE: PONDS may contact you when the card is returned. The card can be destroyed. The record can be reopened and a new card issued when the U-1 provides evidence of his/her lawful entry as a U nonimmigrant.

21.5.5 RFE

Follow the steps below to update the RFE in GUI.

Step	Action
1	Enter EAC# into GUI search field.
2	Verify information on screen is correct.
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none"> • Choose Case Review. • Choose Place in Suspense. • Choose Order Request for Evidence (either initial and additional or just additional).
5	Select “Save”.
6	Select “Okay”.
7	Exit from screens.

21.5.6 Denial

Follow the steps below to update a denial in GUI.

Step	Action
1	Enter EAC# into GUI search field.
2	Verify information on screen is correct.
3	Enter “Adjudicate a Case” or press [F10].
4	<ul style="list-style-type: none"> • Choose “Deny the Case”. • Choose “Order Denial Notice”.
5	Select “Okay”.
6	Remove Supervisory Hold.
7	Exit record.

21.5.7 GUI Updating Errors

If an I-918 is erroneously updated as an approval, or the data entered for the update is incorrect, refer to the “Case Approved by Error – Stop Card Production” section of the Case Updated by Error in CLAIMS SOP.

For all other errors, follow the instructions in the Case Updated by Error in CLAIMS SOP.

22 Glossary of Terms

22.1 BIWPA

Acronym for Battered Immigrant Women Protection Act of 2000 of the Victims of Trafficking and Violence Protection Act of 2000, div. B, Violence Against Women Act of 2000, tit. V, Pub. L. No. 106-386, 114 Stat. 1464, (2000), amended by Violence Against Women and Department of Justice Reauthorization Act of 2005, tit. VIII, Pub. L. 109-162, 119 Stat. 2960 (2006), amended by Violence Against Women and Department of Justice Reauthorization Act—Technical Corrections, Pub. L. 109-271, 120 Stat. 750 (2006).

22.2 Certifying Agency

A Federal, State or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This includes agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Equal Employment Opportunity Commission, and the Department of Labor.

22.3 Certifying Official

The 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 the agency; or a Federal, State, or local judge.

22.4 Indian Country

Indian Country includes:

- All land within the limits of any Indian reservation under the jurisdiction of the U.S. Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;
 - All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof; and whether within or without the limits of a state; and
 - All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.
-

22.5 Investigation or prosecution

The detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.

22.6 Military Installation

Any facility, base, camp, post, encampment, station, yard, center, port, aircraft, vehicle, or vessel under the jurisdiction of the Department of Defense, including any leased facility, or any other location under military control.

22.7 Next friend

A person who appears in a lawsuit to act for the benefit of the alien under the age of 16 or incapacitated or incompetent, who has suffered substantial physical or mental abuse as the result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian.

22.8 Physical or mental abuse

Injury or harm to the victim's physical person, or harm to or impairment of the emotional or psychological soundness of the victim.

22.9 Qualifying crime or qualifying criminal activity

Includes one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail, extortion; manslaughter; murder, felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

22.10 Similar activity

Refers to criminal offenses in which the nature and the elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities in INA 101(a)(15)(U)(iii).

22.11 Qualifying family member

In the case of an alien victim 21 years of age or older who is eligible for U nonimmigrant status as described in section 101(a)(15)(U) of the Act, the spouse or child(ren). In the case of an alien victim under the age of 21 who is eligible for U nonimmigrant status as described in section 101(a)(15)(U) of the Act, qualifying family member means the spouse, child(ren), parents, or unmarried siblings under the age of 18 of such alien.

22.12 Territories and Possessions of the United States

American Samoa, Bajo Nuevo (the Petrel Islands), Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, Northern Mariana Islands, Palmyra Atoll, Serranilla Bank, and Wake Atoll.

22.13 United States

Except as otherwise specifically noted within the INA or regulations, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam and the Virgin Islands of the United States. (*see INA 101(a)(38)*).

22.14 U nonimmigrant status certification

Form I-918, Supplement B, “U Nonimmigrant Status Certification,” which confirms that the petitioner has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim.

22.15 U interim relief

Interim benefits that were provided by USCIS to petitioners for U nonimmigrant status, who requested such benefits and who were deemed *prima facie* eligible for U nonimmigrant status prior to the publication of the implementing regulations.

22.16 Victim of qualifying criminal activity

An alien who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity.

PINE Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER	Place I-91B/I-91BA Barcode Here	ISO #: _____ DATE: _____
---------------------	------------------------------------	-----------------------------

CLERICAL ACTION

RFE

<input type="checkbox"/> Additional Evidence (37 Days) <input type="checkbox"/> See Attached Document <input type="checkbox"/> Saved on LAN under: EAC# A#	<input type="checkbox"/> Initial/Additional Evidence (37 Days) <input type="checkbox"/> No Action Needed by Clerical
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------

APPROVAL

<u>In U.S.</u>	<u>Outside U.S.</u>
<input type="checkbox"/> U-1 NGO List <input type="checkbox"/> Derivative NGO List U-2 U-3 U-4 U-5	<input type="checkbox"/> U-1 <input type="checkbox"/> Derivative U-2 U-3 U-4 U-5

☐ I-192 Release

DENIAL/ORDER

③ I-91B Order #: G1 _____	Saved on LAN/CG under: EAC# A#
I-192 Order #: _____	Saved on LAN under: EAC# A#

WAIT LIST

Date Received: _____ FBI Name DOB: _____

EDISS Date: _____ EDISS Results: IDENT /NONIDENT

FILE ROUTING

<input type="checkbox"/> Data Entry Scanning Phone: _____ Signature: _____ Fingerprint: _____	<input type="checkbox"/> AA/OI _____ <small>(Expedite/Crossed Sign-off)</small>
--------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------

② <input checked="" type="checkbox"/> D6 VAWA Sort <input checked="" type="checkbox"/> Update CIS COA as: (IF denied, COA update after the appeal period.)	Enter Previous COA or "UU" Here ① <input checked="" type="checkbox"/> SEIS Denial Sign-off: _____
------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<input type="checkbox"/> BCU/ EMU <input type="checkbox"/> VAWA - Expedite T/O – Shaking <input type="checkbox"/> I-91B RFE Hold Shelf ____ 33 days ____ 37 days <input type="checkbox"/> Consolidate: _____ max _____	<input type="checkbox"/> Return to ISO # _____ At Cube # _____ <input type="checkbox"/> NTA Referral: _____ (Expedite sign-off)
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------

☐ Denial/Appeal hold shelf 60 days

④ ☒ RECORDS

1

24 Appendix 2: Routing Worksheet for Intents to Deny

Intent to Deny I-918/I-918A

PENE Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER	Place I-918/I-918A Barcode Here	ISO #: _____ DATE: _____
----------------------------	------------------------------------	-----------------------------

CLERICAL ACTION

RFE

<input type="checkbox"/> Additional Evidence (87 Days) <input type="checkbox"/> See Attached Document <input type="checkbox"/> Saved on LAN under: BAC# A#	<input type="checkbox"/> Initial/Additional Evidence (87 Days) <input type="checkbox"/> No Action Needed by Clerical
------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------

APPROVAL

<u>In U.S.</u> <input type="checkbox"/> U-1 NGO List <input type="checkbox"/> Derivative NGO List <div style="display: flex; justify-content: space-around; font-size: small;"> U-1 U-3 U-4 U-5 </div>	<u>Outside U.S.</u> <input type="checkbox"/> U-1 <input type="checkbox"/> Derivative <div style="display: flex; justify-content: space-around; font-size: small;"> U-1 U-3 U-4 U-5 </div>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

☐ I-191 Release

DENIAL/ORDER

②	I-918 Order #: Indicate Order Number	Saved on LAN under: BAC# A#	
	I-191 Order #: Indicate Order Number	Saved on LAN under: BAC# A#	

WAIT LIST

Date Received: _____ FBI Name DOB: _____

ED158 Date: _____ ED158 Results: IDENT / NONIDENT

FILE ROUTING

<input type="checkbox"/> Data Entry Scanning Photos _____ Signature _____ Fingerprint _____ <input type="checkbox"/> D6 VAWA Sort <input type="checkbox"/> Update CIS COA as: _____ (IF denied, COA update after the appeal period.)	<input type="checkbox"/> AAO: _____ (Superior/Counsel Sign-off) <div style="text-align: center;">①</div> <input checked="" type="checkbox"/> SISO Denial Sign-off: _____
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<div style="text-align: center;">③</div> <input checked="" type="checkbox"/> BCU/EMU <input type="checkbox"/> VAWA - Expedite T/O - Shelving <input checked="" type="checkbox"/> I-918 RFE Hold Shelf <u>X</u> 33 days <u> </u> 87 days <input type="checkbox"/> Consolidate: _____ _____ intg _____ <input type="checkbox"/> Denial/Appeal hold shelf 60 days	<div style="text-align: center;">④</div> <input checked="" type="checkbox"/> Return to ISO# _____ At Cube # _____ <input type="checkbox"/> NTA Referral: _____ (Superior Sign-off) <input type="checkbox"/> Other: _____ _____ <input type="checkbox"/> RECORDS
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

