



North Caldwell Police Department

DIRECTIVE NUMBER: 2019-#03		EFFECTIVE DATE: 2/12/2019		CHIEF OF POLICE: Mark A. Deuer	
SUBJECT: U-VISA'S & T-VISA'S – APPLICATION PROCEDURES & RESPONSIBILITIES					
REFERENCE: NCPD POLICY 2019-#07(IMMIGRATION & CUSTOMSENFORCEMENT (I.C.E.) – GUIDELINES & PROCEDURES) SOURCE: U VISA LAW ENFORCEMENT CERTIFICATION RESOURCE GUIDE (www.dhs.gov/u-visa-certification-guide.pdf)					
APPLICABILITY: All Officers			NUMBER OF PAGES: 5		
REVISIONS					
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A. **POLICY:**

Immigrants, especially women and children, can be particularly vulnerable to crimes like human trafficking, domestic violence, sexual assault, and other abuse due to a variety of factors. These factors include, but are not limited to, language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences. Victims who do not have legal status may be reluctant to help in the investigation and prosecution of criminal activity for fear of removal from the U.S. The “*Victims of Trafficking & Violence Prevention Act (VTVPA) of 2000*” was adopted to encourage victims to report crimes while offering protection to victims of such crimes without the immediate risk of being removed from the country and to contribute to investigations and prosecutions regardless of immigration status. This *Act* was also enacted to strengthen the ability of law enforcement agencies to investigate these crimes and to prosecute these cases as well as to encourage law enforcement officials to serve immigrant crime victims. Because of this *Act*, a specific but limited Visa program was created to give temporary immigration status to immigrants who meet certain eligibility requirements. Visa’s associated with this program are known as “*U-Visa’s*” and/or “*T-Visa’s*”. (NOTE: While *U-Visa’s* may be utilized in human trafficking cases, *T-Visa’s* were designed solely for the use in human trafficking cases.).

Any law enforcement officer presented with the request to sign a *U-Visa* or *T-Visa* certification has an affirmative duty to investigate the circumstances of the criminal matter to best serve the interests of true victims and their families, as well as to combat fraud.

B. DEFINITIONS/ACRONYMS:

1. **DERIVATIVE:** For the purposes of this Directive, this term means that family members of a *T-Visa* recipient may also be given *T-Visa* status based solely upon their relationship to the recipient. Because qualifying *derivative* family members are subject to the same background checks as required for the principal (the actual applicant), it is possible that a *derivative's* adverse criminal or immigration background could result in a denial of *derivative* status even when the principal's petition is approved.
2. **HELPFUL:** For the purposes of this Directive, "*helpful*" means that the victim has been helpful, is being helpful, or is likely to be assisting law enforcement in the investigation or prosecution of the qualifying criminal activity or which he/she is a victim. This includes providing assistance when "*reasonably*" requested. It also includes an ongoing responsibility on the part of the victim to be helpful.
3. **LABOR TRAFFICKING:** For the purposes of this Directive, defined as 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.
4. **ECPO – Esex County Prosecutor's Office**
5. **REASONABLE:** As utilized in this Directive, *USCIS* will consider the totality of the circumstances when determining the "*reasonableness*" of a request for a *T - or U-Visa*. The "*totality of the circumstances*" includes but is not limited to: general law enforcement and prosecutorial practices; the nature of the victimization, and the specific circumstances of the victim, including fear, severe traumatization, and the age and maturity of the victim.
6. **SEX TRAFFICKING:** For the purposes of this Directive, defined as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, or in which the person induced by any means to perform such acts has not attained eighteen (18) years of age.
7. **T-VISA'S (Stands for "*T nonimmigrant status*"):** A *T-Visa* is utilized specifically for human trafficking victims only. If granted, victims can remain and work in the U.S. for up to four (4) years (which can be renewed in limited circumstances and can also apply for a Green Card, also known as adjusting status). While in this status, the victim has an ongoing duty to cooperate with law enforcement's reasonable requests for assistance in the investigation or prosecution of human trafficking. If certain conditions are met, an individual with this status may apply for adjustment to lawful permanent status after three

(3) years in the U.S. or upon completion of the investigation or prosecution, whichever occurs earlier.

