Chicago Police Department			Special Order S02-06
T VISA AND U VISA NONIMMIGRANT STATUS CERTIFICATION			
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CALEA:			

I. PURPOSE

This directive:

- A. outlines policy and procedures for completing and processing requests for the US Citizenship and Immigrant Services (USCIS):
 - 1. T Visa vertifications, Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, in compliance with the Illinois VOICES Act, ILCS 825/1.

NOTE:

Requests for the US Citizenship and Immigration Services (USCIS) Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons will be completed by **Vice Section** sworn supervisors only.

2. U Visa vertifications, Form I-918, Supplement B, U Visa Nonimmigrant Status Certification, in compliance with the Illinois VOICES Act, ILCS 825/1.

NOTE:

Requests for the US Citizenship and Immigration Services (USCIS) Form I-918, Supplement B, U Visa Nonimmigrant Status Certification will be completed by **Records Division** sworn supervisors only.

- B. continues the use of the Notice of Non-Eligibility for U Nonimmigrant Status Certification form (CPD-31.117).
- C. introduces the use of the Notice of Non-Eligibility for T Nonimmigrant Status Certication form (CPD-41.XXX).

II. BACKGROUND

A. T Visas

- 1. The T Visa is a federal immigration benefit for victims of human trafficking who meet certain eligibility requirements. If approved, it allows eligible victims to legally remain and work in the United States for four years. While in T Visa nonimmigrant status, subject to certain statutory exceptions, the victim has an ongoing duty to cooperate with law enforcement's reasonable requests for assistance in the investigation or prosecution of human trafficking.
- 2. If certain conditions are met, an individual with T Visa nonimmigrant status may apply for adjustment to lawful permanent resident status (i.e., apply for a "Green Card" in the United States) after three years in the United States or upon completion of the investigation or prosecution, whichever occurs earlier.
- 3. Consistent with the following requirments, T nonimmigrant status it may be considered if a person:
 - a. is or was a victim of a severe form of trafficking in persons;
 - b. is present in the United States as a result of a severe form of trafficking in persons;

- c. has complied with any reasonable requests from federal, state, or local law enforcement in the investigation or prosecution of the trafficking crime of which he or she was a victim, unless:
 - (1) the applicant is under 18 years of age; or
 - (2) he or she is unable to cooperate due to physical or psychological trauma; and
- d. would suffer extreme hardship involving unusual and severe harm upon removal from the United States.
- 4. It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a T Visa. The US Citizenship and Immigration Services (USCIS) will make the determination on whether the evidence is sufficient and whether the applicant meets each eligibility requirement. While these qualifying elements may be established without submitting a T Visa Certification, submission of the US Citizenship and Immigrant Services (USCIS) Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons is one piece of evidence demonstrating that the applicant is a victim of a severe form of trafficking in persons and has cooperated with reasonable requests for assistance in the investigation or prosecution of the crime when required.
- 5. Pursuant to section 10 of the Illinois VOICES Act, 5 ILCS 825/10, the Chicago Police Department must respond to requests for completion of the T Visa Certification and complete the T Visa Certification if the individual is or was a victim of a severe form of trafficking in persons.

B. U Visas

- 1. The U Visa is a federal immigration benefit for victims of certain crimes who meet eligibility requirements. If approved, it allows eligible victims to legally remain and work in the United States for up to four years.
- 2. It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a U Visa. The US Citizenship and Immigration Services (USCIS) considers law enforcement certification as primary, though not exclusive, evidence that an individual:
 - a. was a victim of a qualifying crime;

NOTE: A list of qualifying crimes can be found in Form I-918 at www.uscis.gov/i-918.

- b. has knowledge of that crime;
- c. was, is, or is likely to be helpful in the law enforcement detection, investigation, or prosecution of the qualifying crime.
- A victim must prove to the USCIS that he or she cooperated with law enforcement by submitting a completed and signed law enforcement U Visa Certification, USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification, stating that the victim has cooperated with law enforcement.