25 Appendix 3: Routing Worksheet for Intents to Revoke

Intent to Revoke I-918/I-918A

PINE Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER

Place I-918/I-918A
Barcode Here

ISO #: _____

DATE: _____

CLERICAL ACTION

RFE

- | | |
|--------------------------------------------------------|----------------------------------------------------------------|
| <input type="checkbox"/> Additional Evidence (87 Days) | <input type="checkbox"/> Initial/Additional Evidence (87 Days) |
| <input type="checkbox"/> See Attached Document: | <input type="checkbox"/> No Action Needed by Clerical |
| <input type="checkbox"/> Saved on LAN under: BAC# A# | |

APPROVAL

- | | |
|----------------------------------------------|-------------------------------------|
| <u>In U.S.</u> | <u>Outside U.S.</u> |
| <input type="checkbox"/> U-1 NGO List | <input type="checkbox"/> U-1 |
| <input type="checkbox"/> Derivative NGO List | <input type="checkbox"/> Derivative |
| U-1 U-3 U-4 U-5 | U-1 U-3 U-4 U-5 |

☐ I-191 Release

DENIAL/ORDER

- | | | |
|---|-------------------------------------------------------------------|----------------------------------------------------------|
| 2 | I-918 Order #: <input type="text" value="Indicate Order Number"/> | Saved on LAN under: <input type="text" value="BAC#"/> A# |
| | I-191 Order #: <input type="text" value="Indicate Order Number"/> | Saved on LAN under: <input type="text" value="BAC#"/> A# |

WAIT LIST

Date Received: _____ FBI Name DOB: _____

FD158 Date: _____ FD158 Results: IDENT / NONIDENT

FILE ROUTING

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <input type="checkbox"/> Data Entry Scanning
Photos _____ Signature _____ Fingerprint _____ | <input type="checkbox"/> AAO: _____
(Signature/Consent Required) |
| <input type="checkbox"/> D6 VAWA Sort
<input type="checkbox"/> Update CIS COA as: _____
(If denied, COA update after the appeal period.) | 1 <input checked="" type="checkbox"/> SIPO Denial Sign-off: _____ |
| 3 <input checked="" type="checkbox"/> BCU/ EMU
<input type="checkbox"/> VAWA - Expedited T/O - Shelving
<input checked="" type="checkbox"/> I-918 RFE Hold Shelf <u>X</u> 33 days 87 days
<input type="checkbox"/> Consolidate: _____ into _____ | 4 <input checked="" type="checkbox"/> Return to ISO# _____
At Cube # _____ |
| <input type="checkbox"/> Denial/Appeal hold shelf 60 days | <input type="checkbox"/> NTA Referral: _____
(Signature Required) |
| | <input type="checkbox"/> Other: _____ |
| | <input type="checkbox"/> RECORDS |

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26 Appendix 4: Routing Worksheet for Revocations/Denials

Revocation or Denial I-918/I-918A

FINE Worksheet

I-918 ROUTING WORKSHEET

BARCODE/FILE NUMBER	Place I-918/I-918A Barcode Here	ISO #:	
		DATE:	

CLERICAL ACTION

RFE

☐ Additional Evidence (87 Days)
☐ See Attached Document
☐ Saved on LAN under: BAC# A#

☐ Initial/Additional Evidence (87 Days)
☐ No Action Needed by Clerical

APPROVAL

In U.S.
☐ U-1 NGO List
☐ Derivative NGO List
 U-1 U-3 U-4 U-5

Outside U.S.
☐ U-1
☐ Derivative
 U-1 U-3 U-4 U-5

☐ I-191 Release

DENIAL/ORDER

③ I-918 Order #: Indicate Order Number

Saved on LAN under: BAC# A#

I-191 Order #: Indicate Order Number

Saved on LAN under: BAC# A#

WAIT LIST

Date Received: _____
 FD-258 Date: _____

FBI Name DOB: _____
 FD-258 Results: IDENT /NONIDENT

FILE ROUTING

☐ Data Entry Scanning
 Photos _____ Signature _____ Fingerprint _____

☐ AAO: _____
 (Signature/Consent Sign-off)

④ ☒ D6 VAWA Sort
 ☒ Update CIS COA as: Enter Previous COA or "UU" Here
 (If denied, COA update after the appeal period.)

① ☒ SISD Denial Sign-off: _____

☐ BCU/ BMU
 ☐ VAWA - Expedited T/O - Shelving
 ☐ I-918 RFE Hold Shelf ____ 33 days ____ 87 days
 ☐ Consoldate: _____
 info: _____

☐ Return to ISO# _____
 At Cube # _____
☐ NTA Referral: _____
 (Signature Sign-off)

③ ☒ Denial/Appeal hold shelf 60 days

⑤ ☒ RECORDS

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27 I-918 SOP Revisions

27.1 Changes prior to current revision date

Revision #	Date	Subject	Pages
1	5/8/08	FBI name check process for I-912 added	38-40
2	5/29/08	Filing deadline for Interim Relief recipients suspended.	33
3	5/29/08	<ul style="list-style-type: none"> • Process for notifying ICE for trafficking referrals refined • Note regarding supervisory consultation on waivers for violent criminal acts, terrorism, foreign policy concerns or national security issues added. • Form I-192 to be used to waive passport requirements (INA 212(a)(7)(B)) for U status seekers who are in the US. • Added necessity to annotate on the form what grounds are being waived with Form I-192 	53 36 36 37
4	6/4/08	Procedure for contacting law enforcement agencies refined	27
5	7/3/08	IBIS clarification for I-918A	10
6	8/18/08	Revised and reformatted (info mapped) entire document.	Throughout
7	1/22/09	<ul style="list-style-type: none"> • Fee waiver on I-192 added • Clarification of passport/BCC requirement • Extension of status provisions • Process for FD-258s that are not scanned • GUI updating steps added • Waiver criteria added • Missing RAP Sheet procedure 	Throughout 12 Throughout 43 79 49 44
8	2/6/09	<ul style="list-style-type: none"> • Added to initial evidence required - photos for consular processing • Principal's EAC# to be entered into the Remarks block on I-918A 	36 38

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
9	04/10/09	<ul style="list-style-type: none"> • ICE referral process and Record of Contact refined. 	67
		<ul style="list-style-type: none"> • Process for correcting GUI errors added. 	80
10	05/01/09	<ul style="list-style-type: none"> • Added a new block titled “Fingerprint Response”. 	43-45
		<ul style="list-style-type: none"> • Updated ICE email address. 	69
11	06/12/09	<ul style="list-style-type: none"> • Added third paragraph to “General” table regarding relationship documents. 	39
		<ul style="list-style-type: none"> • Added new block titled “Age Out Restrictions”. 	41
		<ul style="list-style-type: none"> • Added new block titled “Worksheet Annotations”. 	44
		<ul style="list-style-type: none"> • Added new block titled “Needing Biometrics (in the US)”. 	47
		<ul style="list-style-type: none"> • Added new block titled “Needing Biometrics (outside the US)”. 	48
		<ul style="list-style-type: none"> • Added new block titled “Multiple I-192 Waivers Filed”. 	59
		<ul style="list-style-type: none"> • Added new block titled “Form I-193 Waiver Filed”. 	60
		<ul style="list-style-type: none"> • Modified text in “General” block regarding validity dates. 	64
		<ul style="list-style-type: none"> • Added section titled “Validity Dates”. 	64-67
		<ul style="list-style-type: none"> • Included more information in the “General” block under Employment Authorization section. 	71
		<ul style="list-style-type: none"> • Employment Authorization validity dates clarified and “GUI Claims Updating Errors” lock added. 	73
		<ul style="list-style-type: none"> • Validity date information removed from updating blocks titled “Approval of I-918 in HAVEN” and “Approval of I-918A in HAVEN”. 	88
12	7/22/09	<ul style="list-style-type: none"> • Moved “Glossary of Terms” to back of document. 	84-86
		<ul style="list-style-type: none"> • Corrected formatting issues. 	Throughout
13	09/18/09	<ul style="list-style-type: none"> • Added another row at the end of the “If/Then” table in the Age-out Restrictions block. 	34
		<ul style="list-style-type: none"> • Added second paragraph to the Waiver Approval and Validity Dates block. 	48
		<ul style="list-style-type: none"> • Corrected validity date in the example from 3/29/09 to 3/22/09. 	58