Additionally, certain family members of a *T-Visa* recipient may also be eligible to live and work in the U.S. as a “derivative” *T-Visa* holder. These are:

- Unmarried children under the age of twenty-one (21);
- Spouse;
- Parents of principal *T-Visa* recipients under the age of twenty-one (21) at the time of application;
- Unmarried siblings under eighteen (18) years old of principal *T-Visa* applicants under the age of twenty-one (21); and
- Adult or minor children of certain immediate family members of the *T-Visa* recipient.

While in the U.S., the victim has an ongoing duty to cooperate with law enforcement’s reasonable requests for assistance in the investigation or prosecution of human trafficking.

8. ***T-VISA LAW ENFORCEMENT DECLARATION (USCIS FORM I-914B)*** (*hereinafter referred to as “declaration”*): One of the primary ways that a victim may demonstrate cooperation is by submitting a signed statement from law enforcement as part of the application. This signed statement is the *law enforcement declaration*. The *law enforcement declaration* is to be documented on *USCIS Form I-914B* and serves as supplementary evidence of a victim’s assistance to law enforcement that any law enforcement agency, prosecutor, judge or other governmental official can complete for a *T-Visa* applicant. The *T-Visa declaration* is NOT conclusive evidence that the applicant meets these eligibility requirements, as only *USCIS* can make that determination. By signing a *T-Visa declaration*, the certifying agency, official or judge is NOT sponsoring or endorsing the victim for a *T-Visa*. *USCIS* considers the *T-Visa declaration* as on part of the evidence in the *T-Visa* application. Completion of a *declaration* by law enforcement in support of a victim is discretionary; there is no legal obligation or mandate to do so. (NOTE: Refer to Section D of this Directive for additional guidance concerning this Form).
9. ***USCIS: U.S. Citizenship and Immigration Services*** – this is a federal component of DHS with the responsibility to determine whether immigration benefits and immigration status should be granted or denied, including *U-Visa’s* & *T-Visa’s*. The *USCIS* website is: www.uscis.gov.
10. ***USCIS FORM I-192: Application for Advance Permission to Enter as a Non-Immigrant***. This form is accessible via the *USCIS* website: www.uscis.gov.
11. ***USCIS FORM I-914B***: This is the declaration form utilized solely for *T-Visa’s* cases (i.e., human trafficking cases). This form is accessible via the *USCIS* website: www.uscis.gov.

12. *USCIS FORM I-918B: U-Visa certification document that a law enforcement agency can complete for a victim who is petitioning USCIS for U-Visa. (NOTE: Refer to Section C 6 of this Directive for additional guidance concerning this Form). This form is accessible via the USCIS website: www.uscis.gov.*

13. *U-VISA: (Stands for “U nonimmigrant status”) USCIS may find an individual eligible for a U-Visa if the victim:*

- *Is the direct or indirect victim of qualifying criminal activity (delineated in Section C 1 d of this Directive);*
- *Has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity;*
- *Has information about criminal activity;*
- *Was helpful, is being helpful, or is likely to be helpful to law enforcement, prosecutors, judges, or other officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity.*
- *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.*

The *U-Visa* provides eligible victims with nonimmigrant status the legal status to temporarily remain in the U.S. while assisting law enforcement. If granted, victims can remain and work in the U.S. for four (4) years (which can be renewed in limited circumstances and can also apply for a Green Card, also known as adjusting status). If certain conditions are met, an individual with *U-Visa* nonimmigrant status may be adjusted to lawful permanent resident status.

14. *U-VISA LAW ENFORCEMENT CERTIFICATION (USCIS FORM I-918B) (hereinafter referred to as “certification”): This signed statement serves as a law enforcement certification. The law enforcement certification is to be documented on USCIS Form I-918B and is a required piece of evidence to confirm to USCIS that a qualifying crime has occurred, and that the victim was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of criminal activity. (NOTE: Refer to Section C 6 of this Directive for additional guidance concerning this Form).*

C. *U-VISA’s*

1. *LAW ENFORCEMENT CERTIFICATIONS (USCIS FORM I-918B): One of the primary ways that a victim can demonstrate cooperation with law enforcement is by including a certification signed by law enforcement as part of the application.*

- a. *By signing a certification, the law enforcement agency 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.

