

How to read these pages

A persuasive USCIS cover letter proving five U-visa requirements. Every operative phrase is highlighted in the color of the requirement or rule it serves, and the red arrow says what the fact does. The hard part: robbery is not a listed crime, so you argue it is a 'similar activity' to felonious assault by comparing the Franklin statutes, not the facts.

-  Req 1 victim of qualifying crime (robbery ~ felonious assault)
-  Req 2 substantial physical or mental abuse (injuries + PTSD)
-  Req 3 possesses information about the crime
-  Req 4 helpful to law enforcement
-  Req 5 crime violated U.S. law + occurred here
-  the elements comparison (FPC 22 vs 29)
-  the certification (I-918 Supplement B, Officer Sanders, 6-month rule)
-  weaknesses to rebut (lineup refusal, theft element, robbery not listed)

Bottom line: Alice meets all five requirements, so she is eligible for a U visa; the letter devotes one heading to each and leads with the robbery-as-felonious-assault argument.

Neighborhood Immigration Services
15 Wall Street
Franklin City, Franklin 33705

MEMORANDUM

TO: Examinee
FROM: Elizabeth Saylor, Supervising Attorney
DATE: July 28, 2020
RE: Alice Lindgren’s U Visa Case

I am assigning you a U nonimmigrant visa (U visa) case for pro bono client Alice Lindgren. U visas were created by the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA). They are meant to encourage immigrant victims of crime, who might otherwise be afraid to interact with law enforcement, to report crime and assist in the investigation or prosecution of crimes that occur in the United States. We did an intake with Alice Lindgren and determined that she was eligible for a U visa. We now need to prepare her U visa application.

Ms. Lindgren’s U visa application will be submitted to United States Citizenship and Immigration Services (USCIS) and will include a Form I-918 Petition for U Nonimmigrant Status (Petition) and supporting materials, including an affidavit from Ms. Lindgren. I will prepare the Petition and the supporting materials, but I need your assistance with drafting the cover letter. This cover letter is our only opportunity to argue that the facts and the law support our client’s eligibility for a U visa.

I have attached a memorandum that sets forth our firm’s conventions for drafting cover letters to USCIS. This format has proven to be effective in our past advocacy for clients. For this reason, it is critical that your letter follow the guidelines in that memorandum. Our client’s future rests on this letter. Your cover letter should argue that Ms. Lindgren meets all the eligibility requirements for a U visa.

I have attached the relevant sections of the Immigration and Nationality Act (INA), which is the primary collection of statutes governing immigration law. I have also attached relevant sections of Title 8 of the Code of Federal Regulations (C.F.R.) and two relevant state statutes. Please cite the INA, 8 C.F.R., and the state statutes in your cover letter (e.g., 8 C.F.R. § 214.2(c)(5)(A)). All the documents referenced in the file will be attached to the cover letter that we submit to USCIS.

  **← Your work product:**
the persuasive cover letter to USCIS.

  **← Prove EVERY U-visa requirement; one heading each.**

  **← Cite the INA + 8 C.F.R. + the two penal-code sections.**

Neighborhood Immigration Services

TO: Neighborhood Immigration Services attorneys and paralegals
FROM: Carol Wu, Executive Director
RE: Cover letters that accompany initial submissions to USCIS

Follow these guidelines in drafting cover letters that accompany initial submissions to United States Citizenship and Immigration Services (USCIS). Cover letters will be printed on letterhead.

Date:

Recipient’s Address: USCIS
Franklin Service Center
119 Exchange St.
Franklin City, FR 33705

Subject: Type “Re:” followed by the client’s name, the client’s alien number or “A number” (if he or she has one), and the number and name of the form or petition being filed on separate lines.

Re: Tom Nguyen
A 33-44-555
Form I-918 Petition for U Nonimmigrant Status

Greeting: Dear USCIS Officer:

Body: Begin with the purpose of the letter and state that we represent the client. E.g., “We represent Mr. Tom Nguyen in his Form I-918 Petition for U Nonimmigrant Status. We submit this letter, Mr. Nguyen’s Form I-918, and documents in support of his petition for a U visa.”