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
14	12/04/09	Modified I-193 process.	50
15	12/18/09	<ul style="list-style-type: none"> • FBI name check validation added • Section 384: Adverse Information expanded 	52 62-66
16	2/19/10	<ul style="list-style-type: none"> • A/T-file processing guidance added • Denial for lack of I-918, Supplement B • Victim definitions clarified • Officer required to locate derivative filings • Overseas photo requirements modified • Fingerprint issues clarified (missing prints and unclassifiable prints) • Decisions on multiple filings for the same alien 	13 17 20-23 35 41 45-47 67
17		<ul style="list-style-type: none"> • Notification process for 384 violations added • ROP changed (I-918 and I-192 ROPs separated) 	71 81
18		• Passport/BCC validity clarification	15
19	05/05/10	• Update the FBI Name and DOB check process	58-60
20	05/28/10	• A new scenario to assist when assigning validity dates was added	67
21	7/9/10	<ul style="list-style-type: none"> • Waiting List Process replaces Visa Cap/Waiting List section • Trafficking referrals email address updated 	76-80 85
22	10/19/2010	<ul style="list-style-type: none"> • Exception circumstances option added to U-1 extension possibilities • Interim relief termination options added • Blank I-918B may result in denial • Age-out restrictions for table updated for U-3 • Denial requirement for pending I-918A when principal adjusts • Interim relief termination date added • U-3 validity periods for age out cases added • SISO sign off requirement for NTA 	12 15 17 38 39 43 66 70
23	12/2/2010	KCC routing reference removed.	41
		Validity scenario added for Qualifying Family MembersU-1 when the U-1 has a pending I-485 or is expired	66
24	01/31/2011	<ul style="list-style-type: none"> • Fee reference for biometrics removed • Replaced duplicate RAP sheet process with BBSS process 	44 49

Continued on next page

Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
25	4/26/11	<ul style="list-style-type: none"> • Clarified what constitutes “No I-918B filed” • Fingerprint age requirements clarified 	17 44
26	6/18/11	<ul style="list-style-type: none"> • Added requirement to use the most up-to-date routing worksheet 	10
		<ul style="list-style-type: none"> • Requesting an I-693 for health related grounds. *For guidance on requests for Form I-693s, refer to the Form I-192 SOP. 	55
		<ul style="list-style-type: none"> • Added Form I-693 Validity Chart. *For guidance on requests for Form I-693s, refer to the Form I-192 SOP. 	56
		<ul style="list-style-type: none"> • Added instructions for I-918A deferred action review. 	70-72
		<ul style="list-style-type: none"> • Added instruction for sending a second copy of an approved petition/application for KCC Processing. 	92
		<ul style="list-style-type: none"> • Added instructions for updating in GUI and HAVEN. 	94 -106
		<ul style="list-style-type: none"> • Added instructions for correcting an updating error in HAVEN. 	106
		<ul style="list-style-type: none"> • Added instructions for updating approvals in GUI 	107
		<ul style="list-style-type: none"> • Added instruction to issue I-192 denials through Correspondence Generator. 	110
		<ul style="list-style-type: none"> • Removed references related to ACCESS database update. 	Throughout
27	5/24/12	Added section entitled “Withdrawal of U Non Immigrant Status Certification Form I-918B	17
		Corrected information regarding how to calculate the age of the child for U3 Qualifying Family Members	36
		Deleted instructions for requesting fingerprint fees for principals and derivatives who reach the age of 14 while their Form I-918 or Form I-918A is pending.	44
		Updated instructions for requesting updated IDENT fingerprint results	49
		Deleted the block entitled “Requesting Duplicate or Updated RAP Sheets for IDENT cases.	51
		Updated the I-192 Name Check Process to indicate that FBI Name Check results for the I-192 are valid indefinitely	59
		Added table to identify recommended action when adjudicating a motion to reopen a denial based upon no Form I-918, Supplement B.	87
		Added call-up information when making Trafficking referrals to ICE	90

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Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
		Added information regarding GUI updates when the Safe Address is a foreign address	106
28	10/22/2012	Renamed block labeled “Credible Evidence Standard”	10
		Added statutory and regulatory authority	11
		Renamed block labeled “Waiver Authority”	11
		Blocks relating to U-1, U-2, U-3, U-4, U-5 Eligibility Requirements – added “and” to penultimate item in both lists.	11
		Corrected instructions for accessing the Div 6 MRD FP Scheduling worksheet to reflect correct name and folder location. The worksheet is titled “VAWA Biometrics & FP Scheduling” but labeled “Div 6 MRD FP Scheduling” in the Div 6 ADJ Worksheets folder	54
		Added instructions to request refreshed fingerprint responses for expired Non-ident and Ident responses	54
		Renamed block labeled “Unusually Direct Victim” to “Bystanders Who Suffer Unusually Direct injuries” Added Federal Register citation where this term is discussed.	54
		Added information regarding the U1 validity period for U Derivatives who subsequently file their own I-918 seeking principal status	65 and 67
		“Overseas Safe Address” – placed in separate block	108
		Corrected Approval instructions to indicate “Send to Clerical” field should indicate “N” for I-192 approvals	111
		Added Previous Revisions at the end of the document	115
		Created hyperlinks to worksheets and referenced citations	Throughout
29	1/9/13	Revision 29 includes revisions in the SOP that were uploaded two different dates. These have been consolidated at the request of the Division. <ul style="list-style-type: none"> • Added block entitled “212(a)(2)(D) Prostitution” • Updated information regarding a Positive FBI Fingerprint response. • Changed references to ACCESS to read HAVEN • Updated age-out section • Added instruction for the officer to list the I-94 number on the worksheet prior to sending the file to clerical. 	57 64 Throughout 77 108

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Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
30	5/1/13	Added requirement that LPRs are not eligible for U related nonimmigrant status.	7, 8
		Added note – U3 Derivatives will get full four year validity period.	40
		Explained examples of Health Related Grounds	54
		Added block for “Subsequent I-192 Filed	58
		In the “U-3 Reaching 21 before Validity Expires” block, removed reference to the same ending date as principal and change the ending date to just a full four years. Also corrected HAVEN validity date for a derivative approved on 3/22/09.	68
		Revised second block title to “U-2, U-4 and U-5 - Neither Principal nor Derivative had Interim Relief.”	72
		Added requirement that all Intents to Revoke and Revocations must be completed on the LAN and not in Correspondence Generator	93

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Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages
		Updated references of ACCESS to reflect HAVEN	Entire Document
31	6/24/13	Updated blocks relating to derivatives to indicate that they will receive a full four year validity period, even if that exceeds the validity period of the principal.	8, 9
		Added requirement that IBIS ROIQ be included for KCC processing	10
		Added instruction that guardian or next friend may write the personal statement on behalf of principals who are incapacitated or under the age of 16.	11
		Updated table regarding statutory criminal activity	16
		Updated block entitled “Substantial Mental or Physical Abuse” to include information regarding preexisting conditions and a series of acts.	22
		Updated block entitled “Prohibition for Certain Family Members” to indicate that the officer must enter culpable family members into HAVEN when adjudicating domestic violence related cases.	35
		Updated sections relating to age-out provisions.	36, 58, 60
		Removed chapters entitled “Inadmissibility Waivers”, “I-192 FBI Name Checks”, and “I-918 Age Out Deferred Action Review”	
		Updated hyperlinks	Entire Document
32	8/6/13	Removed U-3 from Duration of Status section	8
		Added requirement that the petitioner submit initial evidence of passport that was valid at the time of filing.	11
		Changed system that I-192’s are processed in from CLAIMS to GUI.	89
		Changed 4 to four.	8,55,57
		Updated information for calculating the age of the qualifying family member.	33
		Added block entitled “Á file Requests”	62
		Updated SOP for formatting, spelling, and branding	Entire Document

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Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages	
33	8/13/13	Renamed Chapter entitled “Wait List” That chapter is now named “Post U Visa CAP Process”. Updated maps to include current processing.	74	
34	8/27/13	Removed references to requesting a finger print fee	42, 43	
		Updated block entitled “Needing Biometrics (in the United States) to reflect that fingerprint scheduling should be requested by using the Div 6 MRD Fingerprint Scheduling worksheet.	43	
		Replaced references to “IBIS” with “TECS”	Throughout	
35	10/8//13	Deleted requirement that the petitioner must submit three passport style photographs of a derivative who is outside of the United States.	34	791
		Removed custody and residency requirement related to adopted children. Combined information relating to biological and adopted children into one block.	37	803
36	11/4/13	Added map instructing the officer to completely fill out the Div 6 MRD Fingerprint Scheduling worksheet.	43	874
		Corrected hyperlink	43	874
		Added clarification that the officer should look to the age at the victim at the time the qualifying crime occurred when determining who qualifies as an indirect victim.	19	947
		Updated TECS map to include instructions for officers to send a copy of the Resolution Memo when sending copies to the KCC.	10	945

