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| “T” “U” Visa Certifications | |
| <i>This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i> | |
| Applicable State Statutes: Ark. Code: 12-19-104 | |
| CALEA Standard: | |
| Date Implemented: | Review Date: |

I. PURPOSE

T and U visas can greatly benefit law enforcement, as they encourage immigrant victims to work with law enforcement, prosecutors, and courts to investigate and prosecute human trafficking and other serious crimes.

A victim applying for a T visa or a U visa can help law enforcement by providing information about a crime and assisting in an investigation or prosecution of serious criminals, making the entire community safer.

The purpose of this directive is to establish guidelines and procedures for officers who receive requests for a U-Visa Certification (Form I-918, Supplement B). This Directive also specifies the certifying officer who will sign Form I-918, Supplement B.

II. POLICY

It is the policy of this department to review all “T” Visa and U-Visa Certifications to determine if a qualifying crime has occurred and that the victim was helpful, is being helpful, or is likely to be helpful in the detection, investigation, or prosecution of criminal activity.

An applicant for a T visa or a U visa must demonstrate assistance to law enforcement. The applicant will submit a law enforcement declaration or certification along with the T- or U-visa application. This document serves to inform USCIS about assistance the applicant provided toward an investigation or prosecution of the crime. A certifying official must sign the law enforcement declaration or certification.

III. DEFINITIONS

- A. **“T” Visa:** The T nonimmigrant status visa (also known as the T visa) provides immigration protection to victims of severe forms of human trafficking who assist law enforcement in the investigation or prosecution of human trafficking cases.
- B. **“U” Visa:** The U nonimmigrant status visa (also known as the U visa) provides immigration protection for victims of qualifying crimes who are helpful to law enforcement in the detection, investigation, or prosecution of the criminal activity.
- C. **918B Form-** the form that must be filled out by the law enforcement officer for certification of the victim’s/witness’ assistance to law enforcement. (See attached).
- D. **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.
- E. “Qualifying criminal activity” under federal law is defined by statute to be “activity involving one or more of the following or any similar activity in violation of federal, state, or local criminal law.” The statute also includes the attempt, conspiracy, or solicitation to commit any of the crimes listed below:
 - a. Abduction
 - b. Incest
 - c. Rape
 - d. Abusive sexual contact
 - e. Involuntary servitude
 - f. Sexual assault
 - g. Blackmail
 - h. Kidnapping
 - i. Sexual exploitation
 - j. Domestic violence
 - k. Manslaughter
 - l. Slave trade
 - m. Extortion
 - n. Murder
 - o. Torture
 - p. False imprisonment
 - q. Obstruction of justice
 - r. Trafficking
 - s. Felonious assault
 - t. Peonage (Forced Labor-exploitation)

- u. Perjury
- v. Unlawful criminal restraint
- w. Female genital mutilation
- x. Witness tampering
- y. Being held hostage
- z. Prostitution
- aa. Other related crimes - "Any Similar Activity" refers to other criminal activity, when the similarities are substantial, and the nature and elements of the criminal activity are comparable.

IV. Procedure

- a. A law enforcement certification is required evidence of a victim's cooperation; it **must** be submitted in support of a U-visa application. Without a law enforcement certification, the U-visa application will be denied.
- b. For a T-visa, the law enforcement declaration is evidence of a victim's cooperation; it **may** be submitted in support of a T-visa application. The declaration is not required for a T visa, but it is an important piece of evidence submitted by the applicant.
- c. Any supervisor is designated to issue U-Visa Certification on behalf of the chief of police by completing Form I-918, Supplement B.
- d. By signing a law enforcement certification, the department is stating that a qualifying criminal activity occurred, that the victim had information concerning the criminal activity, and that the victim was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying crime. In addition, law enforcement may report information about any harm sustained by the victim that law enforcement has knowledge of or observed.
- e. The certification process must be completed within (30) days after the receipt of the request for certification.
- f. Eligibility:
 - i. He/she is the victim of qualifying criminal activity.
 - ii. He/she has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity.
 - iii. He/she has information about the criminal activity. If under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may possess the information about the crime on the individual's behalf.
 - iv. He/she was helpful, is being helpful, or is likely to be helpful to law enforcement in the investigation or prosecution of the crime. If under the age

of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may assist law enforcement on behalf of the individual.

- v. The crime occurred in the United States or violated U.S. laws
 - vi. He/she is admissible to the United States. If not admissible, an individual may apply for a waiver on a Form I-192, Application for Advance Permission to Enter as a Non-Immigrant.
- g.** Before completing a Form I-918, Supplement B (a request for a U-visa certification), the certifying official shall have verified the following:
- i. The noncitizen was or is victim of a qualifying criminal activity that took place in the United States or its territories or occurred outside the United States but violates U.S. extraterritorial law; or
 - ii. The spouse or under-21-year-old child of a victim who is deceased because of murder or manslaughter, or who is incompetent or incapacitated; or
 - iii. The parents and unmarried under-18-year-old siblings of an under-21-year-old victim who is deceased because of murder or manslaughter, or who is incompetent or incapacitated.
 - iv. The noncitizen has been, is being, or is likely to be helpful to the investigation.
 - v. Note: The certification of a T or U visa does not require the initiation of a law enforcement investigation or a successful prosecution.
 - vi. A current investigation, the filing of charges, a prosecution, or conviction is 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 federal law enforcement officials have deported the perpetrator. There is no statute of limitations on signing the law enforcement certification. A law enforcement certification can even be submitted for a victim in a closed case.
- h.** The certifying official may contact the VAWA Unit of the U.S. Citizenship and Immigration Services to report the U-visa applicant's failure to continue cooperating with the department only when the failure to cooperate is considered unreasonable. To determine whether failure to cooperate is unreasonable, officials should review and consider the victim's history of abuse and victimization, and any threats the victim has experienced or is experiencing.
- i.** Written notification regarding withdrawal or disavowal should include:

- i.** The agency's name and contact information (if not included in the letterhead);
- ii.** The name and date of birth of the individual certified;
- iii.** The name of the individual who signed the certification and the date it was signed;
- iv.** The reason the agency is withdrawing/disavowing the certification including information describing how the victim's refusal to cooperate in the case is unreasonable;
- v.** The signature and title of the official who is withdrawing/ disavowing the certification; and
- vi.** A copy of the certification the agency signed (if a copy was retained by the agency).
- vii.** The letter should be either scanned and emailed to the Vermont Service Center at LawEnforcement_UTVAWA.vsc@uscis.dhs.gov, or mailed to: USCIS—Vermont Service Center ATTN: Division 6 75 Lower Welden Street St. Albans, VT 05479.