

<b>Maple Shade Police Department</b> <b>STANDARD OPERATING PROCEDURES</b>		
SUBJECT: U AND T VISA CERTIFICATION PROCEDURES		
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ACCREDITATION STANDARDS:	BY THE ORDER OF: Chief of Police	

**PURPOSE:** The purpose of this policy is to endorse the use of the U visa as a crime-fighting tool for the Maple Shade Police Department to better serve immigrant victims of crime that they encounter in their communities. Police departments can better serve this vulnerable population by removing the fear of deportation that result in a lack of reporting violent crimes and cases of human trafficking to local law enforcement. By signing U Visa Certifications or T Visa Declarations, police departments encourage the reporting of such crimes and will be able to foster a positive relationship with the immigrant population in their communities. The Maple Shade Police Department will observe with the provisions of the New Jersey Attorney General Law Enforcement Directive no. 2018-6 and the procedures of the U.S. Department of Homeland Security (DHS) in identifying immigrant crime victims and providing U Visa Certifications and T Visa Declarations.

**POLICY:** It is the policy of the Maple Shade Police Department to serve immigrant victims of crime and human trafficking by signing U Visa Certifications and T Visa Declarations. This policy has been adopted in the interest of promoting officer, victim, and community safety by encouraging immigrant victims to come forward to report dangerous offenders within the community. In the process of serving immigrant victims through certifications and declarations, police departments will strengthen ties to their local immigrant communities and promote safety within those communities.

## PROCEDURES:

### I. Definitions

- A. **U Visa Status:** The U visa is an immigration benefit, provided by DHS, that is available to immigrant victims of certain qualifying criminal activities that have helped, are helping, or are likely to help law enforcement and government officials in the detection, investigation, prosecution, conviction and/or sentencing of the offender. If granted by DHS, the U visa provides the victim with temporary immigration status so that they can remain in the United States. The U visa is valid for four (4) years and requires the victim to continue to help law enforcement, if requested. After three (3) years, immigrant victims who have been helpful can apply to for lawful permanent residency if they can demonstrate need due for humanitarian, public interest, or family unity reasons.
- B. **U Visa Law Enforcement Certification:** A certifying officer, usually the head of the department or a supervising officer designated by the head of the department, confirms, on the U Visa Certification (**Form I-918B “U Nonimmigrant Status Certification”**) **See Appendix A** that:
1. A qualifying criminal activity occurred,
  2. The victim had information concerning that criminal activity, and
  3. The victim was helpful, is being helpful, or will likely be helpful in the investigation, prosecution, and/or sentencing of the perpetrator.
  4. It is important to remember that:
    - a. Signing a U Visa Certification does not grant legal immigration status to the immigrant victim; it is an evidentiary form that has to be included in the victim’s application.
    - b. Certifications are signed at the discretion of the Burlington County Prosecutor or his/her designee (**See Appendix G**).
    - c. The department is not held liable for the later actions of the immigrant victim after it signs a Certification. If the individual is later determined to not be a victim or subsequently refuses to help law enforcement, the department may withdraw previously signed Certifications at any time.
  5. The U Visa Certification is a required piece of evidence that must be submitted at part of the victim’s U Visa application without which the case cannot be adjudicated.
- C. **Qualifying Criminal Activity:** 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:

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

D. **T Visa Status:** The T visa is an immigration benefit available from DHS for immigrant victims of severe forms of human sex and labor trafficking who comply with reasonable requests for assistance from law enforcement in the investigation or prosecution of human trafficking offenders. If granted a T visa by DHS, an immigrant victim is required to continue to comply with reasonable requests for cooperation from law enforcement, if requested. A T visa is valid for four (4) years. After three (3) years, the immigrant victim can apply to DHS for lawful permanent residency.

E. **Severe Form of Trafficking:** The term “severe forms of trafficking in persons” means –

1. 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 has not attained 18 years of age; or
2. 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
3. The Federal Criminal Code includes crimes of human trafficking with respect to peonage, slavery, involuntary servitude, or forced labor, and sex trafficking of children or by force, fraud, or coercion that state and local law enforcement should be familiar with.

F. **T Visa Law Enforcement Declaration:** A certifying officer, usually the supervising officer responsible for the investigation or prosecution of the trafficking offense, will confirm that the immigrant was a victim of a severe form of trafficking and complied with reasonable requests for cooperation by law enforcement in a T Visa Declaration (**Form I-914B “Declaration of Law Enforcement Officer for Victim of Trafficking of Persons”**) See **Appendix B.**

1. Unlike the U visa, an immigrant applying for a T visa is **not required** to obtain a signed Declaration from law enforcement. However, since Declarations provide a key piece of evidence supporting their application, victims may request Declarations from law enforcement.
2. Signing a T Visa Declaration does not grant the immigrant victim legal immigration status; the Declaration is one piece of evidence in the victim’s application.
3. Declarations are signed at the discretion of the department.
4. The department is not held liable for the later actions of the immigrant victim after it signs a Declaration. If the individual is later determined to not be a victim or

subsequently has unreasonably refused to cooperate with reasonable requests for assistance from law enforcement, the department may withdraw previously signed Declarations at any time.

