



Committee: PS
Committee Review: Completed
Staff: Ludeen McCartney-Green, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #Uvisa

AGENDA ITEM #7B
February 4, 2025
Action

SUBJECT

Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy
(The “Uplifting Victims and Immigrant Safety” Act)

Lead Sponsors: Councilmembers Glass, Fani-González, and Luedtke

Cosponsors: Councilmember Albornoz, Council President Stewart, and Councilmembers Katz, Balcombe, Friedson, and Sayles

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- The PS Committee recommended unanimously (3-0) enactment of Expedited 26-24, with one amendment.

DESCRIPTION/ISSUE

Expedited Bill 26-24 would:

- (1) require any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law; and
- (2) generally amend the County law regarding policy directives or guidance related to federal immigration law.

SUMMARY OF KEY DISCUSSION POINTS

- The PS Committee unanimously recommended the enactment of the bill to align MCPD’s U-visa policy with federal immigration law. The Committee adopted one amendment to clarify the policy must also be consistent and not conflict with state law. See page © 2 of the Committee’s Bill.

This report contains:

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MEMORANDUM

January 30, 2025

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Expedited Bill 26-24, Police – U Visa Law Enforcement Certification Policy
(The “Uplifting Victims and Immigrant Safety” Act)

PURPOSE: **Action** – roll call vote expected

PS Committee’s Recommendation: Recommended by 3-0 vote the enactment of Expedited Bill 26-24, with an amendment.

Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy, also referred to as the “Uplifting Victims and Immigrant Safety Act (“U VISA”), sponsored by Lead Sponsors Councilmember Glass, Fani-González, and Luedtke, and cosponsored by Councilmembers Albornoz, Council President Stewart, and Councilmembers Katz, Balcombe. Friedson, and Sayles was introduced on November 19, 2024.¹ A public hearing was held on January 14.

Public Safety Committee held a worksession on January 27, 2025. The Committee unanimously recommended the enactment of Bill 26-24 with a clarifying amendment (described on pages 5).

Expedited Bill 26-24 would:

- (1) require any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law; and
- (2) generally amend the County law regarding policy directives or guidance related to federal immigration law.

PURPOSE

The purpose of the bill is to help strengthen the County's commitment to protecting victims of crime or those helping law enforcement to solve crimes by amending local policy to remove any barrier that would limit an immigrant's opportunity to qualify for a U visa application. See, the sponsors' memorandum at © 4.

BACKGROUND

The Victims of Trafficking and Violence Protection Act enacted by Congress in 2000 provided a type of nonimmigrant visa (U visa) for victims of certain crimes who have suffered substantial mental or physical abuse and are willing to assist law enforcement in the investigation or prosecution of criminal activity.² The purpose of the federal legislation is to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of noncitizens and other crimes, while also protecting victims of crimes who become humanitarian/material witnesses.

The U visa provides eligible victims with nonimmigrant status in order to temporarily remain in the United States (U.S.) while assisting law enforcement. If certain conditions are met, an individual with U nonimmigrant status may adjust to lawful permanent resident status. Congress capped the number of available U visas to 10,000 per fiscal year.³

Eligibility Standards for U visa Petition

To be eligible for U visa petition by United States Citizenship Immigration Services (USCIS), under federal law, an applicant must meet the following criteria:⁴

- be a victim of a felony crime;
- suffer substantial physical or mental abuse as a result of the crime;
- possess credible and reliable information;
- **be helpful, was helpful, or likely to be helpful to law enforcement in the investigation or prosecution of the crime (a completed U visa law enforcement certification is required to accompany the petition);** and
- the crime must have occurred in the United States.

U visa Law Enforcement Certification

The [U Nonimmigrant Status Certification](#) form (now referred to as “certification of helpfulness”) must be completed and signed by a law enforcement agency, prosecutor, judge, or a qualifying official confirming that the applicant has been helpful (or are being helpful) in the investigation or prosecution of a crime. A law enforcement certification is required as a part of a

² Victims of Criminal Activity: U Nonimmigrant Status: <https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status>

³ U Visa Enforcement Resource Guide by DHS.

https://www.uscis.gov/sites/default/files/document/guides/U_Visa_Law_Enforcement_Resource_Guide.pdf

⁴ Id at page 5.

victim's petition for a U visa. This is one-step in the application process. Completion of the form is subject to the discretion of the certifying law enforcement agency.

Federal immigration law has no statute of limitation for when an individual must submit a certification of helpfulness to law enforcement after a crime has occurred. In Maryland, felony crimes have no statutes of limitations—meaning a felony criminal case can be filed at any time. (*Smallwood v. State*, 51 Md. App. 463 (1986)).

This standard differs from the local policy directive by the Montgomery County Police Department (Special Victims Investigation Division) that states an individual must file a U visa application within 10 years of the criminal activity.⁵ See, *Informational Bulletin 16-01 U visa applications* at © 5. The Special Victims Investigations is the primary division that handles U visa petitions with the certificate of helpfulness form, while some cases are also referred to the State's Attorney Office or the U.S. District Attorney of Maryland when an arrest has been made.

The 10-year limitation places an additional eligibility requirement that is more restrictive than federal law. Expedited Bill 26-24 seeks to require the department policies to align with federal law and opt to not be more restrictive. This would promote more flexibility for victims who may provide helpful assistance of a qualifying crime at a later time and remove the additional eligibility requirement.

BILL SPECIFICS

Expedited Bill 26-24 would require any policy directive or guidance that relates to law enforcement certification for a U visa petition issued by the Chief of Police or designee must not be more restrictive than allowed under federal immigration law.

The Bill would require the Department to amend existing policy or guidance and allow for review of certification form submitted by victims of eligible crimes that would satisfy the criteria for a U visa petition.

SUMMARY OF IMPACT STATEMENTS

Racial Equity and Social Justice

According to the Office of Legislative Oversight (OLO) Expedited Bill 26-24 will have a **small positive impact** on RESJ. Latinx community members will disproportionately benefit from the removal of the time limit for requesting a U visa certification from the Montgomery County Police Department (MCPD). This change aligns with best practices from advocates, practitioners, and researchers for U visa certification policies that strengthen trust between immigrant communities and law enforcement. See page © 7.

Fiscal Impact

There are no anticipated expenditures or revenues associated with this bill. (© 13).

