

	OCEANPORT POLICE DEPARTMENT				
	OPERATING DIRECTIVE				
	<i>SUBJECT:</i>	IMMIGRATION T AND U VISA PROCEDURES			
<i>NUMBER:</i>	<i>TYPE:</i>	<i>ISSUED:</i>	<i>EFFECTIVE:</i>	<i>DISTRIBUTION:</i>	<i>CANCELS:</i>
OPD-101	Directive	10-1-2020	10-1-2020	ALL	
<i>REVISIONS:</i>					
<i>DATE:</i>	<i>SECTION:</i>	<i>APPROVED BY:</i>	<i>DATE:</i>	<i>SECTION:</i>	<i>APPROVED BY:</i>
		Chief of Police			

I. POLICY:

- A. Lack of legal immigration status in the United States may be among the reasons for some victims choosing not to come forward to work with law enforcement. Perpetrators and human traffickers also use victims' lack of legal status as leverage to exploit and control them. By stabilizing their status in the United States, immigration relief (using T or U visas) can be critical to providing victims of crime a greater sense of security that also makes it easier for them to assist with law enforcement and prosecutorial efforts.
- B. A U-Visa is a temporary visa allowing immigration protection for victims of qualifying crimes who are helpful to law enforcement in the detection, investigation, or prosecution of criminal activity. T-Visas provide immigration benefits to victims of trafficking.
- C. The Oceanport Police Department is committed to protecting and serving all victims of crime, regardless of citizenship status, documentation, or language ability. It is the policy of the Oceanport Police Department to protect immigrants' access to police protection and public services.

II. PROCEDURES: U-VISA

- A. A U-Visa is a temporary visa allowing immigration protection for victims of qualifying crimes who are helpful to law enforcement in the detection, investigation, or prosecution of criminal activity. T-Visas provide immigration benefits to victims of trafficking.
- B. Individuals seeking information related to obtaining a U visa or a T visa are encouraged to review the "U and T visa Law Enforcement Resource Guide" issued by the Federal Office of Homeland Security.

https://www.dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf
- C. Qualifying victims who are seeking a U visa may contact the Oceanport Police Department and request that a certification form be completed. It must be emphasized that the Oceanport Police Department has no legal obligation to complete the certification.
- D. The following are the Oceanport Police Department procedures for processing requests for certification forms in support of U visa applicants or declarations in support of and T visa applicants.

1. A complete U-Visa application must include a signed law enforcement certification form (Form I-918B) from a law enforcement agency where the crime occurred. This certification form confirms victim cooperation with the law enforcement investigation. Without law enforcement certification, the U-Visa will be denied.
2. Upon receipt of the Form I-918B, the Chief of Police or his designee shall:
 - a) Review the form and verify the entity that completed the form (if not sent by the individual applying) Prior to completing a certification, the request will be reviewed by the Oceanport Police. If a prosecution is involved, the Oceanport Police may work with the appropriate prosecutorial authority to determine if the certification form is appropriate for endorsement.
 - b) Research the case and fact to ensure the applicant falls within the specified criteria to include qualifying crimes (see Part E-3 and “helpful’ to an investigation)
 - c) Upon reviewing and verifying the qualifying information and criteria the Chief of Police or his designee may sign the certification form and send it back to the appropriate authority or the applicant.
 - d) The Oceanport Police Department has 120 days from the date the request was submitted to them to vet the request and decide as to whether to complete the certification.
 - e) Once a decision has been made by the chief of Police, or his designee, or the Prosecutor (as appropriate) as to whether to issue and sign a certification, the applicant will be notified of that decision and given the signed certification form (USCIS form I-918, Supplement B). This certification may also be given to the victim’s legal representation, if applicable.
3. The certification form is a signed Department of Homeland Security document from the Oceanport Police Department. In the U visa context, this statement is a required part of the petition and is known as USCIS form I-918, Supplement B, U Nonimmigrant Status Certification. In the T visa context, this statement is known as USCIS form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim in Trafficking of Persons.