- G. **Continued Presence:** Continued Presence is the first form of immigration relief available to a victim of human trafficking who is undocumented. Continued presence is a temporary immigration status provided to individuals identified by law enforcement as victims of human trafficking who are potential witnesses in an investigation or prosecution. It allows a victim of human trafficking to continue to remain present in the United States because they are a victim and they are a potential witness in a human trafficking investigation. Continued presence is designed to be a tool for law enforcement to keep someone who is a victim and a potential witness in the United States who may not otherwise be able to stay in the United States legally. Continued presence also connects victims to services that provide support and stabilized the victim.

## II. Criteria for U Visa Certifications

- A. Before completing a Certification Form I-918B, the certifying official shall verify the following:
1. Eligibility – The applicant is:
    - a. A victim of a qualified criminal activity (listed in II a. above) that took place in the United States or its territories or occurred outside the United States but violates U.S. extraterritorial law; or
    - b. The parent or unmarried sibling under 18 years old of a citizen or immigrant crime victim who is a child under the age of 21; or
    - c. The spouse or child under-21-year-old of a victim who is incompetent or incapacitated or who is deceased because of murder or manslaughter; or
    - d. The parents or unmarried siblings under 18-years old of an under-21-year-old citizen or immigrant victim who is incompetent or incapacitated or who is deceased because of murder or manslaughter.
- B. Assessing the helpfulness of the immigrant victim:
1. Law enforcement officials may complete U Visa Certifications once they are able to assess a victim's helpfulness. The entire investigation need not be completed prior to signing a Certification. The Certification signed by the Burlington County Prosecutor or his/her designee (**See Appendix G**) confirms that the applicant has been helpful, is being helpful, or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity.
  2. If a U visa petitioner filed a police report and is willing to assist – or has assisted or was helpful – with detection, investigation, prosecution, conviction, or sentencing of criminal activity, a Certification may be provided even when the initial investigation efforts do not lead to further investigation and/or do not result in a prosecution or a conviction.

3. The Burlington County Prosecutor or his/her designee may issue a Certification (**See Appendix G**) at any time after detecting a qualifying criminal activity if the officer believes criminal activity occurred and is able to identify the victim of the criminal activity. The investigation need not be complete prior to issuing a certification.
  4. Congress intended to allow victims to obtain U Visa Certifications at the very early stages of crime detection.
  5. To be eligible for lawful permanent residence, the victim has an ongoing responsibility to provide assistance, if requested.
  6. Victims threatened by further acts of violence, may be able to prove to the DHS that their decision to not continue to provide assistance was not unreasonable and, therefore, remain eligible for a U visa.
- C. Statute of limitations:
1. A certification can be issued any time after the criminal activity occurred. There are no time limits. Statutes of limitations are not a consideration when determining eligibility for Certification.

### III. Encountering Immigrant Victims of Crime (U Visa)

- A. If, during the normal course of investigative efforts, information is revealed that suggests that a person is an immigrant victim, officers should follow the investigative steps listed below.
1. At the scene of the crime:
    - a. Conduct the preliminary investigation in accordance with the department policy and provide the victim with a DHS brochure (**See Appendix F**) that contains information about the U visa and a list of local victim services/resources.
    - b. Collect any relevant evidence, such as photographs of the location and of injuries, statements from the victim and witnesses, etc.
    - c. Officers who encounter persons who are limited English proficient (LEP) should attempt to identify the LEP individual's primary language through use of a language identification card (**See Appendix E**) and obtain the help of an interpreter to understand and communicate with the LEP person. In exigent circumstances, personnel should use the most reliable temporary person available to interpret only until the exigency (e.g. securing the crime scene, locating weapons, fleeing suspect, and identifying injuries) has passed.
    - d. Officers should explain the possibility of obtaining a U visa to the victim and provide the victim a copy of the DHS crime victim brochure. This can be done either at the scene or at a later interview.
      - 1) Do NOT promise the issuance of a U visa.
      - 2) Do NOT attempt to determine the victim's eligibility for a U visa.

- e. Conduct a more thorough interview away from the scene of the exploitation at a neutral location, such as the police station.