III. DEFINITIONS

A. APPLICANT/REQUESTER

1. T Visa — a victim of a severe form of trafficking in persons who requests a T Visa Certification (applicant) or a person or organization who requests a T Visa Certification on behalf of a victim of a severe form of trafficking in persons (requester).

- 2. U Visa a victim of a qualifying crime who requests a U Visa Certification (applicant) or a person or organization who requests a U Visa Certification on behalf of a victim of a qualifying crime (requester).
- B. **CERTIFYING OFFICIAL** Certifying officials are the only persons with the authority to sign T Visa and U Visa certifications for the Department. The Superintendent of Police, as head of the Department, is a de facto certifying official. Under federal law, the Superintendent of Police, in writing, may designate additional members of the Department who are in a supervisory capacity to sign certifications on behalf of the Department. Certifying officials will receive regular training on the requirements and criteria for T Visa and U Visa certifications, as well as the provisions of the the Voices of Immigrant Communities Empowering Survivors (VOICES) Act.
- C. **QUALIFYING CRIMES** A qualifying crime refers to crimes that are part of the criteria for U status and can be found in Form I-918 at www.uscis.gov/i-918.
- D. **SEVERE FORM OF TRAFFICKING IN PERSONS** A severe form of trafficking in persons, as defined in 8 C.F.R. § 214.11(a), means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act is under the age of 18 years; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 - 1. Sex Trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.
 - 2. Commercial sex act means any sex act on account of which anything of value is given to or received by any person.
- E. **T VISA CERTIFICATION** USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, is a document that the Department will complete, free of charge, for a victim of a severe form of trafficking in persons who is petitioning USCIS for T nonimmigrant status.
- F. T NONIMMIGRANT STATUS (T VISA) is a temporary immigration benefit that enables certain victims of a severe form of human trafficking to remain in the United States for up to four years if they have assisted law enforcement in an investigation or prosecution of human trafficking. T nonimmigrant status is also available for certain qualifying family members of trafficking victims. Persons holding this status are eligible for employment authorization and certain federal and state benefits and services, and those who qualify may also be able to adjust their status and become lawful permanent residents (obtain a "Green Card").
- G. **USCIS** U.S. Citizenship and Immigration Services (USCIS) is the federal component of the Department of Homeland Security that has the sole authority to approve or deny (adjudicate) petitions for U nonimmigrant status (U Visa) and T nonimmigrant status (T Visa).
- H. **U NONIMMIGRATION STATUS (U VISA)** Temporary, four-year nonimmigrant status granted to victims of certain qualifying crimes, as designated by U.S. Citizenship and Immigration Services (USCIS).

U nonimmigrant status is also available for certain qualifying family members of crime victims. Persons holding this status are eligible for employment authorization and certain federal and state benefits and services, and those who qualify may also be able to adjust their status and become lawful permanent residents (obtain a "Green Card").

I. U VISA CERTIFICATION — USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification, is a document that the Department will complete free of charge for an eligible victim of a qualifying crime who is petitioning USCIS for U nonimmigrant status.