- b. Although a *certification* is a required part of a victim’s petition for a *U-Visa*, law enforcement officers cannot be compelled to complete a *certification*. Whether a law enforcement agency signs a *certification* is at the discretion of that law enforcement agency and the policies and procedures it has established regarding *U-Visa certifications*. The *certification* validates the role the victim had, has, or will have in being helpful to the investigation or prosecution of the case; therefore, it is important that the law enforcement agency complete *certifications* on a case-by-case basis. Without a completed *certification*, the victim will not be eligible for a *U-Visa*.
- c. The victim must submit a *certification* by a certifying agency. A law enforcement agency can complete the *USCIS Form I-918B* for a victim who is petitioning the *USCIS* for a *U-Visa*. Certifying agencies include all authorities responsible for the investigation, prosecution, conviction or sentencing of the qualifying criminal activity, including but not limited to:
- Federal, State & Local law enforcement agencies;
 - Federal, State & Local prosecutors’ offices;
 - Federal, State & Local judges;
 - Federal, State & Local Family Protective Services;
 - Equal Employment Opportunity Commission (EEOC);
 - Federal & State Departments of Labor; and
 - Other investigative agencies.

NOTE: As indicated above, a prosecutor or judge can also complete/submit a *certification*. If a law enforcement agency does not feel comfortable with completing/submitting a *certification* on a particular case, they should defer the decision to the prosecutor or judge.

d. **Qualifying Crimes:**

Abduction	Incest	Sexual Assault
Abusive Sexual Contact	Involuntary Servitude	Sexual Exploitation
Blackmail	Kidnapping	Slave Trade
Domestic Violence	Manslaughter	Stalking
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking
Felonious Assault	Peonage	Witness Tampering
Female Genital Mutilation	Perjury	Unlawful Criminal Restraint
Felonious Assault	Prostitution	Other Related Crimes **
Being Held Hostage	Rape	

NOTE: ** The term “*Other Related Crimes*” includes any similar activity where the elements of the crime are substantially similar, and includes attempt, conspiracy, or solicitation to commit any of the above, and other related crimes.

- e. A current investigation, the filing of charges, a prosecution or conviction are NOT required to sign a *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 (e.g., suspect has fled, suspect cannot be identified, suspect has been deported, etc.). There is no statute of limitations on signing the *certification* and can even be submitted for a victim of a closed case.
 - f. While a *U-Visa* petition will not be granted without the required *certification*, the fact that a *certification* has been signed does not automatically grant the victim a *U-Visa*. The *certification* is only one of the required pieces of evidence needed to be eligible for a *U-Visa*.
 - g. **Submission of Completed Form to The Prosecutor:** Due to the fact that completion of this form may ultimately provide a benefit to the victim, the fact that this benefit has been given to the victim may need to be disclosed to the defense at the appropriate time. Therefore, whenever an agency is going to provide an executed *certification* for a *U-Visa*, a copy of said *certification* MUST be immediately provided to the County Prosecutor, regardless of the offense involved. In addition, a copy should be given to the applicable municipal prosecutor for any municipal offense.
 - h. **Continued Assistance/Cooperation Required:** Those victims 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* is granted may have the *U-Visa* revoked by USCIS.
2. **VETTING PROCEDURES:** Prior to completing a *certification*, the request for a *certification* shall be vetted by the law enforcement agency with primary jurisdiction over the investigation. If/when this Directive requires discussion with the Prosecutor's Office regarding the matter, it is the responsibility of the Chief to initiate contact with the County Prosecutor early in the vetting process and to prior to making any decisions on the matter.
- a. **Non-Indictable Offenses:**
 - 1) If the matter involves a non-indictable offense, the vetting shall be conducted internally within the agency. The Chief will investigate the matter by discussing the request with agency personnel who have intimate knowledge of the case and take their recommendations into consideration. The Chief retains the final authority to authorize the issuance of a *certification* in support of a *U-Visa* applicant. If the *certification* is justified, the Police Chief will have the form completed and then he/she will sign the *certification*. The Police Chief of that agency will be the sole authority to issue and sign a *certification* in support of a *U-Visa* for the applicant.

2) If the matter concerning the issuance of a *certification* is assigned to the law enforcement agency in which the crime/offense was initially reported, the vetting of the request for a *certification* will occur as described above, taking into consideration any input from the Prosecutor's Office.

b. **Indictable Offenses:** If the matter involves an indictable offense, the Police Chief of the agency where the crime was initially reported and the Prosecutor's Office will discuss the matter and determine which agency will be responsible for investigating the matter as it relates to the *U-Visa certification* and a determination will be made as to which agency will make the final determination as to whether a *certification* is justified.