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Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages	KM#
37	11/14/13	Added instructions for sending names of updated certifying officials to ISO3s for ECN updating	14	990
		Added instruction that the officer is not required to obtain a valid fingerprint response prior to issuing a denial.	15,42	
		Corrected hyperlink	10	960
38	12/2/13	Updated map entitled “U-1 Initial Evidence” to reflect that petitioners may submit evidence of a valid Border Crossing Card (BCC), in addition to a passport.	11	1032
		Corrected validity dates for derivatives when the U-1 has a pending I-485.	59	1093
		Updated Wait List Process	74-81	1084
		Deleted maps entitled “Case Actions” and “Validity Dates”.	76	
39	1/16/14	Updated map entitled, “FD-258 in File but No Results in System” to include dead scan instructions.	50	1169
		Updated Wait-list process Table	76-77	1209
40	4/14/14	<u>Updated Qualifying Law Enforcement Official overview.</u>	16	1561
--	--	<u>Updated routing for Wait-Listed cases with site specific instructions.</u>	77	1489
--	--	<u>Updated processing instructions for Wait-Listed cases by site.</u>	79	1489
--	--	<u>Created section with instructions for I-918 Wait List process for cases that were Wait-Listed in Error.</u>	81-83	1513
--	--	<u>Added Routing Worksheet examples for Routing I-918 Withdrawals, ITDs, ITRs and Revocations.</u>	114-117	1457
41	4/24/14	<u>Changed section title to I-918, I-918A, and I-192 Wait List Decision.</u>	76	1578 & 1593
--	--	<u>Edited Wait List Process Table with scenarios, appropriate letter, and appropriate HAVEN and GUI Updates.</u>	77	
--	--	<u>Removed routing instructions from Updating Petition/Application section. Moved to Routing and Annotations.</u>	78	
42	4/29/14	Conversion to new SOP formatting.	All	--

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Changes prior to current revision date (continued)

Revision #	Date	Subject	Pages	KM#
43	5/7/14	<u>Edited accompanying forms such as I-193, change the primary adjudicating system from GUI to Adjudicate a Case.</u>	20.3.2	1634
44	5/20/14	Added reference to I-192 SOP for health related grounds of inadmissibility.	<u>27</u>	1673
--	--	Added reference to I-192 SOP related to inadmissibility grounds.	<u>3.2 & 3.3</u>	
--	--	Fixed broken hyperlinks.	All	
45	6/6/14	<u>Updated routing worksheet for I918/I918A ITDs to include an extra step.</u>	129	1687
--	--	<u>Updated routing worksheet for revocations as it is usable for Revocations and Denials.</u>	131	

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U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

November 25, 2014

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1 General

1.1 Purpose

This SOP sets forth the procedures for the adjudication and processing of Form I-918, Petition for U Nonimmigrant Status, within the Vermont Service Center (VSC).

1.2 Disclaimer

This SOP is not intended to be, and should not be taken as, an authoritative statement of the rules of decision for Form I-918, Petition for U Nonimmigrant Status. This SOP is only a guide for the consistent processing of Form I-918. USCIS bases the actual decision in a particular case on the record for that case, the Immigration and Nationality Act (INA), regulations, precedent administrative and judicial decisions, and general statements of USCIS policy. Thus, nothing in this SOP creates any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

1.3 Applicability/ Scope

This SOP is applicable to all VSC SISOs, officers and clerical personnel performing adjudicative or clerical functions or review of those functions. Personnel performing other duties pertaining to Form I-918 will be similarly bound by those provisions of this SOP that apply to their specific task or duties.

1.4 Conflict Resolution

Any provision of the INA or 8 CFR that conflicts with this SOP will take precedence over the SOP. If you identify a conflict, report the matter immediately to your supervisor or to any SISO.

If any conflict is noted between this SOP and policy or guidance documents issued by HQSCOPS, report the matter through the supervisory chain for resolution.

This SOP supersedes all prior Vermont Service Center guidance documents, policy memoranda, training packets, or other materials pertaining to clerical operations and processing; these documents should be discarded.

1.5 Revisions

The *revisions* section should include the following information:

Numbered revisions to this SOP will be issued as required; no other document will be considered a valid modification.

Electronic Copies

Electronic copies of the SOP will be modified to reflect changes as they are issued. A summary of all revisions will be included in the electronic SOP.

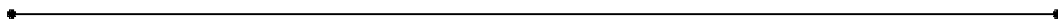
Proposed Changes

Submit proposed changes with appropriate supporting documents through first-line supervisors.

Current Revisions

Current revisions will be posted in the beginning of the document and all new changes will be highlighted in yellow. ***NOTE:** The KM# column indicates the Knowledge Management change request number associated with the change.

Revision #	Date	Subject	Page(s)	KM#
51	11/25/14	Added notes for <i>NASS Requests for I-918s</i> and I-918As.	59-60	2310



2 General Adjudication Information

2.1 De Novo Review

USCIS will conduct a *de novo* review of the petition and supporting evidence during all stages of the adjudication process.

USCIS is permitted to investigate any aspect of the petition.

2.2 Burden of Proof

The burden of proof is on the petitioner at all times during the initial adjudication of a Petition for U nonimmigrant Status (Form I-918 and Form I-918, Supplement A).

The petitioner is required to fully establish all elements of eligibility for the desired benefit.

2.3 Credible Evidence Standard

The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by USCIS. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence.

USCIS may use any previously submitted evidence for this or any other immigration benefit or relief in evaluating eligibility.

USCIS is not bound by previous factual determinations.

2.4 Routing Worksheets

You are required to use the most current worksheet each time you take an adjudicative or routing action on an I-918 or I-918A filing.

3 Overview

3.1 Statutory and Regulatory Authorities

Refer to the chart below for the appropriate statutory and regulatory authority for the U Nonimmigrant Status Program:

If you are referencing the ...	Then the appropriate statutory and regulatory authority is ...
U Nonimmigrant Status Program	<u>INA Section 101(a)(15)(U)</u>
Implementing regulation	<u>8 CFR 214.14</u>
Filing fees for U nonimmigrant petitions	<u>8 CFR 103.7</u>
Waiver of inadmissibility	<u>8 CFR 212.17</u>
Regulation requiring certain U nonimmigrants to file an application when seeking employment authorization	<u>8 CFR 274a.13(a)</u>
Regulation allowing U nonimmigrant status recipients to accept employment	<u>8 CFR 274a.12(a)</u>
Interim Rule	<u>72 FR 53014</u>

3.2 U-1 Eligibility Requirements

Basic Eligibility Requirements for U-1 (Principal):

1. Petitioner must be a victim of one of the enumerated crimes found in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (INA).
2. Petitioner must have suffered substantial physical or mental abuse as a result of being a victim of one of those enumerated crimes.
3. Crime(s) must have violated the laws of the United States or occurred in the United States.
4. Petitioner has been/is being/likely to be helpful to the investigation and/or prosecution of the crime for which he/she was a victim, and
5. Petitioner is admissible to the United States. Refer to the I-192 SOP for information related to inadmissibility grounds and Requests for Evidence.

NOTE: Must be a non-immigrant. LPR's are not eligible to be granted U status.

3.3 U-2, U-3, U-4, U-5 Eligibility Requirements

Basic Eligibility Requirements for U-2, U-3, U-4, U-5 (Derivative):

1. Alien must be a qualifying family member of a U-1 (Principal) with an approved Petition for U Nonimmigrant Status (Form I-918). and
2. Alien must be admissible to the United States. Refer to the I-192 SOP for information related to inadmissibility grounds and Requests for Evidence.

NOTE: Must be a non-immigrant. LPR's are not eligible to be granted U status.

3.4 Visa Cap/ Wait List

- A limit of 10,000 U-1s (principals) can be approved in any fiscal year.
 - All those who apply but whose petition cannot be approved solely because there are no visa numbers remaining will be placed on a Wait List.
 - Those on the Wait List may be eligible for deferred action, parole and stays of removal for the U-1 petitioners and eligible family members.
-

3.5 Duration of Status

- Generally, U nonimmigrant status may be approved for a period not to exceed four years in the aggregate.
 - Exceptions are made for cases with more than three years in interim relief. These cases will be granted one year of validity in addition to the time already accrued in interim relief. This will allow the alien time to file for adjustment while still in valid U nonimmigrant status.
 - A qualifying family member granted U-2, U-4 and U-5 status will be approved for an initial period that does not exceed the expiration date of the initial period approved for the principal alien. Extensions are possible in limited circumstances.
 - A qualifying family member granted U-3 status will be approved for an initial period of four years even if this validity exceeds the expiration date of the initial period approved for the principal alien. Extensions are possible in limited circumstances.
-

3.6 Extension of U-1 Status

Extensions of U-1 nonimmigrant status beyond the four-year period are available upon attestation by the certifying official that the alien's presence in the United States continues to be necessary to assist in the investigation or prosecution of qualifying criminal activity or if the U-1 can demonstrate he/she qualifies for an extraordinary exception circumstance.