IV. REQUESTS FOR CERTIFICATION

A. T Visa

- Requests for a T Visa Certification (USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons) from the Chicago Police Department will be submitted to the Records Division either in person or mailed to the Chicago Police Department 3510 S. Michigan Ave. Chicago, IL 60653 Attn: Records/T Visa Certifications.
- 2. Requesters can find the T Visa Certification and other information at https://www.uscis.gov/i-914.
- 3. It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a T Visa. Completion of a certification form by a certifying official merely verifies factual information relevant to the federal immigration benefit sought, including information relevant for federal immigration officials to determine eligibility for a T Visa. By completing the T Visa Certification, the certifying official attests that the information is true and correct to the best of the certifying official's knowledge.
- 4. No provision in the Illinois Voices of Immigrant Communities Empowering Survivors (VOICES) Act limits the manner in which a certifying officer or certifying agency may describe whether the person has cooperated or been helpful to the agency or provide any additional information the certifying officer or certifying agency believes might be relevant to a federal immigration officer's adjudication of a T Visa application.
- 5. If, after completion of a T Visa Certification, the certifying official later determines the person was not the victim of a severe form of trafficking in persons or the victim unreasonably refuses to assist in the investigation or prosecution of the severe form of trafficking in persons of which he or she is a victim, the certifying official may notify USCIS in writing.
- 6. A certifying agency or certifying official acting or failing to act in good faith in compliance with the Illinois VOICES Act will have immunity from civil or criminal liability that might otherwise occur because of so acting or failing to act, with the exception of willful or wanton misconduct.
- 7. Any action brought to seek enforcement of the Illinois VOICES Act will be ineligible to seek attorney's fees and costs, unless the action demonstrates willful or wanton misconduct by a certifying agency or certifying official.

B. U Visas

- 1. Requests for U Visa Certification (USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification) from the Chicago Police Department will be submitted to the Records Division either in person or mailed to the Chicago Police Department 3510 S. Michigan Ave. Chicago, IL 60653 Attn: Records/U Visa Certifications.
- Requesters can find the U Visa Certification and other information at www.uscis.gov/i-918.
- 3. It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a U Visa. Completion of a certification form by a certifying official merely verifies factual information relevant to the federal immigration benefit sought, including information relevant for federal immigration officials to determine eligibility for a U Visa. By completing a certification form, the certifying official attests that the information is true and correct to the best of the certifying official's knowledge.
- 4. No provision in the Illinois VOICES Act limits the manner in which a certifying officer or certifying agency may describe whether the person has cooperated or been helpful to the agency or provide any additional information the certifying officer or certifying agency believes might be relevant to a federal immigration officer's adjudication of a U Visa application.

- 5. If, after completion of a certification form, the certifying official later determines the person was not the victim of qualifying criminal activity or the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, the certifying official may notify United States Citizenship and Immigration Services in writing.
- A certifying agency or certifying official acting or failing to act in good faith in compliance with the Illinois VOICES Act will have immunity from civil or criminal liability that might otherwise occur as a result of so acting or failing to act, with the exception of willful or wanton misconduct.
- 7. Any action brought to seek enforcement of the Illinois VOICES Act will be ineligible to seek attorney's fees and costs, unless the action demonstrates willful or wanton misconduct by a certifying agency or certifying official.

V. CRITERIA FOR DETERMINATION OF NON-ELIGIBILITY STATUS

The below listed criteria for non-eligibility determination will be considered by a certifying official during the review of the certification application. The three areas to consider include:

A. If a qualifying criminal activity was identified or investigated, which includes the criminal activities listed on the certification form, including criminal activity under Illinois statute that are equivalent to those listed on the certification form.

EXAMPLE:

- (1) "Felonious Assault" is listed on the certification form as a qualifying criminal activity; however, under Illinois statute, the crime is defined as Aggravated Battery.
- (2) "Rape" is listed on the certification form as a qualifying criminal activity; however, under Illinois statute, the crime is defined as Criminal Sexual Assault.
- B. If the person requesting a certification is the direct or indirect victim of the criminal activity.
- C. If the person has cooperated, will cooperate, or explicitly states that they will not cooperate with or support the ongoing criminal investigation.
 - 1. The cooperation with the ongoing investigation will be individually assessed and be based on the totality of the circumstances of the particular investigation.

NOTE:

The totality of the circumstances may take into account such factors as general law enforcement, prosecutorial, and judicial practices; the kinds of assistance asked of other victims of crimes involving an element of force, coercion, or fraud; the nature of the request to the alien for assistance; the nature of the victimization; the applicable guidelines for victim and witness assistance; and the specific circumstances of the applicant, including fear, severe traumatization (both mental and physical), and the age and maturity of the applicant.