E. ELIGIBILITY FOR A U VISA.

1. USCIS may find an individual eligible for a U visa if the victim:
 - a) Is the direct or indirect victim of qualifying criminal activity that occurred in the United States or violated United States laws; and
 - b) Has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity; and
 - c) Has information about criminal activity; and
 - d) Was helpful, is being helpful, or is likely to be helpful to the NJSP, prosecutors, judges, or other officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity; and

- e) Additionally, the victim must be admissible to the United States based on a review of his/her criminal history, immigration violations, and other factors. If found inadmissible, an individual may apply for a waiver of inadmissibility for which he/she may be eligible.

2. What Constitutes a Qualifying Crime:

- a) Abduction
 - b) Abusive Sexual Contact
 - c) Blackmail
 - d) Domestic Violence
 - e) Extortion
 - f) False Imprisonment
 - g) Felonious Assault
 - h) Female Genital Mutilation
 - i) Being Held Hostage
 - j) Incest
 - k) Involuntary Servitude
 - l) Kidnapping
 - m) Manslaughter
 - n) Murder
 - o) Obstruction of Justice
 - p) Peonage
 - q) Perjury
 - r) Prostitution
 - s) Rape
 - t) Sexual Assault
 - u) Sexual Exploitation
 - v) Slave Trade
 - w) Torture
 - x) Trafficking
 - y) Witness Tampering
 - z) Unlawful Criminal Restraint
- Other Related Crimes*†

*Includes any similar activity where the elements of the crime are substantially similar.

†Also includes attempt, conspiracy, or solicitation to commit any of the above, and other related, crimes.

3. What Does "Helpful" In the Investigation or Prosecution Mean?

- a) Helpfulness means the victim was, is, or is likely to be assisting law enforcement in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim. This includes being helpful and providing assistance when reasonably requested. This also includes an ongoing responsibility on the part of the victim to be helpful. Those who unreasonably refuse to assist after reporting a crime will not be eligible for a U visa. The duty to remain helpful to law enforcement remains even after a U visa is granted, and those victims who unreasonably refuse to provide assistance after the U visa has been

granted may have the visa revoked by USCIS. Law enforcement agencies should contact and inform USCIS of the victim's unreasonable refusal to provide assistance in the investigation or prosecution should this occur.

- b) A current investigation, the filing of charges, a prosecution or conviction are not required to sign the law enforcement certification. Many instances may occur where the victim has reported a crime, but an arrest or prosecution cannot take place due to evidentiary or other circumstances. Examples of this include, but are not limited to, when the perpetrator has fled or is otherwise no longer in the jurisdiction, the perpetrator cannot be identified, or the perpetrator has been deported by federal law enforcement officials. There is no statute of limitations on signing the law enforcement certification.
- c) A law enforcement certification can even be submitted to a victim in a closed case.

F. FINAL AUTHORITY TO ISSUE A U VISA

- a) Only USCIS has the authority to grant or deny a person's U visa application.

III. PROCEDURES-T-VISA

- A. The T nonimmigrant status (or T visa) provides immigration protection to victims of severe forms of trafficking in persons who comply with reasonable requests for assistance from law enforcement in the investigation or prosecution of human trafficking cases. The T nonimmigrant visa allows victims to remain in the United States to assist in the investigation or prosecution of human traffickers. Unlike the U visa, the T visa does not require a law enforcement certification. Once T nonimmigrant status is granted, a victim can apply for permanent residence after three years. A petitioner for a T visa must send a completed petition (Form I-914) to USCIS. A signed I-914 Supplement B may be submitted with the petition to verify that he or she has complied with any reasonable request by law enforcement in the investigation or prosecution of the trafficking crime but is not required. The certification is one of the pieces of evidence that USCIS will consider granting or denying a T visa.