3.7 Extension of status (U2 through U-5)

When a U nonimmigrant's initial approved period of stay on Form I-94 is less than four years, he or she may file the Application to Extend/Change Nonimmigrant Status (Form I-539) to request an extension of U nonimmigrant status for an aggregate period not to exceed four years.

This most commonly occurs when a principal (U-1) has time in interim relief that counts toward time in U status but the approved derivatives (U-2 through U-5) do not have time in interim relief, or when the derivative's filing is not approved at the same time as the principal's.

As required by 8 CFR 214.14(g)(1), the initial validity period given to U-2, U-4, and U-5 derivatives cannot exceed the expiration date given to the principal; the initial validity period given to U-3 derivatives may exceed the expiration date given to the principal. In some instances, the derivative may need to file Form I-539 to seek an extension of status to ensure that the qualifying family member is able to attain at least three years in U nonimmigrant status for the purposes of adjusting under 245(m) of the Act.

Additionally, qualifying family members may be approved beyond the date of the U-1 nonimmigrant's status when the qualifying family member is unable to enter the United States timely due to delays in consular processing. Form I-539 needs to be filed in this instance as well.

The U-visa team is responsible for the adjudicating I-539s filed for the purpose of extending U nonimmigrant status.

3.8 Aliens outside the United States

Petitioners for U nonimmigrant status do not need to be physically present in the United States to file Form I-918, Petition for U Nonimmigrant Status. Qualifying family members do not need to be physically present in the United States to have the I-918A approved.

3.9 Jurisdiction

- Petitions for U nonimmigrant status will be filed with the Vermont Service Center (VSC).
 - VSC has sole jurisdiction for the adjudication of this form type.
-

3.10 TECS

You must conduct a TECS check on the name of the principal and all aliases discovered in the course of the adjudication of the I-918.

You must conduct a TECS check on the name of the qualifying family member and all aliases discovered in the course of the adjudication of the I-918, Supplement A. When adjudicating an I-918, Supplement A, you must also conduct a TECS check on the principal. A copy of the TECS check used in the final decision of the principal's I-918 may be used if it is still within time limits. If there is a hit, copies of the Resolution Memo, ROIT, and TECS manifest print out must be included with the KCC copy.

Age restrictions cited in the TECS SOP apply. Refer to that document for more specifics on the TECS check process.

3.11 A-file Requirement

Form I-918 and I-918, Supplement A, are adjudicated in A-files. If the petition(s) are in T-files, follow the ISO File Maintenance Procedures SOP instructions before issuing a final decision.

4 Filing Requirements

4.1 Initial Evidence

4.1.1 U-1 Initial Evidence

Failure to provide this initial evidence may result in a request for additional evidence, a notice of intent to deny or a denial being issued on the petition.

Initial Evidence Required for U-1 Nonimmigrant Status (Form I-918):

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification” signed by a certifying official within six months (6 months minus one day) immediately preceding the filing of Form I-918.
2. Any additional evidence to establish that:
 - The petitioner is a victim of qualifying criminal activity;
 - The petitioner has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity;
 - The petitioner possesses information about the qualifying criminal activity;
 - The petitioner has been, is being or is likely to be helpful to law enforcement concerning the qualifying criminal activity;
 - The criminal activity is qualifying and occurred in the United States, including Indian country and military installations, or the territories and possessions of the United States, or violated a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. Federal Court.
3. A statement signed by the petitioner describing the facts of the victimization. If the petitioner is incapacitated or under 16 years of age, the parent or next friend can write this statement.
4. Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) with fee or fee waiver request (*If the petitioner is inadmissible*)
5. Passport/BCC valid at the time the Form I-918 was filed.

NOTE: Petitioners filing from outside the United States do not need to provide evidence of a valid passport/BCC.

4.2 U-2, U-3, U-4, U-5 Initial Evidence

Failure to provide this initial evidence may result in a request for additional evidence, a notice of intent to deny or a denial being issued on the petition.

Initial Evidence Required for U-1 Nonimmigrant Status (Form I-918 Supplement A):

1. Evidence demonstrating the relationship of a qualifying family member,
2. Passport or border crossing card valid at the time the I-918A is filed; and
3. *(If inadmissible)* Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) with fee or fee waiver request.

NOTE: Derivatives who are outside the United States do not need to provide evidence of a valid passport.

4.3 Interim Relief

A petitioner who previously received interim relief is not required to submit initial evidence with the Form I-918 if he or she wishes to rely on the law enforcement certification and the other evidence that was submitted with the request for interim relief.

Interim relief is considered terminated if:

- The alien did not file his or her Form I-918 or have an I-918, Supplement A, filed on his or her behalf prior to February 1, 2010.
 - His or her Form I-918 or Form I-918, Supplement A, is denied.
-

4.4 Passport or Border Crossing Card

U nonimmigrant status seekers are required to present a passport or border crossing card valid at the time of filing or a passport or border crossing card that was valid for some period of time while the petition for U nonimmigrant status was pending.

Those without a passport or border crossing card valid at the time of filing for U nonimmigrant status may seek a waiver by filing the Application for Advance Permission to Enter as a Nonimmigrant Pursuant to Section 212(d)(3) of the Immigration and Nationality Act (Form I-192).

- The authority to waive the documentary requirement resides with the USCIS office having jurisdiction over the adjudication of Form I-918.
- The waiver may be revoked at any time after approval.
- There is no appeal from the revocation or denial of such a waiver.



5 Law Enforcement Certification

5.1 General

A certification from a qualified certifying official must accompany all Petitions for U Nonimmigrant Status (Form I-918) at the time of filing. In most cases, this certification takes the form of Supplement B of Form I-918. Exceptions exist for cases that were approved for Interim Relief purposes.

Deny any Form I-918 filed on or after November 1, 2009 that did not previously receive an approval under the Interim Relief program.

5.2 Properly executed I-918 Supplement B

A properly executed certification on Form I-918, Supplement B, is required for an alien seeking U nonimmigrant status. The burden is on the petitioner to provide the law enforcement certification.

The certifying agency conducting an investigation or prosecution of the qualifying criminal activity must prepare the Form I-918, Supplement B. It must be signed by the certifying official with an **original** signature **within the six months (6 months minus one day) immediately preceding** the submission of Form I-918.

Special consideration will be given to those petitioners who received an Interim Relief approval.

5.3 Evidentiary Weight of the Law Enforcement Certification

The law enforcement certification will be given significant weight but will not be considered conclusive evidence that the petitioner has met the eligibility requirements.

Petitioners may be requested to submit additional supporting evidence to establish their claims.

5.4 Certification Requirements

All law enforcement certifications must contain the following details:

1. Name of the qualifying law enforcement agency
 2. Signature of a qualifying law enforcement official (specifically the head of the agency or someone in a supervisory role specifically designated by the head of the agency to issue U nonimmigrant certifications. (See exceptions for Interim Relief on page 33)
 3. Statement that the subject of the certification is the victim of a qualifying crime
 4. Statement that the subject of the certification possesses information necessary to the investigation/prosecution
 5. Statement that the subject of the certification has been, is being, or is likely to be helpful to the investigation/prosecution of the criminal activity.
-

5.5 Qualifying Law Enforcement Official

All law enforcement certifications must contain the signature of a qualifying law enforcement official. When the certifying official named on page one of the Certification is not the head of the agency, officers should determine whether the certifying officer holds a supervisory role within the agency.

If there is affirmative evidence in the file suggesting that the certifying official has not been designated by the head of the agency or is not properly affiliated with the certifying agency, the officer should speak with a supervisor before referring the file to CFDO for signature confirmation.

Officers should not ask for evidence that a certifying official is qualified without first discussing the RFE with a supervisor. The list of Certifying Officials on the Humanitarian Division VSC ECN website is a reference tool. Officers should not issue an RFE only because the certifying official is not on the list.

Refer to the table below to determine the appropriate adjudicative action based on the COL.

If the signature on law enforcement certification....	Then ...
Matches the name on the COL	Proceed with adjudication
Does not match the name on the COL	<ul style="list-style-type: none"> • RFE for evidence that the person who signed the law enforcement certification is authorized by the head of the agency to issue law enforcement certifications. • If, in response to that RFE, you receive the name of a recently designated certifying official, send that information to an ISO3 with a request to update the COL.