2. An open investigation or current prosecution is not required for a determination an applicant is eligible for certification.

VI. REVIEW OF ELIGIBILITY FOR T VISAS

- A. Requests for the US Citizenship and Immigration Services (USCIS) T Visa Nonimmigrant Status Certification will be received by the Records Division and forwarded to the Vice Section for review by a Vice Section sworn supervisor designated as a certifying official.
- B. The designated sworn supervisor of the Vice Section, Bureau of Counterterrorism, will review all available Department records after receiving the T Visa Certification request and will make a determination on each of the following:

- 1. **Identity of the Victim**: Determine whether the victim named in the T Visa Certification request is a victim of a crime that the Department is investigating or has investigated by completing a search for the corresponding Chicago Police Department case report. If found, the Records Division case report number will be documented in the T Visa Certification.
- Statement of Claim: Determine whether the individual was a victim of a severe form of trafficking in persons under federal law. Include date(s) and location(s) of occurrences and citations for the state or federal statute implicated. Only briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the victim.
- 3. Cooperation of the Victim: Determine whether the victim has complied with reasonable requests for assistance in the investigation or prosecution of a crime or crimes that are a severe form of human trafficking, has failed to comply with such requests, has not attained the age of 18, or has not been requested to assist in the investigation or prosecution. There is a rebuttable presumption that the victim has cooperated if they have not affirmatively refused or declined to provide information and assistance that was reasonably requested by law enforcement. Victims under the age of 18 are not required to cooperate with requests from law enforcement, and the Department may sign T Visa Certifications for minor victims of human trafficking they identify regardless of their cooperation.
- 4. **Family Members Implicated in Severe Form of Human Trafficking**: Identify and determine whether any of the victim's family members are involved in the severe form of human trafficking.

In many cases, victims do not initially identify or present as victims of a severe form of human trafficking. A victim may not understand or be able to disclose their victimization until they have worked with a service provider. Therefore, the Vice Section will also consider any amended or supplemental reports made during the investigation or certification request while completing the USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons Certification form.

- C. The certifying official will complete the T Visa Certification and provide it to the applicant/requester within 30 business days of receiving the request, except when:
 - 1. the applicant seeking completion of the T Visa Certification is in federal immigration removal proceedings or detained, the certifying official will complete and provide the T Visa Certification to the applicant/requester no later than 21 business days after the request is received:
 - 2. the children, parents, or siblings of the applicant making the request for completion of the T Visa Certification would become ineligible for benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code by virtue of the applicant's children having reached the age of 21 years, the applicant having reached the age of 21 years, or the applicant's sibling having reached the age of 18 years within 90 business days from the date that the certifying official receives the certification request, the certifying official will complete and provide the T Visa Certification to the applicant/requester no later than 21 business days after the request is received;
 - 3. if the applicant's children, parents, or siblings would become ineligible for benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code in less than 21 business days of receipt of the certification request, the certifying official will complete and provide the T Visa Certification to the applicant/requester within 5 business days; or
 - 4. a certifying official may extend the time period by which it must complete and provide the T Visa Certification to the person as required under Section 1184(d) only upon written agreement with the applicant/requester.

Requests for expedited completion of a T Visa Certification under this section will be affirmatively raised by the applicant/requester in writing to the certifying agency and will establish that the victim is eligible for expedited review.

D. **ELIGIBILITY FOR CERTIFICATIONS:** If the reviewing certifying official determines the applicant **is eligible** for certification, they will send the original completed T Visa Certification (**signed in blue ink**), via US mail, to the applicant/requester listed on the T Visa Certification.

NOTE:

If the reviewing certifying official determines the applicant is **not eligible for certification**, they will forward the application and their review to the Legal Affairs Division for additional review consistent with Item VIII of this directive.

