


<b>NORTHAMPTON POLICE DEPARTMENT</b> <b>Administration &amp; Operations Manual</b>		
<b>Policy: U and T Visas</b>		<b>AOM: O-222</b>
Massachusetts Police Accreditation Standards Referenced:		Issuing Authority <hr/> Jody Kasper Chief of Police
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## I. Introductory Discussion

The Northampton Police Department recognizes that a crime victim's cooperation, assistance, and safety are essential to the effective detection, investigation, and prosecution of all criminal offenses. However, certain crime victims who are deemed to be without lawful immigration status and are present in this country without proper inspection by federal authorities may often times be hesitant or reluctant to come forward to report their victimization and fail to cooperate and assist in the legal process against their perpetrator for fear of detention and even possible deportation. Undocumented immigrants, especially women and children, can be particularly vulnerable to criminal activity like human trafficking, domestic violence, sexual assault, stalking, and other crimes due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences.

As a result, in 2000, Congress created the U and T Visa Programs within the **Victims of Trafficking and Violence Protection Act (VTVPA)**. The purpose of this program is to encourage immigrant crime victims to come forward and report

criminal activity to law enforcement agencies thereby strengthening the ability of both local and state law enforcement agencies to investigate and prosecute serious crimes. At the same time, this U and T visa program offers much needed protections to these victims of such crimes without the immediate risk of being removed from the country and without having any fear of detention and/or deportation by federal law enforcement officials. In addition, this program has the added advantage of strengthening relationships between the Northampton Police Department and the community that we serve.

## II. Definitions

**Certifying Agency/Entity:** For the purposes of MGL Ch. 258F, a certifying entity or certifying agency includes: state and local law enforcement agencies, prosecutor's offices, and other government offices or officials with the authority to detect, investigate, or prosecute crimes or trafficking in persons. Such offices include, but are not limited to, judges, the Department of Children and Families, the Massachusetts Commission against Discrimination, and the Attorney General's Office.

**Designated Certifying Officials:** A law enforcement official who is authorized to issue a U Visa certification that verifies an immigrant victim's past, present, or future helpfulness in the detection, investigation, or prosecution of certain qualifying crimes. All Lieutenants, as well as the Detective Bureau Sergeant, are designated as certifying officials.

**Qualifying Criminal Activity:** U Visa qualifying criminal activity includes, but is not limited to: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, solicitation to commit any of the above mentioned crimes, or any similar activity in violation of federal, state, or local criminal law. The attempt or conspiracy to commit any of the above crimes also qualifies.

The term *any similar activity* accounts for the wide variety of state and federal criminal laws that may have names different from the criminal activity listed above but are comparable in nature and elements to the aforementioned criminal activity.

**T Visa:** The T visa program under the VTVPA provides immigration benefits to individuals who are victims of severe forms of trafficking in persons and responds to a reasonable request for assistance from law enforcement in the trafficking investigation or prosecution. An Application for T Nonimmigrant Status (Form I-914), if approved, grants the applicant the ability to remain temporarily in the United States, work, have a pathway to lawful permanent residence (i.e., green card), and petition for certain family members.

**T Visa Certification Form (Declaration of Law Enforcement Officer for Victim of Trafficking in Persons):** A sworn statement (USCIS Form I-914, Supplement B) that affirms the immigrant victim's compliance with reasonable requests for assistance from law enforcement.

**U Visa:** A visa issued by the United States Citizenship and Immigration Service (USCIS) conferring legal status for up to four years to an immigrant who meets certain statutory requirements. Under the VTVPA, an immigrant victim of a "qualifying criminal activity," who has suffered substantial physical or mental harm, among other requirements, can file a Petition for U Nonimmigrant Status (Form I-918) with U.S. Citizenship and Immigration Services (USCIS). U nonimmigrant status, commonly referred to as a "U visa," provides eligible victims with authorization to remain temporarily in the United States, the ability to work, a pathway to lawful permanent residence (i.e., green card), and the ability to petition for certain family members.

**U Visa Certification Form:** A sworn statement (USCIS Form I-918 Supplement B) that affirms the immigrant victim's past, present, or future helpfulness in the detection, investigation, or prosecution of certain qualifying criminal activity.

### III. Policy

Pursuant to M.G.L. Chapter 258F Sections 1-4, it shall be the policy of the Northampton Police Department to assist immigrant victims of crime with their U or T Visa applications when requested, and when they are found to be cooperating with the detection, investigation, or prosecution of criminal activity, and to respond to such requests for nonimmigrant status certification forms within ninety (90) days.