3. *VETTING PROCESS FOR REQUESTS FOR U-VISA LAW ENFORCEMENT CERTIFICATIONS:*

If the matter concerning the issuance of a *certification* is assigned to the law enforcement agency in which the crime/offense was initially reported, the vetting of the request for a *certification* will occur as described above, taking into consideration any input from the Prosecutor's Office. The Police Chief of that agency will be the sole authority to issue and sign a *certification* in support of a *U-Visa* for the applicant.

If the matter is assigned to the Prosecutor's Office, the Prosecutor, in addition to considering input from the law enforcement agency in which the crime/offense was initially reported, may confer with staff from the Essex County Prosecutor's Office as part of the vetting process. The Prosecutor may discuss the matter either the law enforcement investigators of the Prosecutor's Office, or the Assistant Prosecutor handling the prosecution, or both in making his/her decision concerning the issuance of a *certification*. In this case, the Prosecutor will be the sole authority to issue and sign a *certification* in support of a *U-Visa* for the applicant.

4. *NOTIFYING THE APPLICANT OF THE DECISION:* Once a decision has been made by the Chief or the Prosecutor (as appropriate) as to whether to issue and sign a *certification*, the applicant will be notified of that decision. If the victim has employed legal counsel regarding this matter, the decision will also be provided to the legal counsel as well.

5. *TIME LINE FOR COMPLETING VETTING PROCESS OF REQUEST FOR U-VISA CERTIFICATIONS:* Requests for *U-Visa certifications* are required to be processed by the responsible law enforcement agency within 120 days of the request being made.

6. *REVIEW PROCESS OF U-VISA APPLICATIONS:*

a. **Authority to Grant/Deny U-Visa's:** Federal, State and local law enforcement agencies DO NOT grant or guarantee a *U-Visa* or any other immigration status by signing a *U-Visa certification (Form I-918B)*. **Only USCIS may grant or deny a U-Visa after a full review of the petition to determine whether all the eligibility**

requirements have been met and a thorough background investigation has taken place.

7. U-VISA ELIGIBILITY REQUIREMENTS:

- a. The person under consideration is a victim of qualifying criminal activity.
- b. The person under consideration has suffered **substantial** physical or mental abuse as a result of having been a victim of criminal activity.
- c. The person under consideration 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 friend may possess the information about the crime on the individual's behalf.
- d. The person under consideration 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 friend may possess the information about the crime on the individual's behalf.
- e. The crime occurred in the U.S. or violated U.S. laws.
- f. The person under consideration is admissible to the U.S. If not admissible, an individual may apply for a waiver on a *Form I-192*.

8. *BACKGROUND INVESTIGATION:* USCIS reviews the entire application, which includes the petition (*USCIS Form I-918*), *USCIS Form I-918B (certification)*, the victim's affidavit, as well as supporting evidence from police reports, medical records, photographs, court documents, and witness affidavits. They conduct a thorough background investigation which includes an FBI fingerprint check and name check. USCIS will also review the petitioner's immigration records to assess whether any inadmissibility issues exist, such as the petitioner's criminal history, immigration violations, or security concerns. Any evidence that law enforcement and immigration authorities possess may be used when determining eligibility of a *U-Visa*. This evidence includes, but is not limited to, the person's criminal history, immigration records, and other background information. USCIS may contact the certifying law enforcement agency if there are any issues or questions that arise during the adjudication based on information provided in the *certification*.

9. *U-VISA APPLICATION APPROVED:* If found eligible and a petition is approved, a *U-Visa* recipient receives non-immigrant status to live and work in the U.S. for no longer than four (4) years. Qualified recipients may apply to adjust status to become a lawful permanent resident (green card) after three (3) years of continuous presence in the U.S. while having a *U-Visa*. The petitioner will have to meet other eligibility requirements for a green card as well, including the ongoing duty to cooperate with law enforcement and not unreasonably refuse to assist with the investigation or prosecution of the qualifying crime. Additionally, certain immediate family members of *U-Visa* recipients may also be eligible to live and work in the U.S. as *derivative U-Visa* recipients based upon their relationship with the principal recipient. The family members include:

- Unmarried children under the age of 21 of principal *U-Visa* recipients;
- Spouses of principal *U-Visa* recipients;
- Parents of *U-Visa* recipients under the age of 21;

- Unmarried siblings under 18 years old of principal *U-Visa* recipients under age 21.