VII. REVIEW OF ELIGIBILITY FOR U VISAS

- A. Requests for the US Citizenship and Immigration Services (USCIS) U Visa Nonimmigrant Status Certification will be received by the Records Division and reviewed by a Records Division sworn supervisor designated as a certifying official.
- B. The designated sworn supervisor of the Records Division will review all available Department records after receiving the U Visa Certification request and will make a determination on each of the following:
 - 1. **Identity of the Victim**: Determine whether the victim named in the U visa certification request is a victim of a crime that the Department is investigating or has investigated by completing a search for the corresponding Chicago Police Department case report. If found, the Records Division case report number will be documented in the U Visa Certification.

NOTE:

If the direct victim is deceased due to murder or manslaughter, or is incompetent or incapacitated, then certain indirect victims may qualify for the U visa. An indirect victim can include the victim's spouse, children under 21, parents (if direct victim is under 21), and siblings (if direct victim is under 21 and sibling is under 18).

Qualifying Crime: Determine whether the reported crime is a qualifying crime under federal law. Include date(s) and location(s) of occurrences and citations for the state or federal statute implicated. Only briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the petitioner. Provide a description of any known documented injury to the victim.

NOTE:

The Records Divsion will refer to the U Visa Law Enforcement Certification Resource Guide for further guidance on qualifying criminal activity in relation to U Visa certification.

- 3. **Helpfulness of the Victim:** Determine whether the victim was, is, or is likely to be helpful to the Department's investigation of the qualifying criminal activity.
- 4. **Family Members Implicated in Criminal Activity:** Identify and determine whether any of the victim's family members are involved in the criminal activity.

NOTE:

In many cases, immigrant victims are initially afraid to report domestic violence and other qualifying crimes. Therefore, the Records Division will also consider any amended or supplemental reports made during the investigation or certification request while completing the USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification.

- C. The certifying official will complete the certification forms and provide it to the applicant within 90 business days of receiving the request, except:
 - if the person making the request for completion of the certification form is in federal immigration removal proceedings or detained, the certifying official will complete and provide the certification forms to the person no later than 21 business days after the request is received by the certifying agency;

- 2. if the children, parents, or siblings of the person making the request for completion of the certification form would become ineligible for benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code by virtue of the person's children having reached the age of 21 years, the person having reached the age of 21 years, or the person's sibling having reached the age of 18 years within 90 business days from the date that the certifying official receives the certification request, the certifying official will complete and provide the certification form to the person no later than 21 business days after the request is received by the certifying agency;
- 3. if the person's children, parents, or siblings would become ineligible for benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code in less than 21 business days of receipt of the certification request, the certifying official will complete and provide a certification form to the person within 5 business days; or
- 4. a certifying official may extend the time period by which it must complete and provide the certification form to the person as required under this subsection (d) only upon written agreement with the person or person's representative.

Requests for expedited completion of a certification form under this section will be affirmatively raised by the person or that person's representative **in writing** to the certifying agency and will establish that the person is eligible for expedited review.

D. **ELIGIBLE FOR CERTIFICATIONS:** If the reviewing certifying official determines the applicant **is eligible** for certification, they will send the original signed application (**signed in blue ink**), via US mail, to the applicant/requester listed on the U Visa Certification.

NOTE:

If the reviewing certifying official determines the applicant is **not eligible for certification**, they will forward the application and their review to the Legal Affairs Division for additional review consistent with Item VIII of this directive.