⁵ The U.S. Department of Homeland Security issued regulations late 2007 after passage of the U visa law. MCPD had a different policy dated 2013 that limited eligible crimes that occurred one year prior to U visa application. This practice or policy was changed in 2015 to extend eligibility to 10 years for felonies. That policy bulletin was issued in 2016: <https://www.montgomerycountymd.gov/pol/howdol/u-visa.html>

Climate Assessment

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 26-24 will have no impact as the bill seeks to remove barriers to obtaining a U visa, which has no implications on the County's contribution to addressing climate change. (© 14).

Economic Impact

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 26-24 would have an insignificant impact in the County as it relates to the County priority factors. See page © 17.

SUMMARY OF PUBLIC HEARING

A public hearing for Expedited Bill 26-24 was held on January 14 where nine speakers testified in support of the Bill and four written testimonies were received (© 19-24). The Council did not receive any testimony in opposition.

Testimony in support of the Bill focused around three main points: 1) the ten-year limitation was arbitrary; 2) the Bill would remove unnecessary barriers to obtaining certification for a U visa; and 3) the Bill would create a policy that was in line with federal immigration law and USCIS regulations.

Assistant Chief Nicholas Augustine, on behalf of MCPD, testified that the internal policy was altered as of December 2024 to align with the Bill. Assistant Chief also provided that MCPD received 142 applications for U Visa certifications, 69 which were certified, 64 denied, and 16 which fell outside the ten-year limitation. Since changing the MCPD policy, MCPD has received and processed applications, which previously would not have qualified for certification based on the ten-year limitation.

Joan Siegal, on behalf of League of Women Voters of Montgomery County, suggested amending the Bill to eliminate 35-22A(c)(2) because this may encumber future county policies, which support efficiency within the county, but fall outside federal provisions.

The Advisory Commission on Policing also provided comments for the Council's consideration (© 22).

ISSUES DISCUSSED AT COMMITTEE

Participated in discussion of Expedited 26-24 were Chief Marc Yamada, Assistant Chief Nicholas Augustine, and other members of the Montgomery County Police Department. The Committee discussed elements of the new U-visa policy and its applicability to surrounding jurisdictions. The Committee unanimously voted to amend the bill that adheres not only to federal immigration law, but also consistent with state law. See discussion item #3 below.

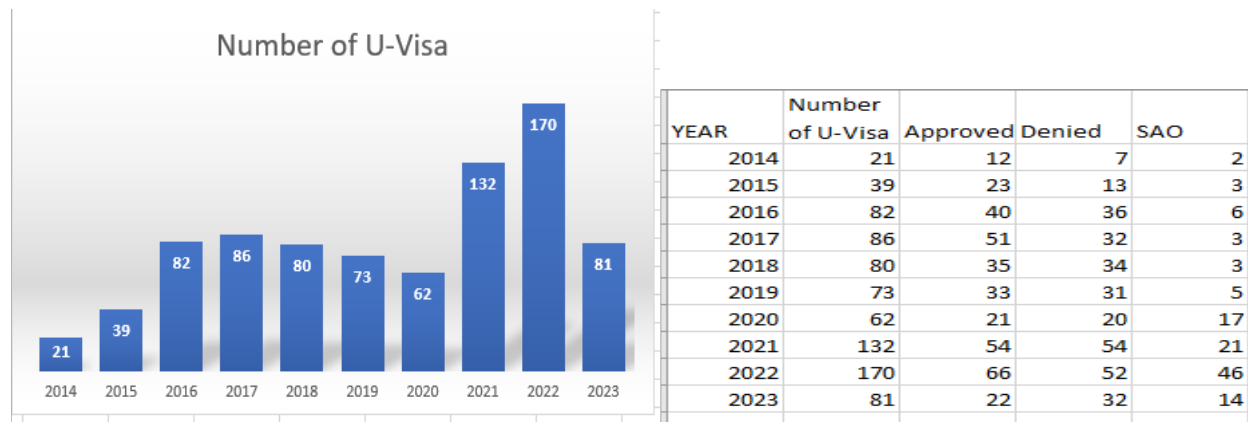
1. Amended policy issued for U visa applications.

During the public hearing testimony, MCPD informed Council that it recently amended its policy document, and a new U visa policy was released late last year (December 2024). The amended policy would remove the 10-year limitation for when the criminal activity occurred, and therefore, allow a petitioner to submit a “certificate of helpfulness” to law enforcement for certification. However, the policy document is not readily available for public dissemination because its undergoing review by the union and must be approved under the requirements of the collective bargaining agreement (CBA). Typically, a new policy review by the union may take 30 days.

In the interim, the Committee may wish to inquire from MCPD details about the amended policy, the CBA review process, training for officers certifying the applications, staffing capacity to handle increase caseload; public outreach about the revised policy, data collection, any possible implementation concerns, etc.

2. Statistical data regarding U visa applications.

MCPD receives on average approximately 140 -150 applications a year since 2022. That number continues to increase. Below is some data on prior year experience. Not all applications have been closed, because in some cases, the applications were not complete, or the department never heard back from the attorney.



3. Amendments by Council staff.

Federal U-visa laws allow some flexibility for state laws to interpret or guide certain qualifying crimes, as long as they are comparable to those on the federal list. For example, hate crimes under state or federal law may qualify for a U-visa. This means a certificate of helpfulness form can be completed using state law classifications. To ensure alignment with both federal and state laws, Council staff suggests the following amendment:

Amend lines 19-20, as follows:

- (3) must be consistent and not conflict with the standards or regulations under state law or federal immigration law.

Decision Point: Whether to amend lines 19-20 of the bill? The Committee recommend amendments by 3-0 vote.

Next Steps: PS Committee recommended unanimously enactment of Expedited Bill 26-24.

<u>This packet contains:</u>	<u>Circle #</u>
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Expedited Bill No. 26-24
Concerning: Police – U visa Law Enforcement Certification Policy (The “U VISA” Act)
Revised: 1/30/25 Draft No. 4
Introduced: November 19, 2024
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. , Laws of Mont. Co.

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Glass, Fani-González, and Luedtke
Cosponsors: Councilmember Albornoz, then-Vice President Stewart, and Councilmembers
Katz, Balcombe, Friedson, and Sayles

AN EXPEDITED ACT to:

- (1) require any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law; and
- (2) generally amend the County law regarding policy directives related to federal immigration law.