10. **COMPLETION OF THE U-VISA LAW ENFORCEMENT CERTIFICATION (USCIS FORM I-918B):**

- All applicable sections of the *certification* need to be filled out/addressed.
- Since completion of the *certification* may ultimately provide a benefit to the victim, the fact that this benefit has been given to the victim may need to be disclosed by the prosecution to the defense at the appropriate time.
- Part 2 (Name of Certifying Official):** While completion of a certification is discretionary, the certifying official shall be the agency Police Chief, as appropriate. If the matter is being handled by the Prosecutor's Office, the County Prosecutor will be the certifying official.
- Part 3, Section #6 (Criminal Acts):** Any reported injury needs to be documented if possible (i.e., medical documentation, photographs, etc.). A valid waiver from the victim should be obtained if any medical documents are to be attached.
- Part 4, Section #2 (Helpfulness of the Victim):** The explanation of the assistance provided **MUST** be attached.
- Part 5 (Family Members Implicated in Criminal Activity):** All family members implicated in the criminal activity **MUST** be included.
- Part 6 (Certification):** The last sentence of this section creates an on-going duty/responsibility to inform *USCIS*. If the victim is no longer cooperative (especially if the case is disposed of due to the victim) that such notification must immediately be made in writing to *USCIS* with a copy simultaneously sent to the prosecuting attorney (*MCPO* for indictable crimes, municipal prosecutor for non-indictable offenses).

11. **ADDITIONAL EVIDENCE TO BE CONSIDERED TO SUPPORT THE CLAIM:**

- Evidence that the applicant is a victim of the qualifying criminal activity (e.g., trial transcripts, court documents, news articles, police reports, order of protection and, affidavits of other witnesses such as medical personnel).
- Evidence that the applicant has suffered substantial physical or mental abuse because of having been a victim of the crime (e.g., report or affidavits from police, judges, other court officials, medical personnel, school officials, clergy, social workers, mental health counselors, copy of protection orders or any other legal documents or signed testimonies from witnesses).
- Evidence that the applicant possesses information of the crime of which he/she was a victim (e.g., reports and affidavits from police, judges, and other court officials).

- d. Evidence that the applicant has been, is being, or is likely to be helpful to a certifying agency (e.g. trial transcripts, court documents, police reports, news articles, copies of reimbursements forms from travel to/from court, affidavits of other witnesses or officials):
- e. **Age of the crime:** Is there a temporal relationship to when the crime occurred v. when it was reported/certification was sought. (i.e., how long ago did the crime allegedly occur?)
- f. **Seriousness of Alleged Crime:** Does the event rise to the level of an indictable crime? This goes to the seriousness of the event.

12. **WITHDRAWING A U-VISA LAW ENFORCEMENT CERTIFICATION:** At its discretion, a certifying agency may withdraw or disavow a *certification (USCIS Form I-918B)* at any time if a victim stops cooperating. To do so, the certifying agency must notify the *USCIS Vermont Service Center* in writing, supplying the following information:

- The agency's name and contact information;
- The name and date of birth of the individual certified;
- The name of the individual who signed the *certification* and the date it was signed;
- The reason the agency is withdrawing/disavowing the *law enforcement certification* including information describing how the victim's refusal to cooperate in the case is unreasonable;
- The signature and title of the official who is withdrawing/disavowing the *certification*; and
- A copy of the agency generated *certification* that was initially signed.

The letter should be sent to the *USCIS Vermont Service Center* at:

U.S. Citizenship & Immigration Services

Vermont Service Center

Attention: T/U-Visa Unit

75 Lower Weldon Str.

St. Albans, VT 05479-0001

OR

e-mailed to: LawEnforcement UTVAWA.vsc@uscis.dhs.gov.

D. *T-VISA's*

1. **NOTIFICATIONS OF POTENTIAL HUMAN TRAFFICKING CASES:** If an agency has identified a potential victim of human trafficking as defined herein, the agency should contact both the *ECPO* and the *USCIS* local office as soon as possible.
2. **ELIGIBILITY REQUIREMENTS:** *USCIS* may find an individual eligible for a *T-Visa* if the victim:
 - a. Is or was a victim of a severe form of human trafficking in persons (which may include sex or labor trafficking) as defined in this Directive;

- b. Is in the U.S. due to trafficking;
- c. Has complied with any reasonable requests from a law enforcement agency for assistance in the investigation or prosecution of human trafficking; and
- d. Would suffer extreme hardship involving unusual and severe harm if removed from the U.S.