VIII. REVIEW OF NON-ELIGIBILITY STATUS FOR U VISA AND T VISA CERTIFICATION

- A. All determinations of non-eligibility status for U Visas and T Visas made by the original certifying official will be submitted to and reviewed by the Legal Affairs Division (LAD).
- B. A designated sworn supervisor assigned to LAD will:
 - 1. conduct a privileged legal review of the non-eligibility status determination by the original certifying official, including all the submitted materials and all available Department records, within 30 business days of receiving the request, and
 - 2. forward the legal review to the original certifying official for consideration.
- C. If, after considering the legal review conducted by LRD, the certifying official determines that the applicant:
 - 1. **is eligible,** the completed application will be sent to the applicant/requester within 30 business days of receiving the request.
 - a. For U Visas, the certifying official will send the original signed application (signed in blue ink), via US mail, to the applicant/requester listed on the U Visa Certification.
 - b. For T Visas, the certifying official will send the original completed T Visa Certification (signed in blue ink), via US mail, to the applicant/requester listed on the T Visa Certification.
 - 2. **continues to be not eligible**, the applicant/requester will be notified of the continued non-eligibility for certification.

- a. The certifying official will complete Notice of Non-Eligible for U Nonimmigrant Status Certification (CPD-31.117) and will send the letter via US mail to the the applicant/requester listed on the U Visa Certification. The form letter includes boxes to be checked by the certifying official indicating the reason(s) for non-eligibility status, a section for "additional information," and instructions for the victim to request an appeal of the non-eligibility status.
- b. The certifying official will complete Notice of Non-Eligible for T Nonimmigrant Status Certification (CPD-41.XXX) and will send via US mail to the applicant/requester listed on the T Visa Certification. The notice includes boxes to be checked by the certifying official indicating the reason(s) for non-eligibility status, a section for "additional information," and instructions for the applicant/requester to appeal the non-eligibility status. The notice must contain a written explanation of why the available evidence does not support a finding that the applicant was a victim of a severe form of trafficking in persons.

IX. APPEALS OF CURRENT NON-ELIGIBILITY STATUS

- A. All appeals of non-eligibility status for U Visas and T Visas will be submitted to and reviewed by the Legal Affairs Division (LAD).
- B. A designated sworn supervisor assigned to LAD will:
 - conduct a privileged legal review of the appeal of the non-eligibility status determination by the original certifying official, including all the submitted materials and all available Department records, within 30 business days of receiving the request, and
 - 2. forward the legal review to the Superintendent or authorized designee for consideration.
- C. If, after considering the legal review conducted by LRD, the Superintendent or authorized designee determines that the applicant:
 - 1. **is eligible**, the appeal will be forwarded to the Records Division and a certifying official will send the certification to the applicant/requester within 30 business days of receiving the appeal, consistent with Item VIII-C-1 of this directive.
 - 2. **continues to be not eligible,** the appeal will be forwarded to the Records Division and a certifying official will notify the applicant/requester of the continued non-eligibility for certification, consistent with Item VIII-C-2 of this directive.

X. APPLICATION RENEWALS

A. U VISAS

A certifying official will reissue a U Visa Certification form within 30 business days of receiving a request from a victim to reissue. If the victim seeking recertification has a deadline to respond to a request for evidence from United States Citizenship and Immigration Services, the certifying official will complete and issue the form no later than 21 business days after the request is received by the certifying official. Requests for expedited recertification will be affirmatively raised by the victim or victim's representative in writing and will establish that the victim is eligible for expedited review. A certifying official may extend the deadline by which he or she will complete and reissue the certification form only upon written agreement with the victim or victim's representative.

B. T VISAS

A certifying official will reissue a T Visa Certification within 90 business days of receiving a request from an applicant/requester to reissue. If the applicant/requester seeking recertification has a deadline to respond to a request for evidence from USCIS, the certifying official will complete and issue the T Visa Certification no later than 21 business days after the request is received by the certifying official. Requests for expedited recertification will be affirmatively raised by the applicant/requester in writing and will establish that the applicant is eligible for expedited review. A certifying official may extend the deadline by which he or she will complete and reissue the T Visa Certification only upon written agreement with the applicant/requester.

NOTE:

Additional evidence or records are not required to be submitted by an applicant seeking a renewal of the certification.

Authenticated by MWK

22-010 EW/MWK

David O. Brown
Superintendent of Police