By adding
Montgomery County Code
Chapter 35, Police
Section 35-22A

Boldface	<i>Heading or a defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland, approves the following act. :

1 **Sec 1. Section 35-22A is added as follows:**

2 **35-22A. U visa law enforcement certification - policy directive.**

3 (a) Short title. This Section may be known and cited as the “Uplifting
4 Victims and Immigrant Safety Act” (U VISA).

5 (b) Definitions. In this Section, the following terms have the meanings
6 indicated.

7 Department means the Montgomery County Police Department.

8 Enforcement means efforts to investigate, enforce, or assist in the
9 investigation of a violation of criminal activity under state or local law.

10 U nonimmigrant status or U visa as defined in Section 1101(a)(15)(U)
11 of Title 8 of the United States Code, as amended.

12 (c) U visa policy directive – compliance with federal law. A policy
13 directive or guidance issued by the Chief of Police or designee that
14 describes the eligibility process for certifying an individual, who has
15 been identified as a victim of a qualifying crime, for the purpose of a U
16 visa petition:

17 (1) must not be more stringent than the criteria required under
18 federal immigration law; and

19 (2) must [not be inconsistent or] be consistent and not conflict with
20 the standards and regulations under state law or federal
21 immigration law.

22 (d) Nothing in this Section must be construed to prevent enforcement by
23 any member of the Department, the State’s Attorney Office, or any
24 other investigative agency.

25 **Sec 2. Expedited Effective Date.** The Council declares that this legislation is

26 necessary for the immediate protection of the public interest. This Act takes
27 effect on the date on which it becomes law.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

November 13, 2024

Dear Colleague,

Montgomery County is proud to be home to three of the most diverse cities in the nation and a vibrant population — 1.1 million residents, one-third of whom are foreign-born. We are a county that stands for inclusion and safety for all. As we navigate national immigration challenges, we must continue to ensure that our local policies reflect the values of equity, justice and compassion.

Many immigrants in our community are living in fear due to potential national immigration enforcement actions. They are hesitant to seek help when they need it most — after becoming victims of violent crime or after witnessing crimes. As local leaders, it is our responsibility to create a safe space where all residents, regardless of their immigration status, can report crimes and help law enforcement solve crimes — without fear of retaliation.

On November 19, we are introducing the Uplifting Victims and Immigrant Safety Act (“U Visa”), which will:

- Help strengthen Montgomery County’s commitment to protecting crime victims or those working with law enforcement to help solve crimes;
- Amend our local policies to remove the current ten-year limit on the county's ability to assist victims of qualifying crimes in their U visa process;
- Ensure that Montgomery County's law enforcement certification process for U visa applicants aligns fully with federal standards, without being more restrictive.

The U visa provides legal status to victims of certain violent crimes—such as sexual assault, human trafficking, and domestic violence—who have suffered physical or mental abuse and previously assisted or are helping law enforcement with the investigation or prosecution of these crimes.

Importantly, while federal law allows the U visa to be granted if an individual is actively assisting in an ongoing investigation, it also sets no statute of limitations on when the crime must have occurred in order to qualify for this status. Similarly, Maryland state law poses no statute of limitation for when a felonious criminal case must be filed by a victim. Montgomery County currently imposes a ten-year cap on when law enforcement can assist an individual with their certification of U visa application, despite no federal limitation. This policy effectively creates unnecessary barriers for victims of crime who may have been traumatized years ago, but whose cases are still under investigation or who may still be assisting law enforcement.

Montgomery County has always been a beacon of compassion and justice. This legislation affirms that commitment by ensuring that our county’s policies are as inclusive and supportive as possible. This bill will help make Montgomery County a safer, more welcoming place for everyone, regardless of their immigration status.

I urge you to support this critical legislation. Together, we can ensure that victims of crime, regardless of when the crime occurred, are protected and empowered to seek justice without fear of deportation.

Thank you for your consideration and support.



Montgomery County Police
Policy and Planning Division

Informational Bulletin 16-01 U Visas

January 8, 2016

A foreign national who becomes a victim of certain crimes may apply for a Non Immigrant Status U Visa. The U Visa is only for those who have suffered substantial mental or physical abuse as victims of certain qualifying crimes and who have assisted, or are willing to assist, law enforcement in the investigation and prosecution of such crimes. If these requirements are satisfied, law enforcement can certify the applicant to the Department of Homeland Security for their consideration of a U Visa. Additionally, there are times that a return to the home country could place the victim in danger. In those limited instances, the granting of a U Visa offers those victims appropriate protection for up to four years and it may be withdrawn at any time.

There are four statutory eligibility requirements:

- The individual must have suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity; and
- The individual must have information concerning that criminal activity; and
- The individual must have been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the crime; and
- The criminal activity violated certain U.S. and state laws.

Eligible victims must file a petition for a Non Immigrant Status U Visa with the U.S. Immigration Services. The form requests information regarding the petitioner's eligibility, as well as admissibility to the United States. The petition will also contain a Certification of Helpfulness from a law enforcement agency that demonstrates that the petitioner "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution of the criminal activity.

This agency's point of contact for endorsements of these petitions will be the executive staff of the Special Victims Investigations Division. All requests for the endorsement of a U Visa will be referred to that division. It shall be this agency's policy to provide endorsements to victims who meet the Department of Homeland Security's criteria when:

- 1) The applicant was the victim of a qualifying crime that occurred in Montgomery County;
- 2) For misdemeanor crimes, the applicant reported the crime within the one year statute of limitations. For felony crimes, the crime occurred within 10 years of application;
- 3) Officers from this agency conducted an investigation; and
- 4) The case has not yet been prosecuted.

In those events where arrests were made, those U Visa applicants will be referred to the State's Attorney's Office or the United States Attorney for the District of Maryland for consideration.

Qualifying criminal activity includes the commission of, attempts to commit, conspiracy to commit and solicitation to commit any of the following crimes:

Abduction	Incest	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
Being held hostage	Prostitution	

For questions or further information, contact the Special Victims Investigations Division, 240-773-5400.

Originating Unit: Special Victims Investigations Division

Cancellation: This Informational Bulletin cancels Information Bulletin 13-06, titled U Visas, dated April 25, 2013.