Note that the cover letter is an opportunity to “brief” and argue for our client’s eligibility. For each eligibility requirement, state the law and then argue how the facts of our client’s case satisfy that requirement. Provide relevant legal citations, usually from the INA and Title 8 of the C.F.R. Do not include a separate statement of facts. Instead, use the facts in arguing that the client meets the requirements of the statutes, regulations, and/or case law.

Be sure to use a heading for each requirement that clearly identifies the immigration requirement being addressed. You do not need to provide citations to documents or evidence. Our paralegal will prepare an index of supporting documentary evidence.

Closing: Tell the immigration officer to contact you with questions or if he or she needs additional information. Offer thanks for USCIS’s consideration of the application or petition.

Signature: Elizabeth Saylor, Supervising Attorney

Copies: cc: [client name]

Enclosures: Type “Enclosure” or “Enclosures” as appropriate.

- ☐ ← **For each requirement:**
state the law, then apply the facts.
- ☐ ← Weave facts into the argument; no separate facts section.
- ☐ ← A heading per requirement that identifies it.

**DEPARTMENT OF HOMELAND SECURITY
UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES**

Affidavit of Alice Lindgren, A 21-454-988
In Support of Her Form I-918 Petition for U Nonimmigrant Status

1. My name is Alice Lindgren. I submit this affidavit in support of my petition for a U visa.
2. I was born in Stockholm, Sweden, on June 8, 1996. I am a native and citizen of Sweden.
3. I came to the United States on August 10, 2018, on an F-1 student visa. I obtained the F-1 visa to enter the United States to study at the University of Franklin in Franklin City, Franklin. I have resided in Franklin City and have not left the United States since my arrival. My F-1 visa has lapsed.
4. I studied architecture as an undergraduate and wanted to come to the United States to obtain a graduate degree in architecture. The University of Franklin has a highly competitive architecture graduate program. I was accepted into the program and was excited to attend.
5. Additionally, my boyfriend, an American citizen, lived in Franklin City, and I wanted to continue my relationship with him. I met him while he was an exchange student in Sweden.
6. On February 5, 2020, I was mugged right across the street from campus. I was staying late in the architecture studio to finish up a final project. I left the architecture building around 11:00 p.m. to walk to a late-night coffee shop to pick up a cup of coffee and a pastry. The coffee shop is just across the street from the campus. That area is a bit seedy.
7. Just as I crossed the street, I heard footsteps running up behind me. I turned to see a man running toward me. I started to run and tripped. I tried to catch myself with my hands. I felt a sharp pain in one wrist. I fell onto the concrete, skinning my face pretty badly. While I was on the ground, the man pulled my backpack off my back. I heard his footsteps running away. I waited a minute before I lifted my head. I saw him jump into the backseat of a car that sped off. I saw the first three numbers of the license plate.
8. I was very shaken up. I went back to the architecture studio. My classmates were shocked when I walked in because my face was bloody. They called the campus police, who met me at the architecture building and took me to the local police precinct. I stayed at the precinct for about an hour making a report. I told the police everything I knew about the incident. I told the police about the numbers I saw on the license plate and described the man who attacked me.

  Alice is a Swedish national (background).
 She entered on an F-1 student visa, which has lapsed.

9. When I got home, my boyfriend and I washed the blood off my face and cleaned the gravel out of the wounds on my face. The next morning, I saw my primary care doctor. The doctor further cleaned up and bandaged my wounds. She determined that I had a bruised wrist.

10. About one month later, I received a call from a police detective. A man had tried to pawn the laptop that had been in my backpack. He fit the description I had given to the police. He also owned a car that fit my description of the getaway car, and the license plate numbers matched.

11. The detective asked me to come to the precinct to see if I could identify the man in a lineup. I was afraid and felt that I could not bear to see the man again, so I refused.

12. Six weeks later, the case against him went to trial. I met with Mary Garcia, the assistant district attorney, before the trial and then testified at trial. I was very afraid to look at the defendant while I was in court, but I was stoic and told my story to the jury. In my testimony, I identified the defendant as the man who attacked me that night. The jury found the defendant guilty of robbery.

13. I have had a lot of emotional problems since the incident. I am afraid to go out at night. I have trouble sleeping and have nightmares. I have been afraid to go to campus, and I dropped out of school. My boyfriend and I broke up. I have been seeing a counselor to deal with post-traumatic stress disorder associated with the event.