2. Interview:

- a. Obtain the help of an interpreter to understand and communicate with the LEP crime witness interview.
- b. Ask questions that will help determine whether the individual was a victim of a qualifying criminal activity.
- c. Explain the role of law enforcement in the victim's U visa application process.
  - 1) The victim requires a Certification from law enforcement that he/she was helpful, is helpful, or will likely be helpful in the detection, investigation, prosecution, conviction, or sentencing. This Certification does **NOT** guarantee that the victim will receive a U visa.
  - 2) The Certification is a required piece of evidence that confirms to DHS that the applicant is a victim of a qualifying crime and verifies helpfulness.
  - 3) The victim must file his/her application with DHS and DHS alone will make the final determination regarding the victim's eligibility to receive a U visa. The department will provide the victim with a signed certification. The department cannot file the Certification with DHS for the victim. The victim has a duty to remain helpful to law enforcement and those who unreasonably refuse to provide reasonably requested assistance after receiving a U visa may have their U visa revoked by DHS. Law enforcement may report to DHS any unreasonable refusals for assistance by the victim.

3. Post Interview:

- a. The interviewing officer(s) will provide the certifying/supervising officer delegated with the authority to sign certifications with information obtained during the interview as well as other evidence collected.

B. Supervisor/Certifying Officer Responsibility

- 1. Prior to completing a Certification for a U visa application, the certifying officer shall have verified the following:
  - a. The non-citizen was or is a victim of a qualifying criminal activity, as noted in the definitions section above, that took place in the United States or its territories or occurred outside the United States, but violates U.S. extraterritorial law; or

- b. The non-citizen is the parent or under 18-year-old unmarried sibling of a citizen or immigrant crime victim who is a child under the age of 21; or
  - c. The non-citizen is the spouse or under 21-year old child of a victim who is incompetent or incapacitated, or who is deceased because of murder or manslaughter; or
  - d. The non-citizen is a parent or an unmarried under 18-year old sibling of an under 21-year old citizen or immigrant victim who is incompetent or incapacitated, or who is deceased because of murder or manslaughter.
2. The certifying officer shall establish if the victim has been, is being, or is likely to be helpful to detection, investigation, prosecution, conviction, or sentencing.
  3. When a Certification is based on a prior investigation or a criminal case that has been closed or suspended, or when a statute of limitations has passed, the Certification shall be completed when the criteria described in B1 and B2 are met.
  4. No request for Certification will be accepted unless it is made on the proper Form I918, Supplement B.
  5. Certification requests will be processed within 120 days of the request being made. If approved, certification requests will be signed by the Burlington County Prosecutor or his/her designee designated to sign certifications (**See Appendix G**).
  6. Once the Certification is completed, the certifying officer will return it to the victim or the victim's representative so that it can be included with the victim's U visa application. The law enforcement agency **cannot** send the signed certification to DHS; this is the victim's or his/her representative's responsibility.
  7. If the victim unreasonably refuses to provide assistance reasonably requested by law enforcement after receiving his/her U visa, the department may withdraw its Certification by notifying DHS in writing.
  8. Per the Burlington County Prosecutor's Office Procedures for T and U Visa Nonimmigrant Status Applications (**See Appendix G**) in Burlington County, the Burlington County Prosecutor, or his/her designee, is the **ONLY** individual authorized to sign the certification.
    - a. Send the agency name, certification date, name of certifier petitioner's name, date of birth and the reason for the Certification's withdrawal to:  
U.S. Citizenship and Immigration Services/Vermont Service Center  
Attn: T/U Visa Unit  
75 Lower Welden Street  
St. Albans, VT 05479-0001

#### IV. Criteria for T Visa Declarations

- A. Before completing a T Visa Declaration (Form I-914B), the certifying official shall verify the following:
  1. Eligibility- the applicant is:

- a. A victim of a severe form of trafficking and
- b. The victim is under the age of 18; or
  
- c. The victim complied with any reasonable requests from Federal, State, or local law enforcement in the investigation or prosecution of the trafficking crime of which he/she was a victim of.