5.6 Failure to Submit U Nonimmigrant Status Certification (Form I-918, Supplement B)

Deny any Form I-918 filed on or after November 1, 2009 without issuing an RFE or NOID if it:

- Was not accompanied by a properly executed U Nonimmigrant Status Certification (Form I-918, Supplement B) at the time of filing; **and**
- Did not previously receive an approval under the Interim Relief program.

If a Form I-918 is filed with a blank I-918B (none of the fields of the form are filled out), you may immediately deny the Form I-918 as though there was no certification submitted. Note any other deficiencies in the record in the denial.

If a Form I-918 is filed with an I-918B that has no signature, you may immediately deny the Form I-918 as though there was no certification submitted. Note any other deficiencies in the record in the denial. You are not required to obtain a valid fingerprint response before denying the Form I-918.

NOTE: This does not pertain to photocopied signatures. If an I-918B has a photocopied signature of a certifying official, you must issue an RFE or NOID requesting the original signature.

5.7 Withdrawal of U Nonimmigrant Status Certification (Form I-918, Supplement B)

The law enforcement agency that issued the Form I-918, Supplement B may withdraw it at any time.

Follow the steps below when you receive a request to withdraw Form I-918, Supplement B.

Step	Action						
1	Verify that the request to withdraw is from the agency that issued the Form I-918, Supplement B.						
2	Determine the current status of the Form I-918. <table border="1"> <tr> <th>If the Form I-918...</th><th>Then issue an ...</th></tr> <tr> <td>Is pending,</td><td>Intent to Deny.</td></tr> <tr> <td>Has been approved,</td><td>Intent to Revoke.</td></tr> </table>	If the Form I-918...	Then issue an ...	Is pending,	Intent to Deny.	Has been approved,	Intent to Revoke.
If the Form I-918...	Then issue an ...						
Is pending,	Intent to Deny.						
Has been approved,	Intent to Revoke.						
3	Place the Withdrawal letter on the record side of the file, on top of the Form I-918, Supplement B.						
4	Annotate "Withdrawn" in the remarks block on the Form I-918, Supplement B.						
5	Indicate the date of withdrawal in the remarks block on the Form I-918, Supplement B.						

6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Fraud in Foreign Labor Contracting	Prostitution	Stalking
Hostage		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

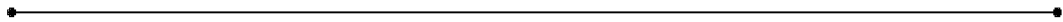
6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

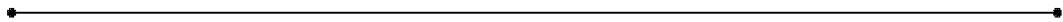
Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

7 Qualifying Family Members

7.1 Overview

7.1.1 General

Certain qualifying family members of the petitioner/principal (U-1) may accompany or follow to join the alien victim and obtain U nonimmigrant status, regardless of whether the family member(s) is in the United States or overseas.

A separate “Petitioner for Qualifying Family Member of U-1 Recipient” (Form I-918, Supplement A) must be submitted for each family member.

Evidence to prove the relationship is needed. Documentary requirements for civil registration and timeliness of registration for relationship documents apply. See the *I-130 SOP* for specifics.

7.1.2 Locating Qualifying Family Member Petitions

The officer adjudicating an I-918 is responsible for checking for associated I-918, Supplement A filings. Conduct the check for a qualifying family member petition (Form I-918, Supplement A) by viewing the I-918A screen in HAVEN.

If an I-918, Supplement A is filed and still pending but is not riding with the I-918, the officer adjudicating the I-918 must obtain each pending I-918, Supplement A associated with the principal’s filing. Once an I-918, Supplement A is obtained, that officer will adjudicate it to completion. In general, I-918, Supplement A cannot be adjudicated to finality prior to the principal’s I-918 receiving a final decision.

7.1.3 Form Annotations

Write the EAC# of the I-918 principal in the remarks block on the I-918A. This will assist clerical in updating HAVEN as the only way to identify an I-918A filing is through opening the record for the principal.

Vermont Service Center

Standard Operating Procedure (SOP)

I-918, PETITION FOR U NONIMMIGRANT STATUS

Prepared by: Center Training Unit
Vermont Service Center

April 24, 2014

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Eligibility Requirements

Qualifying Criminal Activity

General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Hostage	Prostitution	Stalking
Fraud in Foreign Labor Contracting		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

Continued on next page

Qualifying Criminal Activity, Continued

Similar activity For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

**Evidence of
“similar
activity”**

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

Victim Definitions

General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

Continued on next page

Victim Definitions, Continued

- Indirect Victim**
- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
 - This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
 - Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
 - If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

Important: to determine eligibility, look to the age of the victim at the time the crime occurred.

**Victim of
Murder /
Manslaughter**

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
 2. Child under age 21 of the deceased
 3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.
-

Continued on next page

Victim Definitions, Continued

Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system

Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
2. Child under age 21
3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.

Continued on next page

Victim Definitions, Continued

Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

Continued on next page

Victim Definitions, Continued

Pre-existing Conditions	Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.
--------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Series of Acts	Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.
-----------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Required Evidence	Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:
--------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

Additional Evidence of Abuse	Additional evidence to demonstrate the abuse suffered may include, but is not limited to:
-------------------------------------	-------------------------------------------------------------------------------------------

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

Possesses Information

General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

Continued on next page

Possesses Information, Continued

Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

Continued on next page

Possesses Information, Continued

**Evidence
Parent/
Guardian/Next
Friend
Possesses Info**

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification”
 - Police reports
 - Court documents
-

**Evidence of
Relationship to
Petitioner**

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

Helpfulness to Law Enforcement Authorities

General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, "U Nonimmigrant Status Certification"
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator's certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency's stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Scenario:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

Continued on next page

Helpfulness to Law Enforcement Authorities, Continued

Other instances:

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

Criminal activity violated U.S. law or occurred in the United States

General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

Continued on next page

Criminal activity violated U.S. law or occurred in the United States, Continued

Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

Qualifying Family Members

Overview

General

Certain qualifying family members of the petitioner/principal (U-1) may accompany or follow to join the alien victim and obtain U nonimmigrant status, regardless of whether the family member(s) is in the United States or overseas.

A separate “Petitioner for Qualifying Family Member of U-1 Recipient” (Form I-918, Supplement A) must be submitted for each family member.

Evidence to prove the relationship is needed. Documentary requirements for civil registration and timeliness of registration for relationship documents apply. See the *I-130 SOP* for specifics.

Locating Qualifying Family Member Petitions

The officer adjudicating an I-918 is responsible for checking for associated I-918, Supplement A filings. Conduct the check for a qualifying family member petition (Form I-918, Supplement A) by viewing the I-918A screen in HAVEN.

If an I-918, Supplement A is filed and still pending but is not riding with the I-918, the officer adjudicating the I-918 must obtain each pending I-918, Supplement A associated with the principal’s filing. Once an I-918, Supplement A is obtained, that officer will adjudicate it to completion. In general, I-918, Supplement A cannot be adjudicated to finality prior to the principal’s I-918 receiving a final decision.

Form Annotations

Write the EAC# of the I-918 principal in the remarks block on the I-918A. This will assist clerical in updating HAVEN as the only way to identify an I-918A filing is through opening the record for the principal.



U.S. Citizenship and Immigration Services

I-918 PETITION FOR U NONIMMIGRANT STATUS

**Prepared by: Center Training Unit
Vermont Service Center**

July 29, 2014

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6 Eligibility Requirements

6.1 Qualifying Criminal Activity

6.1.1 General

There are 26 crime categories listed in 101(a)(15)(U)(iii) of the INA that constitute qualifying criminal activity. Petitioners must demonstrate that they are a victim of one of these crimes.

To meet the requirements for qualifying criminal activity, the certified crime must be:

1. One of the statutorily enumerated crimes;
 2. The attempt, conspiracy or solicitation to commit one of those crimes; or
 3. Criminal activity *substantially similar* to those statutorily enumerated crimes.
-

6.1.2 Statutorily Enumerated Criminal Activity

Qualifying criminal activity consists of one or more of the following, or any similar activity, in violation of Federal, State, or local criminal law:

Abduction	Incest (victim is a minor)	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking *
Felonious Assault	Peonage	Unlawful Criminal Restraint
Female Genital Mutilation	Perjury	Witness Tampering
Fraud in Foreign Labor Contracting	Prostitution	Stalking
Hostage		

NOTE: The attempt, conspiracy or solicitation to commit any of these listed crimes also constitutes qualifying criminal activity.

Make a referral to the Bureau of Immigration and Customs Enforcement (ICE) for cases involving trafficking. (See *Trafficking Referrals*).

6.1.3 Similar Activity

For the purposes of adjudication, “*similar activity*” refers to criminal offenses in which the nature and the elements of the offense(s) are substantially similar to the statutorily enumerated list of criminal activities.