14. Even though I have been greatly traumatized during my time here in Franklin City, I would like to remain here and eventually continue my architecture studies at the University of Franklin.

I declare to the best of my knowledge that the information above is true and complete.

Alice Lindgren
Alice Lindgren

July 21, 2020

Sworn to before me on this
21st day of July, 2020

Jane Munn
(Signature of Notary Public)

- Physical injury confirmed by the doctor (Req 2).
- Her details led to the arrest: she possesses information (Req 3).
- The lineup refusal: acknowledge it, then rebut (Req 4).

Franklin City Police Department, 12th Precinct

Franklin City, Franklin
Incident Report No. 237894

Reporting Officer: James Sanders
Approving Officer: Alfred Mathews

Date/Time Reported: 02/06/2020, 1:05 a.m.

PERSONS:	Role	Name	DOB	Race	Sex
	Victim	Alice Lindgren	6/8/96	Caucasian	Female

OFFENDER(S):
Middle-aged Caucasian male, salt-and-pepper beard, black jacket, running shoes

VEHICLES:
Older Toyota Camry, rusty, green, license plate 406xxxx

PROPERTY:
Navy blue backpack containing wallet, \$80 cash, iPhone, MacBook Air, red cardigan

NARRATIVE:
University of Franklin Police Department contacted 12th Precinct about suspected robbery. UFPD Officer Solomon brought victim to precinct to make report. Officers Sanders and Wong met with victim and took report. Victim had multiple contusions and bleeding on left side of face. Victim complained of wrist pain. Victim was visibly upset with recurrent episodes of crying. Victim reported that she left campus around 11:00 p.m. on 02/05/2020 to go to Koffee, 501 State Street, to get a snack to go. She reports she was chased on the sidewalk outside of 300 State Street. Victim tripped and fell to the ground, and assailant stole her backpack. Victim began screaming. Victim reports that assailant told her to shut up. Assailant escaped on foot and then jumped into the back of a green Toyota Camry. There were no other witnesses to the incident.

OFFENSE(S):
Robbery, Fr. Penal Code § 29

← Officer Sanders = the certifying official who signed the Supplement B.

← She recalled the first plate digits: information (Req 3).

← Contemporaneous record of her facial injuries (Req 2).

NEIGHBORHOOD IMMIGRATION SERVICES

FILE MEMORANDUM

From: Elizabeth Saylor
Date: July 18, 2020
Re: Alice Lindgren’s I-918 Supplement B

We have a signed Form I-918 Supplement B from Officer James Sanders at the Franklin City Police Department certifying that Ms. Lindgren (A 21-454-988) was a victim of robbery, that she has been helpful in the investigation and prosecution of the robbery, and that she suffered injuries to her wrist and face as a result of the robbery. He attached reports on her known injuries. It was signed on April 26, 2020. I asked Officer Sanders to certify that Ms. Lindgren was a victim of aggravated assault as well, but he refused, saying that the defendant was prosecuted only for robbery.

Officer Sanders’s refusal to add aggravated assault to the Form I-918 Supplement B complicates Ms. Lindgren’s case. The relevant immigration laws list the specific crimes that qualify a victim to petition for a U visa. Felonious assault is an enumerated crime, but robbery is not.

We will need to argue that robbery is a similar crime to felonious assault in Franklin. I have put a printout from an immigration experts’ listserv regarding this issue in the file (attached). While not authoritative, this discussion should help us to formulate successful arguments that Ms. Lindgren meets the qualifying crime requirement for the U visa.

- ← **The certification:** she was helpful in the investigation + prosecution (Req 4).
- ← **Signed 4/26/2020:** within the six-month deadline (§ 214.14(c)(2)(i)).
- ← **Sanders certified ONLY robbery, not aggravated assault:** the core challenge.

[Archive] Crimmigration Experts Forum Listserv

Query: Does robbery qualify an individual for a U visa?

Emily 10-03-2019, 1:07 pm
I have a new client who we think should be eligible for a U visa. She has an I-918 Supplement B from the police department certifying that she was a victim of robbery. Of course this isn't a qualifying crime for a U visa. Any suggestions about what to do?