B. Assessing the cooperation of the immigrant victim of human trafficking:

1. Law enforcement officials may complete T Visa Declarations for a trafficking victim under the age of 18 once they assess that the child has been a victim of a severe form of trafficking.
2. Law enforcement officials may complete T Visa Declarations once they are able to assess whether the victim has responded to a reasonable request for assistance. The entire investigation need not be completed prior to signing a Declaration. The signed Declaration confirms that the immigrant was a victim of a severe form of trafficking and cooperated with reasonable requests from law enforcement in the investigation or prosecution of a trafficking offender.
3. Per the Burlington County Prosecutor's Office Procedures for T and U Visa Nonimmigrant Status Applications (**See Appendix G**) in Burlington County, the Burlington County Prosecutor, or his/her designee, is the **ONLY** individual authorized to sign a declaration for T-Visa.
4. If a T visa applicant filed a police report and is willing to cooperate with law enforcement, a Declaration may be signed even when the initial investigation efforts do not lead to further investigation and/or do not result in a prosecution or a conviction.
5. After obtaining a signed Declaration, the victim has an ongoing responsibility to cooperate with reasonable requests of assistance by law enforcement.
6. Reasonableness of the request depends on:
  - a. Totality of the circumstances, taking into account general law enforcement and prosecutorial practices,
  - b. The nature of the victimization,
  - c. Specific circumstances of the victim (consider fear, severe physical and mental trauma, and age/maturity of the victim).

V. **Encountering Immigrant Victims of Human Trafficking (T Visa)**

A. At the scene of the crime:

1. Conduct a preliminary investigation in accordance with department policy and provide the victim with information about the T visa and other local victim services/resources.

- a. Collect any relevant evidence, such as witness statements, photographs of the location or any injuries, etc.
- b. Officers who encounter persons who are limited English proficient (LEP) should attempt to identify the LEP individual's primary language through use of a language identification card (**See Appendix E**) and obtain the help of an interpreter to understand and communicate with the LEP person. In exigent circumstances, personnel should use the most reliable temporary person available to interpret only until the exigency (e.g. securing the crime scene, locating weapons, fleeing suspect, identifying injuries) has passed.
- c. Officers should explain the possibility of obtaining a T visa to the victim, and provide the victim a copy of the DHS crime victim brochure. This can either be done at the scene or at a later interview.
  - 1) Do NOT promise the issuance of a T visa.
  - 2) Do NOT attempt to determine the victim's eligibility for a T visa.
- d. Conduct a more thorough interview away from the scene of the crime at a neutral location such as the police station.

B. Interview:

1. Obtain the help of an interpreter to understand and communicate with the LEP crime witness interview.
2. If the officer suspects that the individual is a victim of trafficking, questions should be focused on obtaining information about the following: possible recruitment, circumstances of migration and arrival in the United States, working conditions, and whether there was any force, fraud, and/or coercion involved.
3. Requesting Continued Presence: When state or local law enforcement officials identify a victim of human trafficking, they should coordinate with their federal law enforcement partners to submit an application for continued presence. Contact the local ICE office in your jurisdiction or an office of the Special Agents in Charge (SAC) <http://www.ice.gov/contact/inv/> to obtain a "Request for Continued Presence" ICE Form 73-031.
4. Explain the following to the victim regarding the Declaration that the agency can complete to assist the victim:
  - a. The law enforcement Declaration is an optional piece of evidence that the victim may file with her T visa application to DHS.
  - b. Once the Declaration has been completed, it will be returned to the victim or his/her representative to be filed with the T visa application. The department cannot file the Declaration with DHS for the victim.

C. Post Interview:

1. The interviewing officer(s) will provide the certifying/supervising officer delegated with the authority to sign Declarations with information obtained during the interview as well as other evidence collected.
- D. Supervisor/Endorsing Officer Responsibilities
1. The supervising/endorsing officer must verify:
    - a. The victim was or is a victim of a severe form of trafficking, and
    - b. The victim is under the age of 18; or
    - c. The victim has complied with any reasonable requests for assistance in a trafficking investigation or prosecution.
  2. Certification requests will be processed within 120 days of the request being made. If approved, certification requests will be signed by the Burlington County Prosecutor or his/her designee designated to sign certifications (**See Appendix G**).
  3. Once the Declaration is complete, return it to the victim or his/her representative for filing with the T visa application.
  4. If the victim unreasonably refuses to cooperate with reasonable requests to assist law enforcement after receiving his/her T visa, the department may withdraw its declaration by notifying DHS in writing.
    - a. Send the agency name, declaration date, name of officer who signed the declaration, the petitioner's name, date of birth, and the reason for the certification's withdrawal to:  
U.S. Citizenship and Immigration Services/Vermont Service Center  
Attn: T/U Visa Unit  
75 Lower Welden Street  
St. Albans, VT 05479-0001

## **Appendices**

**[Form I-918 Supplement B - Appendix A](#)**

**[Form I-914 Supplement B - Appendix B](#)**

**[Attorney General Directive 2018-6 - Appendix C](#)**

**[U And T Visa Law Enforcement Resource Guide - Appendix D](#)**

**[Language Identification Card - Appendix E](#)**

**[Immigration Options For Victims Of Crimes - Appendix F](#)**

**[Burlington County Prosecutor's Office Procedures for T- and U-Visa Nonimmigrant Status Applications - Appendix G](#)**