The wide variety of criminal statutes in Federal, State and local law often result in criminal activity being named differently despite the nature and the elements of the crime being comparable. Qualifying criminal activity may also occur during the commission of a non-qualifying criminal act. Though a perpetrator may not be charged with or prosecuted for the qualifying criminal activity but instead for the non-qualifying criminal activity. However, a qualifying crime must be certified.

Example:

In the course of investigating the crime of embezzlement, federal law enforcement discovers that the subject of the investigation also batters his alien wife. The battery could be a qualifying crime if the law enforcement official certifies the battery, whether or not the law enforcement agency chooses to forward those findings for additional investigation.

6.1.4 Evidence of “similar activity”

When the criminal activity is not directly on point with the statutorily listed activity, the petitioner is encouraged to submit evidence demonstrating how the activity is substantially similar to one of the enumerated crimes.

Example:

Police certify they are investigating a robbery. In the course of the robbery, the alien victim was beaten with a baseball bat. The only crime on the certification is robbery. However, the attack during the robbery may be considered substantially similar to felonious assault due to the nature and ferocity of the beating. Refer to the essential elements of the specific codified section of law for the crime that was certified to assist in this determination.

Evidence of ‘similar activity’ may include, but is not limited to:

1. A copy of the criminal statute showing the essential elements of the crime.
 2. Factual information about the crime (from police reports, investigations, court transcripts, affidavits, etc.) demonstrating the similarity to the crimes enumerated in 101(a)(15)(U)(iii) of the INA.
-

6.2 Victim Definition

6.2.1 General

The petitioner must demonstrate he/she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity.

There are provisions for both direct and indirect victims of qualifying criminal activity. These provisions provide specific guidance for instances involving:

- murder and manslaughter,
 - victims of violent crimes who are incapacitated or incompetent, and
 - victims of witness tampering, obstruction of justice, and perjury.
-

6.2.2 Direct Victim

Direct victim means an alien who is directly and proximately harmed by qualifying criminal activity.

Any I-918 may be considered under the definition of direct victim.

6.2.3 Bystanders Who Suffer Unusually Direct injuries

In rare instances, a bystander during the commission of qualifying criminal activity may be eligible for consideration as a victim. Though the individual was not the one acted upon, the commission of the criminal activity may have harmed the individual in a substantial physical or mental way. **See 72 FR 53014.**

Example:

A pregnant bystander witnesses a violent crime and the resulting stress triggers her to have a miscarriage. This individual may be considered a victim for the purposes of this classification.

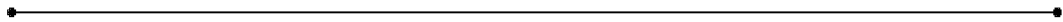
6.2.4 Indirect Victim

- The definition of victim extends beyond those directly acted upon to include those indirectly harmed by the criminal activity, such as cases involving murder and manslaughter.
- This allows for the identification of someone as a victim when the direct victim is not available or not sufficiently able to participate in an investigation or prosecution.
- Broadening the definition of victim also allows for consideration of the crimes not against a person, such as witness tampering, obstruction of justice and perjury.
- If a petitioner does not meet the definition of indirect victim, the petition must be considered in direct victim context (i.e. demonstrating direct and proximate harm based on the qualifying criminal activity).

Example:

A 36-year-old woman is murdered. Her mother files the I-918 as the victim. The petitioner does not meet the restrictions for the “indirect victim” category as the deceased is over the age of 21; however, the petition may be considered in the direct victim context.

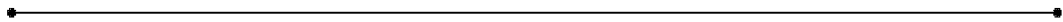
Important: to determine eligibility, look to the age of the victim at the time the crime occurred.



6.2.5 Victim of Murder / Manslaughter

A petitioner may be considered an indirect victim of ***murder*** or ***manslaughter***, if he/she is one of the following in relation to the deceased:

1. Spouse of the deceased
2. Child under age 21 of the deceased
3. (*If the deceased was under the age of 21 years*) the parents of the deceased and unmarried siblings under the age of 18 of the deceased.



6.2.6 Victim of Witness Tampering, Obstruction of Justice or Perjury

A petitioner may be considered a victim of *witness tampering, obstruction of justice* or *perjury*, if:

1. The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury;

AND

2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice or perjury offense, at least in principal part, as a means:
 - a) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; **or**
 - b) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system
-

6.2.7 Victim is Incapacitated / Incompetent

The broader definition of victim allows for consideration of certain family members of individuals who are incapacitated or incompetent. This allows those certain family members to fully participate in an investigation and/or prosecution of crimes committed against the incapacitated or incompetent victim.

An alien may be considered a "victim", if he/she is one of the following in relation to the incapacitated or incompetent victim of a crime:

1. Spouse
 2. Child under age 21
 3. (If the incompetent/incapacitated victim is under the age of 21 years) the parent and unmarried siblings under the age of 18.
-

6.2.8 Culpability

An alien being investigated or prosecuted for the qualifying criminal activity is excluded from being recognized as a victim of that criminal activity. Additionally, an alien being investigated or prosecuted for the qualifying criminal activity is excluded as a derivative of an alien who received or is seeking U nonimmigrant status based on that criminal activity.

This exclusion does not apply to an alien who committed a crime other than the one under investigation or prosecution, even if the crimes are related. USCIS draws a distinction between being culpable for the qualifying crime versus being culpable for other crimes.

Example One:

An alien pays to be smuggled into the United States and illegally enters the country. In the process of the smuggling activity, the alien becomes a victim of involuntary servitude. Such an alien is not excluded as a victim.

Example Two:

An alien attempts to rob a bank and is shot by a police officer during the attempted robbery. The alien is excluded from classification as a victim of aggravated assault in relation to the shooting.

6.2.9 Substantial Physical or Mental Abuse

The “substantial” standard in this eligibility requirement addresses both the severity of the injury suffered by the victim and the severity of the abuse inflicted by the perpetrator.

The following should be taken into consideration when determining whether physical or mental abuse at issue qualifies as *substantial*:

1. The nature of the injury inflicted;
2. The severity of the perpetrator’s conduct;
3. The severity of the harm suffered;
4. The duration of the infliction of harm; and
5. The extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

No single factor is a prerequisite to establish whether the abuse was substantial. The existence of one or more of the factors does not automatically create a presumption that the abuse suffered was substantial.

6.2.10 Pre-existing Conditions

Some victims may have a pre-existing physical or mental injury or conditions at the time of the abuse. Consider the extent to which any such conditions were aggravated by the qualifying criminal activity.

6.2.11 Series of Acts

Some abuse may involve a series of acts or occur repeatedly over a period of time. Consider the abuse in its totality to determine whether it is substantial. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone meets that burden.

6.2.12 Required Evidence

Required evidence to establish that an alien has been the victim of substantial physical or mental abuse based on qualifying criminal activity consists of the following:

A properly executed Form I-918, Supplement B, “U Nonimmigrant Status Certification” will be given significant weight.

A signed statement by the petitioner describing the facts of the victimization; if the victim is under the age of 16, incapacitated or incompetent, a parent, guardian or next friend may submit the statement on behalf of the petitioner.

NOTE: The certification is not considered conclusive evidence that the petitioner is a victim of substantial physical or mental abuse. Petitioners are required to submit sufficient evidence to demonstrate that they meet this eligibility criterion.

6.2.13 Additional Evidence of Abuse

Additional evidence to demonstrate the abuse suffered may include, but is not limited to:

- Reports and affidavits from police, judges and other court officials
 - Reports from medical personnel
 - Affidavits from clergy or school officials
 - Reports from social workers or other social agencies
 - Protection orders
 - Photos of the injuries supported by affidavits from individuals who have personal knowledge of the facts regarding the criminal activity.
-

6.3 Possesses Information

6.3.1 General

The petitioner must possess information about the qualifying criminal activity of which he or she is a victim.

A petitioner will be considered to possess information about qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of that criminal activity.

Possessing information about a crime of which the petitioner is not the direct or indirect victim does not satisfy this requirement.

6.3.2 Evidence

Evidence to establish that an alien possesses information about qualifying criminal activity consists of the following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

The certification alone is not considered conclusive to demonstrate that the petitioner meets this eligibility requirement.

Special considerations exist regarding the possessing of information for petitioners under age 16 at the time of the crime, petitioners who are incapacitated or petitioners who are incompetent.

6.3.3 Victim Under 16 years of age

When the victim is under 16 years of age, the requirement to possess information about the criminal activity can be satisfied by the following individuals providing the necessary evidence to law enforcement on behalf of the petitioner:

1. Parent,
2. Guardian; or
3. Next friend.

For visa adjudication purposes, the parent, guardian or next friend must provide evidence of his or her qualifying relationship to the petitioner as well as demonstrate that he/she possesses the required information.

6.3.4 Age Exception

For instances where the age exception is being utilized, the age of the victim on the day on which an act constituting an element of the qualifying criminal activity first occurred is the applicable age to consider for triggering the exception.