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED POLICE – U VISA LAW ENFORCEMENT CERTIFICATION BILL 26-24: POLICY (THE “U V.I.S.A” ACT)

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 26-24 will have a small positive impact on RESJ. Latinx community members will disproportionately benefit from the removal of the time limit for requesting a U visa certification from the Montgomery County Police Department (MCPD). This change aligns with best practices from advocates, practitioners, and researchers for U visa certification policies that strengthen trust between immigrant communities and law enforcement.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social inequities that have caused racial and social disparities.²

PURPOSE OF EXPEDITED BILL 26-24

Established under the Victims of Trafficking and Violence Protection Act of 2000, the nonimmigrant visa, or “U visa,” grants temporary legal status to victims of certain crimes who have suffered substantial mental or physical abuse and actively assist law enforcement in the investigation or prosecution of criminal activity.³ The purpose of the federal legislation is “to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of noncitizens and other crimes, while also protecting victims of crimes who become humanitarian/material witnesses.”⁴

Part of the U visa application requires applicants to submit a certification that “must be completed and signed by a law enforcement agency, prosecutor, judge, or a qualifying official.” This certification confirms “that the applicant has been helpful (or are being helpful) in the investigation or prosecution of a crime.”⁵ Federal and state law set no time limit on when a crime must have occurred for victims to qualify for U visas. However, MCPD’s current policy imposes additional eligibility requirements, including a ten-year cap for felonies. According to the sponsors of Bill 26-24, these requirements “effectively create[] unnecessary barriers for victims of crime who may have been traumatized years ago, but whose cases are still under investigation or who may still be assisting law enforcement.”⁶

The purpose of Bill 26-24 is to remove these barriers and align County policy regarding U visas with federal and state law. It attempts to do so by requiring “any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law.”⁷

The Council introduced Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy, on November 19, 2024.

RESJ Impact Statement

Expedited Bill 26-24

UNDOCUMENTED COMMUNITY MEMBERS, U VISAS, AND RACIAL EQUITY

Montgomery County is home to the largest population of foreign-born community members in Maryland.⁸ One-third of the County's population – or nearly 350,000 community members – were born outside the United States.⁹ Immigrant community members have played a significant role in the County's history and culture.¹⁰ They have also played a key role in sustaining the local economy,¹¹ especially as the County has experienced net losses from people moving to other communities in recent years.¹² Most of the County's immigrant community came to the U.S. from Asia (37.5%), followed by Latin America (34.1%), Africa (18.2%) and Europe (9.1%).¹³

Undocumented community members. Nearly 60 percent of community members in the County who were born outside the U.S are naturalized U.S. citizens.¹⁴ Conversely, about 40 percent are not U.S. citizens –¹⁵ this includes community members who are lawful permanent residents, community members who have temporary visas and undocumented community members who do not have a legal status in the U.S.¹⁶ The Migration Policy Institute (MPI) estimates that in 2019, about 75,000 community members in Montgomery County were undocumented.¹⁷ These community members are disproportionately Latinx, with more than half coming from the Northern Triangle countries of El Salvador, Honduras, and Guatemala in Central America.¹⁸

MPI explains that large-scale migration from Central America to the U.S. began in the 1980s, “as hundreds of thousands of Salvadorans, Guatemalans, and Nicaraguans fled north from civil war, repression, and economic devastation.”¹⁹ Significant migration from Central America persists today, with people from El Salvador, Guatemala, Honduras, and Nicaragua accounting for nearly one-third of all 5.8 million migrant encounters at the U.S. southern border between October 2019 and March 2023.²⁰ As described by the Council on Foreign Relations, “many interrelated factors drive people from the Northern Triangle, including lack of economic opportunity, environmental challenges, and chronic violence.”²¹ Based on their work throughout the world, the humanitarian organization Doctors Without Borders (MSF) observed “[t]he high levels of violence in the Northern Triangle of Central America (NTCA) is comparable to that in war zones where MSF has been working for decades—and is a major factor fueling migration north to Mexico and the US.”^{22,23}

Community members who are undocumented experience a range of structural inequities that negatively impact their health and well-being. These inequities include low-paying and hazardous employment, limited opportunities for education and English language development, low access to healthcare, unhealthy living arrangements, and social marginalization.²⁴ Economic disparities are among the negative outcomes that result from these inequities. Locally, community members who are not U.S. citizens live below the poverty level at two times the rate of community members who are born in the U.S.²⁵

U visas. Community members who are immigrants, especially those who are undocumented, are often hesitant to interact with government institutions. As described by researchers at the Aspen Institute and MPI,

“Anti-immigrant sentiment, potential consequences for use of certain public benefits and the threat of deportation are among the factors that can deter immigrant and refugee families from placing trust in formal systems or government agencies and prevent them from accessing needed services.”²⁶

Fear of federal immigration enforcement is one of the main drivers of distrust among undocumented community members and local law enforcement specifically.²⁷ For instance, one 2012 survey of Latinx people in several communities across the U.S. found that 70 percent of respondents who were undocumented indicated they were less likely to contact police if they were victims of a crime for fear of being asked about their immigration status.²⁸ Along with

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other factors, unwillingness to call police likely causes people who are undocumented to experience an increased risk of violent crime victimization.²⁹

The establishment of the U visa program acknowledges the reality of law enforcement distrust in immigrant communities. In part, the U visa was created to “encourage more reporting of crime in undocumented immigrant communities, enhanc[e] law enforcement/immigrant relationships and offer[] protection to victims.”³⁰ Research by the Police Executive Research Forum (PERF) found “departments that have fully embraced U Visas credit their role in providing certifications with building trust in their immigrant communities.”³¹ PERF identified several promising practices from police departments across the country, including outreach by departments to immigrant communities about the existence and benefits of obtaining a U visa.³²

Research from Fair and Just Prosecution (FJP) yields four recommendations for prosecutors, police departments, and other agencies to adopt a U visa certification policy that strengthens trust between immigrant communities and law enforcement. These include:³³