(NOTE: Special exceptions are made for human trafficking victims who are under eighteen (18) years of age, or those who are unable to cooperate due to physical or psychological trauma.)

Additionally, the victim must be admissible (based on a review of criminal history, immigration violations, and other factors) to the U.S. If inadmissible, the individual may apply for a waiver of inadmissibility for which he/she may be eligible.

3. **VETTING PROCEDURES:** Prior to completing a *T-Visa declaration*, the request for such proofs of cooperation with law enforcement shall be vetted by the law enforcement agency with primary jurisdiction over the investigation. If/when this Directive requires discussion with the Prosecutor's Office regarding the matter, it is the responsibility of the Chief to initiate contact with the County Prosecutor early in the vetting process and to prior to making any decisions regarding the matter.

a. **Non-Indictable Offenses:**

- 1) If the matter involves a non-indictable offense, the vetting shall be conducted internally within the agency. The Chief will investigate the matter by discussing the request with agency personnel who have intimate knowledge of the case and take their recommendations into consideration. The Chief retains the final authority to authorize the issuance of a *declaration*. If the *declaration* is justified, the Police Chief will have the form completed then he/she will sign it. The Police Chief of that agency will be the sole authority to issue and sign a *declaration* for the applicant.
- 2) If the matter concerning the issuance of a *declaration* is assigned to the law enforcement agency in which the crime/offense was initially reported, the vetting of the request for a *declaration* will occur as described above, taking into consideration any input from the Prosecutor's Office.

b. **Indictable Offenses:** If the matter involves an indictable offense, the Police Chief of the agency where the crime was initially reported and the Prosecutor's Office will discuss the matter and determine which agency will be responsible for investigating the matter as it relates to the *declaration* and a determination will be made as to which agency will make the final determination as to whether the *declaration* is justified.

4. **VETTING PROCESS FOR REQUESTS FOR T-VISA LAW ENFORCEMENT DECLARATIONS:**

- a. If the matter concerning the issuance of a *declaration* is assigned to the law enforcement agency in which the crime/offense was initially reported, the vetting of the request for a *declaration* will occur as described above, taking into consideration any input from the Prosecutor's Office. The Police Chief of that agency will have the form completed and will be responsible for signing it. The Police Chief is the sole authority to issue and sign a *declaration* for the applicant.
- b. If the matter is assigned to the Prosecutor's Office, the Prosecutor, in addition to considering input from the law enforcement agency in which the crime/offense was initially reported, may confer with staff from the Middlesex County Prosecutor's Office as part of the vetting process. The Prosecutor may discuss the matter either the law enforcement investigators of the Prosecutor's Office, or the Assistant Prosecutor handling the prosecution, or both in making his/her decision concerning the issuance of a *declaration*. In this case, the County Prosecutor will be the sole authority to issue and sign a *declaration* for the applicant.

5. **NOTIFYING THE APPLICANT OF THE DECISION:** Once a decision has been made by the Chief/Director or the Prosecutor as to whether to issue and sign a *declaration*, the applicant will be notified of the decision. If the victim has employed legal counsel regarding this matter, the decision will be also be provided to the legal counsel as well.

6. **TIME LINE FOR COMPLETING VETTING PROCESS OF REQUEST FOR T-VISA LAW ENFORCEMENT DECLARATIONS:** Requests for *declaration* are required to be processed by the responsible law enforcement agency within 120 days of the request being made.

7. **AUTHORITY TO GRANT/DENY T-VISA'S:** Only USCIS has the authority to grant or deny a person's *T-Visa* application. The *declaration* alone does not grant any immigration benefit or legal status in the U.S. It is only one piece of evidence USCIS reviews before deciding on an application. USCIS requires additional evidence of eligibility and does full background checks.

8. **T-VISA DECLARATIONS BY LAW ENFORCEMENT:**

- a. **Form I-914 Supplement B:** This form, which explains the victims' involvement in the case, is to be utilized by law enforcement or the Prosecutor's Office wishing to complete it on behalf of the victim for inclusion in their package being sent to USCIS for consideration.
- b. **Purpose of Declarations:** A *declaration* is a document that can be utilized to show support of a victim pursuing a *T-Visa*.