### IV. Procedure- U Visa

- A. When an investigator encounters an immigrant victim of crime who has filed a police report, and it is determined that they are willing to assist – or have assisted or cooperated – with the detection, investigation, or prosecution of qualifying criminal activity, they should inform the immigrant victim of the U Visa application process.
- B. The U Visa certification may be issued at any time after detecting a qualifying criminal activity and the investigator has determined that the victim is being or will be helpful in the investigation. The investigation need not be complete prior to issuing the certification. The law was designed to assist victims at very early stages of crime detection and investigation.
- C. The U Visa Certification Form (USCIS Form I-918 Supplement B) needs to be completed and signed by a Lieutenant or the Detective Bureau Sergeant. It should provide specific details about the nature of the crime being detected, investigated, or prosecuted. It should also describe the petitioner's helpfulness in the case. **The officer who signs the certification does not confer any immigration status**

**upon the victim**, but rather enables the victim to meet one of the eligibility requirements in the victim's application to USCIS.

- D. The investigator should work with the victim to complete the U Visa application. The U Visa Certification Form (USCIS Form I-918 Supplement B) which has been completed and signed by a certifying official should be given to the victim. A U Visa Certification is required to complete the application process. The victim will then submit the completed application packet and supporting documents to the Victims and Human Trafficking Unit of USCIS, location in Vermont.
- E. A victim who received a certification and was granted a U Visa has an ongoing obligation to provide assistance. Certifying officials may notify USCIS directly for cases in which victims are no longer helpful. However, such notification is appropriate only when the victim's lack of cooperation is not reasonable.

## V. Procedure- T Visa

- A. When an investigator encounters an immigrant victim of severe forms of human trafficking and the victim has responded to a reasonable request for assistance in the investigation of human trafficking, they may inform the immigrant victim of the T Visa application process.
- B. The T Visa certification may be issued at any time. The investigation need not be complete prior to issuing the certification. The law was designed to assist victims at very early stages of crime detection and investigation.
- C. The T Visa Certification Form (USCIS Form I-914, Supplement B) needs to be completed and signed by a Lieutenant or the Detective Bureau Sergeant. It should provide specific details about the nature of the crime being detected, investigated, or prosecuted. It should also describe the petitioner's helpfulness in the case. **The officer who signs the certification does not confer any immigration status upon the victim**, but rather enables the victim to meet one of the eligibility requirements in the victim's application to USCIS.
- D. The investigator should work with the victim to complete the T Visa application. The T Visa Certification Form (USCIS Form I-914 Supplement B) which has been completed and signed by a certifying official should be given to the victim. A T Visa Certification is not required to complete the application process, but will be one factor that is considered. The victim will then submit the completed application packet and supporting documents to the Victims and Human Trafficking Unit of USCIS, location in Vermont.
- E. A victim who received a certification and was granted a T Visa has an ongoing obligation to provide assistance. Certifying officials may notify USCIS directly for cases in which victims are no longer helpful. However, such notification is appropriate only when the victim's lack of cooperation is not reasonable.

## VI. Response Timeline

All certifying agencies must respond to a request for U and/or T Visa certification within 90 days, absent extenuating circumstances beyond the control of the agency. There are three acceptable responses to requests for certification under the law:

1. **Signed completion** of the requested certification form;
2. **A written denial**, without prejudice, informing the victim of the reasons the request does not meet the requirements of the agency's certification policy; or
3. **A written notification** of extenuating circumstances beyond the control of the certifying agency, including a written explanation of the delay, the process the certifying agency will take to make its response, and a projected timeline to receive that response.

Note: Per M.G.L. Chapter 258F Sections 1-4, a certifying entity shall respond to a *nonimmigrant status certification request* from a victim of criminal activity who intends to petition for a nonimmigrant visa under 8 U.S.C. 1101(a)(15)(U) or from a victim of severe forms of trafficking in persons who intends to petition for a nonimmigrant visa under 8 U.S.C. 1101(a)(15)(T) not later than ninety (90) days after receiving the request for certification. Also see M.G.L. Chapter 258F Section 3.

## VII. Reporting

A. Any member of NPD who receives a certification request for a U Visa or a T Visa, shall submit a copy of the document to the Chief of Police as soon as it is completed.

B. Per M.G.L. Chapter 258F Section 3, annually, **not later than February 1**, the Chief of Police or their designee, shall report to the Executive Office of Public Safety and Security:

1. The number of individuals that requested nonimmigrant status certification;
2. The number of certification forms that were completed and signed; and
3. The number of such requests that were denied.

Note: The information reported under this subsection shall not include any personal identifying information of an individual requesting nonimmigrant status certification. See M.G.L. Chapter 258F Section 4(a).