- **Adopting a public, well-defined, and transparent policy for certification and providing the policy and/or key information to victims, applicants, and legal service providers.** Key policy elements include adopting a presumption of helpfulness, not implementing a cut-off date for seeking certification, and responding to certification requests within 30 days of receipt, among others.
- **Not imposing additional requirements beyond those statutorily enumerated.** In particular, FJP notes that U visa certification should not be dependent on an applicant’s criminal history or on the successful prosecution of a case.
- **Requiring staff to participate in training(s) about the U visa application process, purpose, and statutory requirements.**
- **Not inquiring about the immigration status of witnesses or victims, but ensure they understand that they may be eligible for a U visa by adopting a clear policy and sharing it with local immigration service providers, victim advocates, and other stakeholders.**

PERF’s case study on San Francisco’s proactive U visa program also highlights collecting and publicly reporting data on U visa certifications as another promising practice.³⁴ The U Visa Certification Toolkit from the Catholic Legal Immigration Network, Inc. (CLINIC) includes guidance for policymakers to develop a U visa certification bill that is mostly aligned with the suggestions from FJP and PERF and considers mechanisms that can help hold U visa certifiers accountable.³⁵

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 26-24 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who would primarily benefit or be burdened by this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, OLO considered the demographics of community members in the County who are likely to petition for a U visa. OLO could not find data on U visa petitioners in the County by race and ethnicity. However, as described in the previous section, local community members who are undocumented are disproportionately Latinx.

RESJ Impact Statement

Expedited Bill 26-24

Thus, Latinx community members are likely overrepresented among local community members who would petition for a U visa.

For the second question, OLO considered how Bill 26-24 aligns with promising practices and recommendations for developing U visa certification policies that can strengthen trust between immigrant communities and law enforcement. As noted in the previous section, not imposing a cut-off date for community members to seek a U visa certification aligns with best practices offered by advocates, practitioners and researchers.

OLO anticipates Bill 26-24 will have a small positive impact on RESJ. Latinx community members will disproportionately benefit from the removal of the time limit for requesting a U visa certification from MCPD. This change aligns with best practices from advocates, practitioners and researchers for U visa certification policies that strengthen trust between immigrant communities and law enforcement.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.³⁶ OLO anticipates Expedited Bill 26-24 will have a small positive impact on RESJ. As such, OLO does not offer recommended amendments. However, should the Council seek to improve the RESJ impact of this Bill, OLO offers two policy options for Council consideration:

- **Amend Bill 26-24 to incorporate additional best practices for U visa certification policies.** As previously discussed, resources from FJP, PERF, and CLINIC offer several policy options the Council can consider to develop a comprehensive U visa certification bill that supports trust building between immigrant community members and MCPD.
- **Support outreach and education efforts to inform community members about the U visa.** As noted by PERF, “undocumented immigrants who are the victims of crime should know about the possibility of obtaining a U Visa.” Promising outreach efforts noted by PERF from police departments across the country include contracting with nonprofit legal services organizations to disseminate information on U visas to community members, promoting U visas on Spanish-language media, and developing department policies that require officers to notify victims of crime about the possibility of applying for a U visa.³⁷

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

RESJ Impact Statement

Expedited Bill 26-24

- ¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>
- ² Ibid.
- ³ [Introduction Staff Report for Expedited Bill 26-24](#), Montgomery County Council, Introduced November 19, 2024, PDF pgs. 2-3.
- ⁴ Ibid, PDF pg. 3.
- ⁵ Ibid.
- ⁶ Ibid, PDF pg. 8.
- ⁷ Ibid, PDF pg. 4
- ⁸ [State of the Economy Series: Immigration and the Economy Fact Sheet](#), Comptroller of Maryland, April 2024, pg. 2.
- ⁹ [Montgomery County Demographic Trends](#), Montgomery Planning, January 24, 2023, pg. 16.
- ¹⁰ [The Immigrant Experience in Montgomery County](#), Maryland, Montgomery History, February 9, 2023.
- ¹¹ State of the Economy Series: Immigration and the Economy Fact Sheet
- ¹² James Lee, “[Montgomery County’s Population Rebound, Part 1: Recovering from the COVID-19 Years](#),” The Third Place, Montgomery Planning, June 21, 2024.
- ¹³ Montgomery County Demographic Trends, pg. 17.
- ¹⁴ [Table S0502](#), 2022 American Community Survey 5-Year Estimates, Census Bureau.
- ¹⁵ Ibid.
- ¹⁶ For breakdown of unnaturalized residents in Maryland, refer to Figure 7 in [State of the Economy Series: Immigration and the Economy](#), Comptroller of Maryland, April 2024, pg. 8.
- ¹⁷ [Profile of the Unauthorized Population: Montgomery County, MD](#), Migration Policy Institute.
- ¹⁸ Ibid.
- ¹⁹ Susan Gzesh, “[Central Americans and Asylum Policy in the Reagan Era](#),” Migration Information Source, Migration Policy Institute, April 1, 2006.
- ²⁰ Nicole Ward and Jeanne Batalova, “[Central American Immigrants in the United States](#),” Migration Information Source, Migration Policy Institute, May 10, 2023.
- ²¹ Diana Roy and Amelia Cheatham, “[Central America’s Turbulent Northern Triangle](#),” Backgrounder, Council on Foreign Relations, July 13, 2023.
- ²² “[No way out: MSF report shows damaging health impacts of US-Mexico migration policies](#),” Doctors Without Borders, February 11, 2020.
- ²³ “[Fleeing extreme violence in Central America](#),” Doctors Without Borders.
- ²⁴ Luz M. Garcini, et. al., “[“No one left behind”: A social determinant of health lens to the wellbeing of undocumented immigrants](#),” Current Opinion in Psychology, October 2022.
- ²⁵ [Table S0501](#), 2022 American Community Survey 5-Year Estimates, Census Bureau.
- ²⁶ Chris Estes, et. al., “[Building Trust with Immigrant and Refugee Families: Spreading and Adapting 2Gen Working Practices](#),” Working Practice Profile, Aspen Institute and Migration Policy Institute.
- ²⁷ Tom K. Wong, et. al., “[How Interior Immigration Enforcement Affects Trust in Law Enforcement](#),” Perspectives on Politics, Cambridge University Press, January 14, 2020.
- ²⁸ Nik Theodore, et. al. “[Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement](#),” Lake Research Partners, PolicyLink, and University of Illinois at Chicago, May 2013, pg. 5-7.
- ²⁹ Min Xie and Eric P. Baumer, “[Immigrant Status, Citizenship, and Victimization Risk in the United States: New Findings from the National Crime Victimization Survey \(NCVS\)](#),” Criminology, February 16, 2022.
- ³⁰ Tirzah Christopher, “[A visa program created to help law enforcement puts immigrant victims at risk instead](#),” NPR, August 12, 2023.
- ³¹ “[U Visas and the Role of Local Police In Preventing and Investigating Crimes Against Immigrants](#),” Subject to Debate, Police Executive Research Forum,” June-August 2017.
- ³² Ibid, pgs. 12-13.
- ³³ [U Visa Best Practices for Prosecutors](#), Fair and Just Prosecution, pgs. 8-10.
- ³⁴ “U Visas and the Role of Local Police In Preventing and Investigating Crimes Against Immigrants, pg. 8”
- ³⁵ [U Visa Certification Advocacy Toolkit](#), Catholic Legal Immigration Network, Inc. last updated April 21, 2022.

