WANAQUE PASSAIC COUNTY

PROCEDURES FOR PROCESSING REQUESTS

U-VISA CERTFICATIONS & T-VISA DECLARATIONS

Individuals seeking information related to obtaining a U-Visa or a T-Visa are encouraged to review the "U and T Visa Law Enforcement Resource Guide" issued by the Federal Office of Homeland Security. The electronic link for this manual is www.dhs_u_visa_certfication_guide.pdf .

The following are the law enforcement procedures for processing requests for certifications in support U-Visa applicants or declarations in support of T-Visa applicants.

U-VISAS

WHO IS ELIGIBLE FOR A U-VISA?

USCIS may find an individual eligible for a U-Visa if the victim:

- Is the direct or indirect victim of qualifying criminal activity;
- 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.

For a list of qualifying crimes and for further information, please refer to the "**U and T Visa Law Enforcement Resource Guide**" www.dhs_u_visa_certifiction_guide.pdf.

WHAT ARE THE CRITERIA FOR LAW ENFORCMENT TO UTILIZE WHEN CONSIDERING COMPLETION OF A CERTIFICATION ON BEHALF OF A U-VISA APPLICANT?

To qualify for a U-Visa, the individual seeking such status must prove to the United States Citizenship and Immigration Services (USCIS) that he/she meets the criteria for a U-Visa, as specified above.

One of the primary ways that a victim may demonstrate cooperation with law enforcement is to obtain a signed statement known as a "*certification*" from the law enforcement entity conducting the investigation or prosecuting the case. This certification, which is titled "*Supplement B, U Nonimmigrant Status Certification*" (USCIS Form I-918), is required for an application for a U-Visa to be considered by USCIS.

HOW DOES AN APPLICANT FOR A U-VISA OBTAIN A CERTIFICATION FROM A LAW ENFORCEMENT ENTITY?

Qualifying victims who are seeking a U-Visa may contact the primary officer or detective employed by the law enforcement agency conducting the investigation into the criminal matter and request that he/she complete a *certification*. It needs to be pointed out that the law enforcement officer has no legal obligation to complete the *certification*.

WHAT IS THE PROCESS THAT LAW ENFORCEMENT UTILIZES FOR DETERMINING WHETHER OR NOT TO COMPLETE THE DECLARATION IN SUPPORT OF THE U-VISA APPLICANT?

Prior to completing a *certification*, the request shall be vetted by the law enforcement agency with primary jurisdiction over the investigation.

Non-Indictable Offenses:

1) If the matter involves a non-indictable offense, the vetting shall be conducted internally within the agency. The Chief/Director will have the matter investigated, discuss the request with agency personnel who have intimate knowledge of the case and take their recommendations into consideration. The Chief/Director retains the final authority to authorize the issuance of a *certification*. If the *certification* is justified, the Police Chief/Director will have the form completed then he/she will sign it, and have it forwarded to the applicant (or the applicant's legal counsel, as appropriate). The Police Chief/Director of that agency will be the sole authority to issue and sign a *certification* 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.

Indictable Offenses: If the matter involves an indictable offense, the Police Chief/Director 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 *certification* request and a determination will be made as to which agency will make the final determination as to whether the *certification* is justified.

1) 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 shall be conducted internally within the agency. The Chief/Director will have the matter investigated, discuss the request with agency personnel who have intimate knowledge of the case and take their recommendations into consideration. The Chief/Director retains the final authority to authorize the issuance of a *certification*. If the *certification* is justified, the Police Chief/Director will have the form completed then he/she will sign it. The Police Chief/Director of that agency will be the sole authority to issue and sign a *certification* for the applicant. the vetting of the request for a *certification* will occur as described above.
2) 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 also 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 County Prosecutor will be the sole authority to issue and sign a *certification* for the applicant. If the *certification* is justified, the Prosecutor will have the form completed then he/she will sign it. The Prosecutor is the sole authority to issue and sign a *certification* for the applicant.

HOW MUCH TIME DOES LAW ENFORCEMENT HAVE TO MAKE A DECISION REGARDING THE REQUEST: Law enforcement has 120 days from the date the request was submitted to them to vet the request and decide as to whether to complete the *certification*.

NOTIFYING THE APPLICANT OF THE DECISION:

Once a decision has been made by the Chief/Director or the Prosecutor (as appropriate) as to whether to issue and sign a *certification*, the applicant will be notified of that decision. If the applicant has employed legal counsel, said legal counsel will be notified of the decision as well. If the *certification* was approved, a copy of said *certification* will be forwarded to the applicant or, if he/she has legal counsel, the legal counsel.