6.3.5 Incapacitated or Incompetent Victim

If the petitioner is incompetent or incapacitated, and therefore unable to demonstrate that he/she possesses information about the qualifying criminal activity, the following individuals may provide the required assistance to law enforcement:

1. Parent
2. Guardian
3. Next friend

For visa adjudication purposes, the parent, guardian, or next friend must provide:

- Evidence that he/she possesses information,
 - Evidence of his or her qualifying relationship to the petitioner, and
 - Evidence of the petitioner's incapacity or incompetence of the petitioner.
-

6.3.6 Evidence of Incapacitation or Incompetence

Evidence of the incapacitation or incompetence may include:

- Medical reports regarding the incapacitation
 - Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner
 - Court declaration of incompetence
-

6.3.7 Evidence Parent/ Guardian/Next Friend Possesses Info

Evidence the parent/guardian/next friend possesses information may include:

- Properly executed Form I-918 Supplement B, "U Nonimmigrant Status Certification"
 - Police reports
 - Court documents
-

6.3.8 Evidence of Relationship to Petitioner

Evidence of the relationship to the petitioner may include:

- Birth certificate of the petitioner
 - Court documents demonstrating recognition of the individual as “next friend”
 - Court documents demonstrating recognition of the individual as the guardian
-

6.4 Helpfulness to Law Enforcement Authorities

6.4.1 General

The petitioner must demonstrate that he or she has been, is being or is likely to be helpful to a government official or authority in the investigation or prosecution of the qualifying criminal activity.

6.4.2 Helpfulness

Helpful means assisting law enforcement authorities in the investigation or prosecution of the crime of which he or she is a victim.

In order for the petitioner to remain eligible for U nonimmigrant status, he or she cannot refuse or fail to provide reasonably requested information and assistance. USCIS interprets the statute to impose an *ongoing responsibility* to provide assistance when there is an ongoing need.

If the petitioner only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, this does not constitute helpfulness.

In order to qualify for permanent residence based on U nonimmigrant status, the alien must not have unreasonably refused to provide assistance in the criminal investigation or prosecution.

6.4.3 Evidence of Helpfulness

Evidence to establish that an alien meets the helpfulness eligibility criteria includes but is not limited to following:

1. Form I-918 Supplement B, “U Nonimmigrant Status Certification”
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials.

Special considerations exist regarding helpfulness for petitioners:

- under age 16 at the time of the crime,
- who are incapacitated or
- who are incompetent.

Special considerations also exist for the certification for those individuals previously accorded interim relief.

6.4.4 Helpfulness in question

USCIS believes it is in the best position to determine whether the petitioner is fulfilling the helpfulness requirement for this visa. Claims of helpfulness made on a certification may be considered primary but not presumptive evidence of helpfulness. You may question these claims when a review of the record warrants it. Such a determination will be made on a case-by-case basis and be driven primarily by evidence contained in the record.

6.4.5 Certifying Official Responsible for Veracity of Certifications

The alien may choose which law enforcement agency to ask for his/her certification. USCIS is not in a position to contact every prosecution district after receiving certifications from investigating authorities to verify that the prosecutor agrees with the original investigator’s certification. Certifying officials are responsible for the veracity of the certifications they provide. If a certifying agency’s stance changes on any given certification, the certifying agency is responsible for contacting USCIS.

6.4.6 Ongoing Helpfulness

The statute governing the helpfulness requirement (8 USC 1101(a)(15)(U)(i)(III)) is written in several verb tenses. This allows for aliens to file for U nonimmigrant status at various times in the investigation or prosecution.

This creates an on-going requirement that the alien remain cooperative with the certifying agency (as it pertains to the alien's qualifying criminal activity) while applying for and throughout the alien's time in U nonimmigrant status.

If USCIS is made aware that the alien ceased cooperating with law enforcement in regard to the qualifying criminal activity, then USCIS will contact the certifying agency to obtain information to determine whether the alien is satisfying the on-going helpfulness requirement.

The helpfulness requirement is written in several verb tenses which allows for helpfulness at the start of an investigation but also requires the on-going cooperation through the sentencing phase, if it should reach that stage, as the investigation and prosecution is interpreted to include the sentencing phase of the justice system.

6.4.7 Disagreement between law enforcement agencies:

The range of certifying agencies covers Federal, State and local law enforcement as well as certain other agencies who have criminal investigative jurisdiction in their respective areas of expertise. This array has the potential to create contradicting opinions within law enforcement over which entity has the dominate power to determine helpfulness at various stages of criminal cases.

The question of hierarchy within the Federal, State or local law enforcement systems is not relevant in the context of USCIS adjudication. The merits and weight of the evidence the various agencies can provide is the determinative factor.

Example:

You receive a certification from a judge citing an alien was helpful during the sentencing phase of a qualifying crime of which that alien is a victim. You also receive opposing information from the attorney who prosecuted the qualifying crime. Review the contradictory assessments from the law enforcement authorities in light of the totality of the evidence provided for the I-918. If additional evidence is needed to clarify the contradicting law enforcement authorities, follow the steps described in **Procedure for Contacting Law Enforcement** to obtain such information. Review the evidence received on a case-by-case basis to determine whether the alien meets the helpfulness requirement.

Weigh the offerings of the contradicting agencies/officials in light of the requirements of the visa.

6.4.8 Law Enforcement Withdraws Certification

If the original certifying agency withdraws or disavows its certification, the alien can no longer be considered to meet the helpfulness requirement.

If the withdrawal is received after the petition is approved, the petition and all derivative petitions may be revoked.

6.4.9 Other Instances

Whenever you can articulate concerns regarding the helpfulness of a petitioner, you may seek authorization from a supervisor to contact the certifying agency or any other related law enforcement agency. You do not need to seek authorization to request additional evidence from the petitioner.

Incidents beyond the alien's control may affect the course of an investigation or prosecution. The alien's eligibility shall not be adversely affected for circumstances of that nature.

Example:

The alien submits a certification from a police officer for the crime of battery. The perpetrator is killed in a car accident prior to the charge going to trial. USCIS receives a letter from the prosecutor stating the case is no longer open due to the death of the defendant so that the alien can no longer be considered helpful. The alien victim is not at fault in the failure to prosecute in this case. The alien may still rely on the initial certification to demonstrate he/she met the helpfulness criteria.

6.4.10 Procedure for Contacting Law Enforcement

If you have reason to believe the petitioner's helpfulness to, or continuing cooperation with the investigation or prosecution should be questioned, you may contact the certifying official for further information.

Stage	Description
1	The officer forwards all requests to contact the certifying agency to the ISO 3 assigned to the U program.
2	The ISO 3 reviews the filing and determines whether the law enforcement agency should be contacted.
3	If contact is warranted, the ISO 3 forwards the file and relevant questions to the Center Fraud Detection Operations Unit (CFDO).
4	CFDO will initiate and conduct all contact with the certifying agency or other related law enforcement officials and provide results of the contact.

The results of the contact and any documentation it generates will also be placed in the record.

6.5 Criminal activity violated U.S. law or occurs in the United States

6.5.1 General

In order to qualify for U nonimmigrant status, the criminal activity that resulted in the victimization of the petitioner must either violate the laws of the United States or occur in the United States.

6.5.2 Criminal activity occurred in the United States

USCIS interprets the phrase “occurred in the United States” to mean qualifying criminal activity that occurred in the United States that is in violation of U.S. law.

6.5.3 Criminal activity violated the laws of the United States

USCIS interprets the phrase “violated the laws of the United States” to mean criminal activity that occurred outside the United States that is in violation of U.S. law.

This entails criminal activity that occurred outside the United States but that fits within a type of criminal activity listed in section 101(a)(15)(U)(iii) of the Act. Such activity will be considered to violate U.S. law if it violates a federal statute that specifically provides for extraterritorial jurisdiction.

Example:

Per 18 U.S.C. 2423(c), the United States has the jurisdiction to investigate and prosecute cases involving U.S. citizens or nationals who engage in illicit sexual conduct outside the United States, such as sexually abusing a minor.

Prosecution of the certified crime does not need to actually occur as the statute only requires the petitioner to be helpful in the investigation or prosecution of the criminal activity. Prosecution may not be possible in some cases due to factors such as an inability to extradite the defendant.

6.5.4 Evidence

Evidence to establish that the criminal activity violated U.S. law or occurred in the United States includes but is not limited to the following:

1. Properly executed Form I-918 Supplement B, “U Nonimmigrant Status Certification” stating where the criminal activity occurred
2. Police reports
3. Affidavits from police or judges
4. Documents from other court officials or law enforcement officials

If the criminal activity on Form I-918, Supplement B, occurred outside the United States, there must also be evidence demonstrating the statutory authority providing extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.