Sonia 10-03-2019, 2:15 pm
You have to argue that robbery is similar to felonious assault. It is extremely difficult to successfully argue "similar" crimes.

Monica 10-03-2019, 2:37 pm
Make sure you look at 8 CFR 214.14(a)(9). You must argue that the nature and elements of robbery are similar to the nature and elements of felonious assault using your state's penal code provisions. The proper inquiry is not an analysis of the factual details underlying the crime, but a comparison of the nature and elements of the crime that was investigated or prosecuted and the crime enumerated in the statute and regulations. By "nature of the crime" the regulations mean the inherent character of the crime as defined by the criminal statute. We have had a number of robbery cases approved.

Juan 10-04-2019, 11:01 am
Good luck, Emily. Here in Olympia, the elements for robbery and felonious assault are very different. We have filed several cases arguing that robbery and felonious assault are similar crimes, and they have all been denied. I hope your state's statutes for robbery and felonious assault are more similar than those we have here in Olympia.

Etsuko 10-05-2019, 1:20 pm
USCIS hasn't provided any guidance on this. We make the best argument we can looking at the elements and the nature of the crimes. We know there have been a lot of denials because some states' robbery statutes are so different from those states' aggravated assault statutes.

Emily 10-06-2019, 11:59 pm
Thanks to everyone for the help. I really appreciate it!

-  ← **The strategy:** robbery as a 'similar activity' to felonious assault.
-  ← Compare the nature + elements of the two statutes.
-  ← Compare the statutes, NOT the facts of the robbery.

Charles Einhorn, PhD
1501 Jane Way
Franklin City, Franklin 33117

July 20, 2020

To whom it may concern:

I write this letter in support of Alice Lindgren’s petition for a U visa. I received my PhD in psychological counseling from Olympia State University. I am a licensed psychologist in both Olympia and Franklin. I maintain a solo practice through which I provide one-on-one counseling. While I work with a wide variety of patients, I specialize in providing counseling to trauma victims.

I have provided Alice individual counseling since March 2020, approximately one month after she was robbed near the University of Franklin campus.

Alice acknowledged that she had mild anxiety related to her performance in her architecture graduate program before this incident. Since the robbery, Alice suffers from intense anxious and fearful feelings and thoughts, increasing her isolation. As an immigrant to this country, she is far from her family and friends in Sweden.

Alice also suffers from post-traumatic stress disorder (PTSD), a disorder that develops in some people who have experienced a shocking or dangerous event. Alice experiences flashbacks, bad dreams, and frightening thoughts. She also has difficulty sleeping and is easily startled. She has withdrawn from her friends in the architecture program, and she and her long-term boyfriend broke up. These all support my diagnosis of PTSD.

I find Alice’s account of her experience and her emotions to be credible. It is my opinion that her current intense anxiety and PTSD are directly related to the robbery. Please feel free to contact me if you have any questions.

Very truly yours,



Dr. Charles Einhorn

- ← Einhorn is a trauma-counseling expert: lends credibility (Req 2 / 3).
- ← Pre-existing mild anxiety, which the robbery aggravated (a (b)(1) factor).
- ← The robbery caused intense anxiety and PTSD (Req 2).

Excerpts from Immigration and Nationality Act (INA) § 101(a)(15)(U)

- (i) [An alien qualifies for a U Visa if]:
- (I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity;
 - (II) the alien possesses information concerning qualifying criminal activity;
 - (III) the alien has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, or to other Federal, State, or local authorities investigating or prosecuting qualifying criminal activity; and
 - (IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States
- . . .
- (iii) the qualifying criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: . . . felonious assault

- Requirement 2: substantial abuse (i)(I).
- Requirement 3: possesses information (i)(II).
- Requirement 4: helpfulness (i)(III).
- Requirement 5: U.S. law / location (i)(IV).

8 C.F.R. § 214.14
Alien Victims of Certain Qualifying Criminal Activity

(a) Definitions. As used in this section, the term:

...

(5) Investigation or prosecution refers to 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.

...

(8) Physical or mental abuse means injury or harm to the victim’s physical person, or harm to or impairment of the emotional or psychological soundness of the victim.

(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:

... felonious assault ...