B. ELIGIBILITY FOR A T VISA

1. Individuals seeking a T visa must meet the following criteria:
 - a) The victim is or has been a victim of a severe form of trafficking in persons, which may include sex or labor trafficking as defined by federal law; and
 - b) The victim is in the United States due to trafficking; and
 - c) The victim has complied with requests for assistance in an investigation or prosecution of the crime of trafficking; and
 - d) Would suffer extreme hardship involving unusual and severe harm if removed from the United States.
 - e) The victim must be admissible to the United States based on a review of his/her criminal history, immigrations violations, and other factors. If found inadmissible, an individual may apply for a waiver of inadmissibility for which he/she may be eligible.

2. CRITERIA FOR THE OCEANPORT POLICE DEPARTMENT WHEN CONSIDERING COMPLETION OF A CERTIFICATION FORM ON BEHALF OF A T-VISA APPLICANT
 - a) To qualify for a T visa, the individual seeking such status must prove to the United States Citizenship and Immigration Services (USCIS) that he/she meets the criteria for a T visa, as specified above.
 - b) One of the primary ways that a victim may demonstrate cooperation with law enforcement is to obtain a signed certification form from the NJSP. This certification form, which is titled "Declaration of Law Enforcement Officer for Victim in Trafficking of Persons (Form I-914B or declaration)", is not required. However, the signed certification form provides valuable evidence of a victim's cooperation.
3. OBTAINING A T-VISA CERTIFICATION FORM FROM THE OCEANPORT POLICE DEPARTMENT
 - a) Qualifying victims who are seeking a T visa may contact the Oceanport Police Department and request that he/she complete a certification form. It must be emphasized that the Oceanport Police Department has no legal obligation to complete the declaration.
4. DETERMINING WHETHER OR NOT TO COMPLETE THE DECLARATION IN SUPPORT OF THE T VISA APPLICANT
 - a) Review the form and verify the entity that completed the form (if not sent by the individual applying) Prior to completing a certification, the request will be reviewed by the Oceanport Police. If a prosecution is involved, the Oceanport Police may work with the appropriate prosecutorial authority to determine if the certification form is appropriate for endorsement.
 - b) Research the case and fact to ensure the applicant falls within the specified criteria to include qualifying crimes (see Part A-1 above)
 - c) Upon reviewing and verifying the qualifying information and criteria the Chief of Police or his designee may sign the certification form and send it back to the appropriate authority or the applicant.
 - d) The Oceanport Police Department has 120 days from the date the request was submitted to them to vet the request and decide as to whether to complete the certification.
 - e) Once a decision has been made by the Chief of Police, or his designee, or the Prosecutor (as appropriate) as to whether to issue and sign a certification, the applicant will be notified of that decision and given the signed certification form (USCIS form I-918, Supplement B). This certification may also be given to the victim's legal representation, if applicable.
5. FINAL AUTHORITY TO ISSUE A T VISA
 - a) Only USCIS has the authority to grant or deny a person's T visa application.

IV. REFERENCE AND GUIDANCE INFORMATION:

U.S. Citizenship and Immigration Services

www.uscis.gov

www.uscis.gov/humantrafficking

To ask a question about a specific case or to rescind a signed certification:

LawEnforcement_UTVAWA.VSC@uscis.dhs.gov. Please note that this e-mail address is for law enforcement personnel only. Any e-mail sent by any person or entity that is not law enforcement to this specific e-mail address will not be answered.

To request U visa training for your agency:

T-U-VAWATraining@dhs.gov

To ask specific policy questions about T and U visa certifications, call USCIS at (202) 272-1470.

Petitioners and their representatives may submit an inquiry regarding a specific case by emailing:

hotlinefollowupI918I914.vsc@dhs.gov

Citizenship and Immigration Services Ombudsman

To refer U visa petitioners who are experiencing problems that have not been able to be resolved through DHS customer assistance avenues:

www.dhs.gov/cisombudsman

Toll Free: (855) 882-8100

Phone: (202) 357-8100

Email: cisombudsman@dhs.gov