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³⁶ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

³⁷ “U Visas and the Role of Local Police In Preventing and Investigating Crimes Against Immigrants,” pgs. 9 and 12.

Fiscal Impact Statement

Office of Management and Budget

Bill 26-24

U-V.I.S.A Law Enforcement Certification Policy Directive

Bill Summary

The bill will amend local policy on the Uplifting Victims and Immigrant Safety Act (U V.I.S.A) to align with Federal and State laws by removing a ten year limit for when and individual must submit a certification of helpfulness to law enforcement after a crime has occurred.

Fiscal Impact Summary

There are no anticipated expenditures or revenues associated with this bill.

Staff Impact

The bill is not expected to impact staff time or duties.

Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

The bill does not authorize future spending.

Contributors

Willie Morales, Office of Management and Budget



Climate Assessment

Office of Legislative Oversight

Expedited Bill 26-24: Police – U visa Law Enforcement Certification Policy (The “U V.I.S.A” Act)

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 26-24 will have no impact as the bill seeks to remove barriers to obtaining a U visa, which has no implications on the County’s contribution to addressing climate change.

BACKGROUND AND PURPOSE OF EXPEDITED BILL 26-24

Established under the Victims of Trafficking and Violence Protection Act of 2000, the nonimmigrant visa, or “U visa,” grants temporary legal status to victims of certain crimes who have suffered substantial mental or physical abuse and actively assist law enforcement in the investigation or prosecution of criminal activity.¹ The purpose of the federal legislation, according to the Council memorandum, is “to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of noncitizens and other crimes, while also protecting victims of crimes who become humanitarian/material witnesses.”²

Federal and state law set no time limit on when a crime must have occurred for victims to qualify for U visas. However, the County’s current policy imposes additional eligibility requirements, including a ten-year cap for felonies. According to the sponsors of Bill 26-24, these requirements “effectively create[] unnecessary barriers for victims of crime who may have been traumatized years ago, but whose cases are still under investigation or who may still be assisting law enforcement.”³

The purpose of Bill 26-24 is to remove these barriers and align County policy regarding U visas with federal and state law. It attempts to do so by requiring “any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law.”⁴

The Council introduced Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy, on November 19, 2024.

ANTICIPATED IMPACTS

As the bill seeks to remove barriers to obtaining a U visa, which has no implications on the County's contribution to addressing climate change, OLO anticipates Expedited Bill 26-24 will have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.⁵ OLO does not offer recommendations or amendments as Expedited Bill 26-24 is likely to have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ McCartney-Green, Ludeen. *Memorandum: Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy*. Montgomery County Council, November 14, 2024. See [Introduction Staff Report](#) for the Bill.

² Ibid.

³ See memorandum from the Bill's sponsors in the [Introduction Staff Report](#) for the Bill, p. 8.

⁴ [Introduction Staff Report for Expedited Bill 26-24](#).

⁵ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

Economic Impact Statement

Montgomery County, Maryland

Expedited Bill 26-24

U visa Law Enforcement Certification Policy (The “U V.I.S.A.” Act)

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 26-24 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.

BACKGROUND AND PURPOSE OF BILL 26-24

Established under the Victims of Trafficking and Violence Protection Act of 2000, the nonimmigrant visa, or “U visa,” grants temporary legal status to victims of certain crimes who have suffered substantial mental or physical abuse and actively assist law enforcement in the investigation or prosecution of criminal activity.¹ The purpose of the federal legislation, according to the Council memorandum, is “to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of noncitizens and other crimes, while also protecting victims of crimes who become humanitarian/material witnesses.”²

Federal and state law set no time limit on when a crime must have occurred for victims to qualify for U visas. However, the County’s current policy imposes additional eligibility requirements, including a ten-year cap for felonies. According to the sponsors of the Bill, these requirements “effectively create[] unnecessary barriers for victims of crime who may have been traumatized years ago, but whose cases are still under investigation or who may still be assisting law enforcement.”³

The purpose of Bill 26-24 is to remove these barriers and align County policy regarding U visas with federal and state law. It attempts to do so by requiring “any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law.”⁴

The Council introduced Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy, on November 19, 2024.

¹ McCartney-Green, Ludeen. Memorandum: Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy. Montgomery County Council, November 14, 2024. See [Introduction Staff Report](#) for the Bill.

² Ibid.

³ See memorandum from the Bill’s sponsors in the [Introduction Staff Report](#) for the Bill, p. 8.

⁴ [Introduction Staff Report for Expedited Bill 26-24](#).

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

As required by 2-81B of the Montgomery County Code, this Economic Impact Statement evaluates the impacts of Expedited Bill 26-24 on residents and private organizations in relation to the Council’s priority economic indicators. In doing so, it examines whether the Bill would have a net positive or negative impact on overall economic conditions in the County.⁵

OLO sees no direction connection between aligning County law regarding U visas with federal law and the economic indicators prioritized by the Council. For this reason, OLO anticipates that the Bill would have insignificant economic impacts on private organizations, residents, and overall economic conditions in the County.

VARIABLES

Not applicable

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

DISCUSSION ITEMS

Not applicable

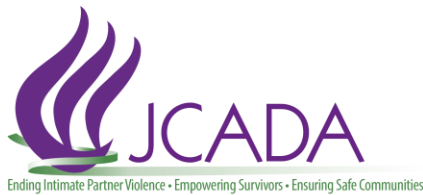
CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

⁵ [“Sec. 2-81B, Economic Impact Statements,”](#) Montgomery County Code.