The term “any similar activity” refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities.

...

(12) U nonimmigrant status certification means 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.

(b) Eligibility. An alien is eligible for U-1 nonimmigrant status if he or she demonstrates all of the following:

(1) The alien has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. Whether abuse is substantial is based on a number of factors, including but not limited to: The nature of the injury inflicted or suffered; the severity of the perpetrator’s conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions. No single factor is a prerequisite to establish that the abuse suffered was substantial. Also, the existence of one or more of the factors automatically does not create a presumption that the abuse suffered was

Definition supporting the helpfulness requirement (Req 4).

Definition of abuse (Req 2).

The enumerated crime; robbery must be 'similar' to it.

The hook for robbery:
'any similar activity.'

substantial. A series of acts taken together may be considered to constitute substantial physical or mental abuse even where no single act alone rises to that level;

(2) The alien possesses credible and reliable information establishing that he or she has knowledge of the details concerning the qualifying criminal activity upon which his or her petition is based. The alien must possess specific facts regarding the criminal activity leading a certifying official to determine that the petitioner has, is, or is likely to provide assistance to the investigation or prosecution of the qualifying criminal activity;

(3) The alien has been helpful, is being helpful, or is likely to be helpful to a certifying agency in the investigation or prosecution of the qualifying criminal activity upon which his or her petition is based; and

(4) The qualifying criminal activity occurred in the United States

(c) Application procedures for U nonimmigrant status:

(1) Filing a petition. USCIS has sole jurisdiction over all petitions for U nonimmigrant status. An alien seeking U-1 nonimmigrant status must submit, by mail, Form I-918, “Petition for U Nonimmigrant Status” and initial evidence to USCIS in accordance with this paragraph and the instructions to Form I-918.

(2) Initial evidence. Form I-918 must include the following initial evidence:

(i) Form I-918, Supplement B, “U Nonimmigrant Status Certification,” signed by a certifying official within the six months immediately preceding the filing of Form I-918. The certification must state that the agency is a Federal, State, or local law enforcement agency, or prosecutor, judge or other authority, that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of qualifying criminal activity; the applicant has been a victim of qualifying criminal activity that the certifying official’s agency is investigating or prosecuting; the petitioner possesses information concerning the qualifying criminal activity of which he or she has been a victim; the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that qualifying criminal activity; and the qualifying criminal activity violated U.S. law, or occurred in the United States

(ii) Any additional evidence that the petitioner wants USCIS to consider to establish that: the petitioner is a victim of qualifying criminal activity; the petitioner has suffered

- Substantiality can be cumulative: no single act need suffice (Req 2).
- The standard for the information requirement (Req 3).
- The helpfulness standard (Req 4).

substantial physical or mental abuse as a result of being a victim of qualifying criminal activity; the petitioner possesses information establishing that he or she has knowledge of the details concerning the qualifying criminal activity of which he or she was a victim and upon which his or her application is based; the petitioner has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement agency, prosecutor, or authority, or Federal or State judge, investigating or prosecuting the criminal activity of which the petitioner is a victim; or the criminal activity is qualifying and occurred in the United States ; and

(iii) A signed statement by the petitioner describing the facts of the victimization. The statement also may include information supporting any of the eligibility requirements set out in paragraph (b) of this section.

- Recaps the occurred-in-the-U.S. requirement (Req 5).
- The affidavit requirement:**
Alice's own statement.

Excerpts from Franklin Penal Code

§ 22 Aggravated Assault

- (a) A person commits an offense if the person:
- (1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly, or recklessly; or
 - (2) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon.
- (b) An offense under this section is a felony

§ 29 Robbery

- (a) A person commits an offense if, in the course of committing theft with intent to obtain or maintain control of the property, the person:
- (1) intentionally, knowingly, or recklessly causes bodily injury to another; or
 - (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.
- (b) An offense under this section is a felony

- ← **Aggravated Assault § 22(a)(1):**
the felonious-assault elements.
- ← **§ 22(b):**
aggravated assault is a felony, so it is 'felonious.'
- ← **Robbery's extra theft element:**
the main difference to rebut.
- ← **Robbery § 29(a)(1):**
the SAME core language as § 22(a)(1).