- c. **Agencies that May Submit a Declaration:** Law enforcement and the Prosecutor's Office can sign *declaration*.
- d. **Submission of a Declaration is NOT Mandated:** Law enforcement agencies are NOT required evidence in support of a *T-Visa* application, but it is useful.
- e. **Routing of the Completed Declaration:** The completed *declaration* is to be given to the victim (or their advocate or attorney) who will submit it to the *USCIS* along with other paperwork and evidence for consideration.

9. **REVIEW PROCESS OF T-VISA LAW ENFORCEMENT DECLARATIONS:**

- a. *USCIS* reviews the victim's entire application, which includes the *declaration* (*Form I-914* as well as the *Form I-914B*) or other evidence of the victim's cooperation, the victim's affidavit, and supporting evidence. Supporting evidence may include court documents, witness affidavits, medical reports, and any other credible evidence to show that the victim is eligible for a *T-Visa*. If the applicant is inadmissible, *USCIS* also considers all evidence relevant to any potential waivers of inadmissibility.
- b. *USCIS* conducts a thorough background investigation, including FBI Fingerprint Check and name check, as well as a review of the applicant's immigration records to assess whether any inadmissibility issues exist, such as a criminal history, immigration violations, or security concerns. Any evidence that law enforcement and immigration authorities possess may be used in determining eligibility for a *T-Visa*.
- c. *USCIS* may contact the certifying law enforcement agency if there are any issues or questions that arise during the adjudication based on information provided in the *declaration* (if there is one). Because qualifying family members (*derivatives*) are subject to the same criminal background review, fingerprint checks, and immigration status checks as the principal victim applicant, it is possible that a *derivative's* adverse criminal or immigration background would result in a denial of *derivative* status even when the principal is approved.

10. **WITHDRAWING A T-VISA LAW ENFORCEMENT DECLARATION:** At its discretion, a certifying agency may withdraw or disavow a *declaration* (*USCIS Form I-914B*) at any time if a victim stops cooperating. To do so, the certifying agency must notify the *USCIS Vermont Service Center* in writing, supplying the following information:

- The agency's name and contact information;
- The name and date of birth of the individual certified;
- The name of the individual who signed the *declaration* and the date it was signed;
- The reason the agency is withdrawing/disavowing the *declaration* including information describing how the victim's refusal to cooperate in the case is unreasonable;
- The signature and title of the official who is withdrawing/disavowing the *declaration*; and

- A copy of the agency generated *declaration* that was initially signed.

The letter should be sent to the *USCIS Vermont Service Center* at:

U.S. Citizenship & Immigration Services

Vermont Service Center

Attention: T/U-Visa Unit

75 Lower Weldon Str.

St. Albans, VT 05479-0001

OR

e-mailed to: LawEnforcementUTVAWA.vsc@uscis.dhs.gov

11. ***WHAT OCCURS IF LAW ENFORCEMENT DOES NOT SUBMIT A T-VISA DECLARATION:*** If the *T-Visa* applicant does NOT include a law enforcement declaration, the applicant must present credible evidence that he/she meets the cooperation requirement. The applicant must include an original personal statement that indicates the reason the law enforcement declaration doesn't exist or is unavailable and whether similar records documenting any assistance provided by the applicant are available. The statement or evidence should demonstrate that good faith attempts were made to obtain a *declaration*, including describing the efforts the applicant undertook. *USICS* will then assess the evidence present to determine whether the applicant satisfies the cooperation requirement.

12. **ISSUES TO REMEMBER:**

- a. A law enforcement agency can provide a declaration even if there is no arrest, no charges filed, no formal investigation, no conviction, or even if the case is closed. A *declaration* can be provided for cases that occurred months or years ago, as long as the victim was working with the agency.
- b. There is no federal statute of limitations on when a crime occurred and when a victim may be eligible for these immigration benefits.
- c. Law enforcement can provide a declaration when the victim has worked with the agency in the past, if the victim is currently working with the agency, or if the victim is likely to work with the agency in the investigation or prosecution of the crime committed against the victim.
- d. The law enforcement agency will not be liable for future conduct of the victim.

E. ***POSTING OF AGENCY PROCEDURES ON OFFICIAL AGENCY WEBSITE:***

Every law enforcement agency in the county is required to post information about its procedures on its agency website, or, if the agency does not have its own website, on the municipal/governing body website.