January 13, 2025

To the Montgomery County Councilmembers:

I am writing on behalf of the Board of Directors, membership, staff and clients of the Greater Washington Jewish Coalition Against Domestic Abuse (JCADA) in support of Bill 26-24, Police – U Visa Law Enforcement Certification Policy (The “Uplifting Victims and Immigrant Safety” Act)

The Greater Washington Jewish Coalition Against Domestic Abuse (JCADA) is a non-profit agency headquartered in Montgomery County and serving the Greater Washington, DC region. JCADA works to end intimate partner violence (IPV) in the local Jewish community through education and relationship skill building and to support all survivors of IPV in the Greater Washington DC area seeking relief from relationship abuse. JCADA’s professional services team provides free trauma counseling through one on one and group therapy sessions; and victim advocacy support to JCADA’s clinical clients who are struggling to meet their basic needs because of the abuse. JCADA offers free, interactive learning experiences for Jewish middle schoolers, teens, adults, clergy, and other professionals looking to learn more about the dynamics of healthy relationships, the warning signs of abuse, strategies for supporting friends and loved through abusive relationships, the connections between Jewish values and healthy relationships and more.

Around 10% of JCADA’s clients are immigrants. We know that U visas are an important tool in leveraging a new safe home here in the US and in Montgomery County, one of the most diverse counties in the nation, with a 33% immigration rate. We have helped our clients identify experiences that meet the criminal legal definition of domestic violence or of any other crime, that could help them qualify for a U visa This has been important part of their path to empowerment. We also host a monthly Immigrant Women’s Empowerment Resiliency Group, that has been our longest running and most highly attended Resiliency Group at JCADA.

Please let me know if you have any further questions about JCADA, our work with survivors of intimate partner violence, or our work with immigrants. Thank you for introducing **Bill 26-24, Police – U Visa Law Enforcement Certification Policy (The “Uplifting Victims and Immigrant Safety” Act)** to keep our clients safer in Montgomery County.

Best,

Amanda Katz

Executive Director, JCADA

Jews United for Justice

Anita Lampel

Bethesda, Maryland

www.jufj.org

**JEWS UNITED
FOR JUSTICE**

THINK JEWISHLY. ACT LOCALLY.

Testimony in Support of
U Visa Law Enforcement Certification Policy
Expedited Bill 26-24

My name is Anita Lampel, and I am a resident of Bethesda in District I. I am on the Montgomery County Leadership Council for Jews United for Justice (JUFJ), which represents over 2,000 Jews and allies across the county who act on our shared Jewish values to advance social, economic, and racial justice. **On behalf of JUFJ, I am submitting this testimony in support of the U Visa Law Enforcement Certification Policy.**

Our Jewish values state: "When a stranger sojourns with you in your land, you shall do him no wrong. The stranger who sojourns with you shall be to you as the native among you, and you shall love him as yourself for you were strangers in the land of Egypt" (Leviticus 19:33). The U Visa program protects the immigrant victims of serious crime against deportation when that person has come forward to testify or otherwise assist law enforcement. Unfortunately, Montgomery County currently places a time limit on when a victim can benefit from this program.

JUFJ works closely with CASA to address the concerns of our immigrant population. Undocumented individuals labor tirelessly to support families and they enrich our communities both culturally and economically. When an undocumented person is the victim of a crime and has taken the risk of cooperating with law enforcement, we should not require them to come forward by a certain time to either report the crime or request a U Visa certification. This bill allows immigrant crime victims to come forward when they feel they are able without fear that they failed a "timeliness" test that is not imposed by the federal government, but by Montgomery County

Therefore, we urge you to vote in favor of U Visa Law Enforcement Certification Policy, Expedited Bill 26-24.

Thank you.



Testimony in Support of

[Uplifting Victims and Immigrant Safety Act \(U-VISA\)](#)

Montgomery County NOW thanks Councilmembers Evan Glass, Natali Fani-González and Dawn Luedtke for introducing this important bill that will provide legal protected status for noncitizen victims of violent crime and/or those helping to solve violent crimes.

I now lead the Montgomery County MD Chapter of the National Organization for Women (MCMDNOW), an advocacy group that seeks to protect women's rights. One of our core issues is eliminating violence against women. I have also volunteered as a sexual assault outreach volunteer with VASAP (Victims Assistance and Sexual Assault Program), as a victim advocate in the District Court's domestic violence court, and served many years on the then Montgomery County Human Trafficking Task Force. I know from these experiences that sexual assault, human trafficking and domestic violence are problems in this County, and victims who happen to be undocumented are wary of reporting their crimes for fear of being arrested or deported. In all capacities, we have tried to reassure noncitizen victims that our County will protect them; but with the recent anti-immigration rhetoric and threats to immigrants by the incoming President of the United States and supporters, those reassurances may now be even more difficult for noncitizen victims to believe and trust.

Having the U-VISA in place, with a PR campaign to get the word out, will help those who have become victims of or who can help solve violent crimes to know that they will be protected when they come forward to report the crime or help bring justice. It could help keep them and others safe from further harm. We must do what we can to eliminate violence against women and all people, and not risk their also being sent to a country where they will be in danger of even more violence.

Montgomery County NOW supports this bill, so that no matter what happens at the federal level, our County can protect its noncitizen crime victims. We hope you will vote for the U-VISA Act and get it in place very soon.

Jeannette Feldner
President, Montgomery County MD NOW
president@mcmdnow.org



ADVISORY COMMISSION ON POLICING

January 14, 2025

The Honorable Kate Stewart, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Dear President Stewart and Members of the County Council:

Pursuant to the charter of the Advisory Commission on Policing (ACP), this letter provides the ACP's advice regarding Expedited Bill 26-24E, Police - U visa Law Enforcement Certification Policy.^[1]

We welcome Expedited Bill 26-24 in general but believe MCPD should be allowed to reject applications based on crimes committed outside its jurisdiction except under the limited circumstances allowed by state law.^[2]

The expedited bill would require that any policy directive regarding MCPD's U visa "certification of helpfulness," or Form I-198B, "not be more stringent than the criteria required under federal immigration law; and must not be inconsistent or conflict with the standards and regulations under federal law." Removing unnecessary administrative requirements to MCPD's limited role in the U visa process would contribute to advancing the County's goals for public safety and for racial equity and social justice. It would also encourage law enforcement agencies to better serve immigrant crime victims and to prosecute crimes committed against aliens.^[3]