WHO HAS THE FINAL AUTHORITY TO ISSUE A U-VISA?

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

T-VISAS

WHO IS ELIGIBLE FOR A T-VISA?

Individuals seeking a T-Visa must meet the following criteria:

- The victim is or has been a victim of a severe form of trafficking in persons; and
- The victim is in the United States due to trafficking; and
- The victim has complied with requests for assistance in an investigation or prosecution of the crime of trafficking; and
- Would suffer extreme hardship involving unusual and severe harm if removed from the United States.

WHAT ARE THE CRITERIA FOR LAW ENFORCMENT TO UTILIZE WHEN CONSIDERING COMPLETION OF A DECLARATION ON BEHALF OF A T-VISA APPLICANT?

To qualify for a T-Visa, the individual seeking such status must prove to the United States Citizenship and Immigration Services (USCIS) that he/she meets the criteria for a T-Visa, as specified above.

One of the primary ways that a victim may demonstrate cooperation with law enforcement is to obtain a signed statement known as a "*declaration*" from the law enforcement entity conducting the investigation or prosecuting the case. This **declaration**, which is titled "**Declaration of Law Enforcement Officer for Victim in Trafficking of Persons (Form I-914B** or **declaration**)", is <u>not required</u>. However, the signed **declaration** provides valuable evidence of a victim's cooperation.

HOW DOES AN APPLICANT FOR A T-VISA OBTAIN A DECLARATION FROM A LAW ENFORCEMENT ENTITY?

Qualifying victims who are seeking a T-Visa may contact the primary officer or detective employed by the law enforcement agency conducting the investigation into the criminal matter and request that he/she complete a *declaration*. It needs to be emphasized that the law enforcement officer has no legal obligation to complete the declaration.

WHAT IS THE PROCESS THAT LAW ENFORCEMENT UTILIZES FOR DETERMINING WHETHER OR NOT TO COMPLETE THE DECLARATION IN SUPPORT OF THE T-VISA APPLICANT?

Prior to completing a *declaration*, the request shall be vetted by the law enforcement agency with primary jurisdiction over the investigation.

Non-Indictable Offenses:

1) If the matter involves a non-indictable offense, the vetting shall be conducted internally within the agency. The Chief/Director will have the matter investigated, discuss the request with agency personnel who have intimate knowledge of the case and take their recommendations into consideration. The Chief/Director retains the final authority to authorize the issuance of a *declaration*. If the *declaration* is justified, the Police Chief/Director will have the form completed then he/she will sign it, and have it forwarded to the applicant (or the applicant's legal counsel, as appropriate). The Police Chief/Director 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.

Indicatable Offenses: If the matter involves an indictable offense, the Police Chief/Director 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* request and a determination will be made as to which agency will make the final determination as to whether the *declaration* is justified.

1) 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 shall be conducted internally within the agency. The Chief/Director will have the matter investigated, discuss the request with agency personnel who have intimate knowledge of the case and take their recommendations into consideration. The Chief/Director retains the final authority to authorize the issuance of a *declaration*. If the *declaration* is justified, the Police Chief/Director will have the form completed then he/she will sign it. The Police Chief/Director of that agency will be the sole authority to issue and sign a *declaration* for the applicant. the vetting of the request for a *declaration* will occur as described above.
2) 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 also 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. If the *declaration* is justified, the Prosecutor will have the form completed then he/she will sign it. The Prosecutor is the sole authority to issue and sign a *declaration* for the applicant.

HOW MUCH TIME DOES LAW ENFORCEMENT HAVE TO MAKE A DECISION REGARDING THE REQUEST:

Law enforcement has 120 days from the date the request was submitted to them to vet the request and decide as to whether to complete the *declaration*.

NOTIFYING THE APPLICANT OF THE DECISION:

Once a decision has been made by the Chief/Director or the Prosecutor (as appropriate) as to whether to issue and sign a *declaration*, the applicant will be notified of that decision. If the applicant has employed legal counsel, said legal counsel will be notified of the decision as well. If the *declaration* was approved, a copy of said *declaration* will be forwarded to the applicant or, if he/she has legal counsel, the legal counsel.

WHO HAS THE FINAL AUTHORITY TO ISSUE A T-VISA?

Only USCIS has the authority to grant or deny a person's T-Visa application.