MCPD's current policy has four requirements for "certifications of usefulness" that are more restrictive than required under federal law, but they are not inconsistent with the law.^[4] This is because Congress granted broad discretion to law enforcement agencies regarding whether and how to complete these certifications, consistent with policy, as well as local and state law. Indeed, many law enforcement agencies across the country choose to not accept any requests

for certification of usefulness or have requirements that are more stringent than MCPD's.^[5]

We recommend that the expedited bill allow MCPD to reject "usefulness certification" requests based on crimes committed outside Montgomery County except under the circumstances allowed by Maryland Code Criminal Procedure § 2-102 and

Advisory Commission on Policing

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MCPD FC No.: 514, dated December 4, 2018. As currently written, the expedited bill would require MCPD to remove its first requirement: that requests for usefulness certification be based on a crime committed in Montgomery County. Although the Department of Homeland Security (DHS) “U Visa Law Enforcement Resource Guide” notes that there is no such requirement in the law, the wording suggests that this was meant to allow for rare exceptions, such as joint investigations, mutual aid agreements, emergencies, etc.^[6] Removing this MCPD requirement entirely could invite requests that would be better handled by law enforcement agencies in other jurisdictions, that MCPD has no ability to verify, and that it is, therefore, unable to certify. This would provide no benefit to the county, but it could overload MCPD’s staff and cause unnecessary delays or backlogs in the certification process.

MCPD’s second requirement establishes time limits for accepting requests for certification of helpfulness. These time limits are more stringent than federal regulations, which “do not set a specific statute of limitations for [certification of helpfulness]. The key is the victim’s helpfulness, not the timing of the helpfulness.”^[7] Moreover, this requirement dates to a time when the department’s documentation was based almost entirely on paper, which made it labor intensive and difficult to verify key elements in old cases. Since then, MCPD has greatly improved its automated data capabilities.

MCPD’s third requirement is that the request be based on a crime investigated by its officers, which is also more stringent than federal immigration law requires. According to the U Visa Law Enforcement Resource Guide, “[c]harges do not have to be filed, nor does an investigation or prosecution need to be open or completed at the time a certification is signed. For example, a victim may establish eligibility for a U visa if the certifying agency detected the qualifying crime based on the information provided by the victim.”^[8] Moreover, actual MCPD practice is to take a broad interpretation of the term “investigation,” and in cases the initial investigation of the officer at the scene is deemed sufficient.

The fourth MCPD requirement, that “the case has not yet been prosecuted,” is also more stringent than required by federal immigration law, which recognizes an alien may apply for a U visa at different stages of the investigation or prosecution.^[9] This requirement is unnecessary, as, pursuant to

a memorandum of understanding, MCPD does not handle requests for “certification of helpfulness” in cases where there has been an arrest, let alone a prosecution. If received by MCPD, those requests are forwarded to the State’s Attorney’s Office or the United States Attorney for the District of Maryland.

In addition, current MCPD policy does not mention the possibility of accepting requests for “certificates of usefulness” from persons who witnessed a qualifying crime, have “suffered substantial physical or mental abuse,” have information that is helpful to law enforcement, and cooperate with the police. Therefore, we recommend that MCPD amend its policy to explicitly allow applications from those individuals who were not the intended victim of the crime but would otherwise qualify for a U visa under federal immigration law.

Finally, the removal of these unnecessary administrative requirements could reasonably be expected to result in an increase in the requests for “certifications of helpfulness” MCPD receives and, therefore, in the resources needed by the department

to process these requests in a timely and efficient manner. But it is difficult to predict the magnitude of such an increase. Over time, jurisdictions have seen a shift from most requests pertaining to crimes that were several years old to mostly requests based on crimes that occurred within the past few months.^[10] This would suggest that the pool of likely applicants based on crimes that took place over 10 years ago has shrunk significantly already. Also, increases in applications could be attenuated by perceptions of the incoming federal administration, as new U visa applications dropped significantly during the years 2018, 2019, and 2020.^[11]

Sincerely,

Rev. Brian Bellamy, Chair
On behalf of the
Advisory Commission on Policing

Cc: County Council
Council Chiefs of Staff
Police Chief Marc Yamada

^[1] Staff Report on Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy, November 14, 2024.

^[2] <https://www.montgomerycountymd.gov/pol/Resources/Files/PDF/Directives/0500/FC%200514%20Limited%20Jurisdiction%2C%20In%20Maryland%2C%20Outside%20Montgomery%20County.pdf> and <https://codes.findlaw.com/md/criminal-procedure/md-code-crim-proc-sect-2-102/>

^[3] ICAP Declaration, “Support for Education and Awareness on U Visa Certifications and T Visa Declarations,” 2018. <https://www.theiacp.org/resources/resolution/support-for-education-and-awareness-on-u-visa-certifications-and-t-visa>

^[4] <https://www.montgomerycountymd.gov/pol/Resources/Files/family-visa/UVisaPolicy.pdf>

^[5] UNC School of Law Immigration/Human Rights Policy Clinic, “The Political Geography of the U Visa: Eligibility as a Matter of Locale”, 2019. <https://law.unc.edu/wp-content/uploads/2019/10/uvisafullreport.pdf>

^[6] Page 13, DHS, U Visa Law Enforcement Resource Guide, 2022, downloaded December 11, 2024. https://www.dhs.gov/sites/default/files/2022-05/U-Visa-Law-Enforcement-Resource-Guide-2022_1.pdf

^[7] Page 8, USCIS U Visa Law Enforcement Resource Guide.

^[8] Page 13, USCIS, U Visa Law Enforcement Resource Guide

^[9] Page 13, USCIS, U Visa Law Enforcement Resource Guide

^[10] Police Executive Research Forum, “U Visas and the Role of Local Police in Preventing and Investigating Crimes Against Immigrants,” in Subject to Debate, Vol. 31, No. 2, June-August 2017. [https://www.policeforum.org/assets/docs/Subject to Debate/Debate2017/debate_2017_junau_g.pdf](https://www.policeforum.org/assets/docs/Subject%20to%20Debate/Debate2017/debate_2017_junau_g.pdf)

^[11] USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, January 2023. https://www.uscis.gov/sites/default/files/document/data/I918_FY23_Q1.pdf