

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 12

September 29, 2022

SUBJECT: LAW ENFORCEMENT AGENCY ENDORSEMENT FOR IMMIGRANT VICTIMS OF HUMAN TRAFFICKING (T-VISA) – RENAMED AND REVISED; AND, LAW ENFORCEMENT CERTIFICATION FOR IMMIGRANT VICTIMS OF SERIOUS CRIMES AGAINST PERSONS (U-VISA) – REVISED

PURPOSE: The purpose of this Order is to rename and revise Department Manual Section 4/264.70, *Law Enforcement Agency Endorsement for Immigrant Victims of Human Trafficking (T-visa)*, to *Law Enforcement Agency Declaration for Immigrant Victims of Human Trafficking (T-visa)*, and to revise Department Manual Section 4/264.72, *Law Enforcement Agency Certification for Immigrant Victims of Serious Crimes Against Persons (U-visa)*. These revisions reflect the current title of the T-visa paperwork and create uniformity between the T-visa declaration and U-visa certification procedure.

PROCEDURES:

- I. LAW ENFORCEMENT AGENCY ENDORSEMENT FOR IMMIGRANT VICTIMS OF HUMAN TRAFFICKING (T-VISA) – RENAMED AND REVISED.** Department Manual Section 4/264.70, *Law Enforcement Agency Endorsement for Immigrant Victims of Human Trafficking (T-visa)*, has been renamed as *Law Enforcement Agency Declaration for Immigrant Victims of Human Trafficking (T-visa)*. Attached is the renamed manual section with revisions indicated in italics.
- II. LAW ENFORCEMENT CERTIFICATION FOR IMMIGRANT VICTIMS OF SERIOUS CRIMES AGAINST PERSONS (U-VISA) – REVISED.** Department Manual Section 4/264.72, *Law Enforcement Agency Certification for Immigrant Victims of Serious Crimes Against Persons (U-visa)*, has been revised. Attached is the revised manual section with revisions indicated in italics.

AMENDMENT: This Order amends Sections 4/264.70 and 4/264.72 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.


MICHEL R. MOORE
Chief of Police

Attachments

DISTRIBUTION “D”

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264.70 LAW ENFORCEMENT AGENCY *DECLARATION* FOR IMMIGRANT VICTIMS OF HUMAN TRAFFICKING (T-VISA). The Department is responsible for completing a Law Enforcement Agency (LEA) *declaration upon request of the immigrant victim*, providing the immigrant victim meets the qualifications as delineated in this section.

T-visa Defined. The T Nonimmigrant status visa (also known as the T-visa) provides immigration protection to victims of severe forms of human trafficking who assist law enforcement in the investigation or prosecution of human trafficking cases. A LEA *declaration* is evidence of a victim's cooperation and it may be submitted in support of a T-visa application.

T-visa Qualifications. Immigrant victims of human trafficking and the immigrant victim's family members may be eligible to apply for a T-visa. A LEA *declaration shall* be provided to the victim of human trafficking upon request, if the victim meets the qualifications. This will be based upon the investigating officer's (I/O) knowledge of the case, and any additional evidence developed. The I/O *shall* determine if the applicant is present in the United States as a result of being a victim of a severe form of trafficking in persons and determine if the applicant has complied with reasonable requests throughout the investigation.

Note: The *declaration shall* be completed on the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS), Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons.

The assigned investigating Area/Division is responsible for completing the *declaration*. California Penal Code Section 236.5(a) mandates the *declaration* for a victim seeking a T-visa be completed within 15 business days of the first encounter with the victim. *The first encounter will be the day the assigned investigating division receives the declaration request.*

Investigating Officer's Responsibilities. The I/O shall verify the following when issuing a T-visa *declaration*:

- *Upon receipt of a declaration request, verify the Department conducted the investigation;*

Note: *Declaration requests can be submitted by United States Postal Service (USPS), private courier, in person delivery, or email.*

- Attempt to verify the victim's identity, either by government-issued identification (e.g., state-issued identification, foreign passport or identification, consulate identification) or by personal knowledge of the victim (e.g., prior in-person interview, courtroom testimony, photographic evidence);
- Enter the *declaration* request into the U/T-visa database;
- If the victim qualifies for a *declaration*, complete the Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons;

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- If the victim does not qualify for a *declaration*, adhere to LEA *Declaration Denial* Procedures as delineated in this policy;
- Ensure the *declaration* is signed in a color of ink other than black for verification purposes by a designated certifying official;

Note: A certifying official is a sworn officer of supervisory rank whose signature is on the Certifying Official Information Form authorized by the Chief of Police and on file with USCIS. All original Certifying Official Information Forms shall be completed and returned to Detective Bureau for processing. Areas or specialized divisions that experience a change in certifying officials due to retirement, permanent deployment changes, etc., shall notify the Department U-Visa Coordinator, Detective Bureau, of such changes and provide a replacement. A new Certifying Official Information Form will need to be completed when there is a personnel change.

- Scan a copy of the *declaration* to upload into the U/T-visa database;
- Provide the original *declaration* to the victim or their legal representative by *USPS* or in-person pick up within the 15 *business* days time limit;
- Ensure all information related to the LEA *declaration* is updated in the Detective Case Tracking System (DCTS); and,
- Update the U/T-visa database with the dates the *declaration* was signed and mailed/picked up, and include in the notes who the *declaration* was mailed to or who took receipt of the declaration.

Law Enforcement Agency Declaration Denial Procedures. If the victim does not qualify for a *declaration*, the I/O shall:

- Document the finding and reason for denial in the U/T-visa database;
- Complete a denial letter on Department letterhead signed by the Area Detective/ Specialized Division Commanding Officer (CO);
- Provide the denial letter to the victim or their legal representative within the 15 business days time limit; and,
- Update DCTS with the denial information.

Law Enforcement Agency Declaration Appeal Procedure. *In the event the declaration is denied and the victim or their legal representative would like to appeal the denial, the case shall be reviewed by the Department U-Visa Coordinator. The victim may submit additional evidence to the law enforcement agency, which the Department U-Visa Coordinator will review and respond to within one week of the receipt of additional evidence (236.5 (c) PC). The Department U-Visa Coordinator has been designated as the final level of appeal and shall make the final decision regarding the issuance or denial of the T-visa declaration.*

Note: All updated information shall be maintained in the U/T-visa database.

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Detective Bureau Commanding Officer's Responsibilities. The Detective Bureau CO will designate a Department U-Visa Coordinator to track the number and outcome of all U/T-visa requests Department-wide, *review all appeal requests, and coordinate meetings for Area/Specialized Division U-Visa Coordinators, as needed.*

264.72 LAW ENFORCEMENT CERTIFICATION FOR IMMIGRANT VICTIMS OF SERIOUS CRIMES AGAINST PERSONS (U-VISA). The Department is responsible for completing a Law Enforcement Agency (LEA) certification **upon request of the immigrant victim**, providing the immigrant victim meets the qualifications as delineated in this section.

U-visa defined. The U Nonimmigrant status visa (also known as the U-visa) provides immigration protection for victims of qualifying crimes who have been helpful, are being helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the criminal activity. The U-visa provides temporary legal status to immigrant victims. An arrest, prosecution, or conviction is not required for law enforcement to sign the certification. A LEA certification is one piece of a larger application that a victim must submit for U-visa consideration to the United States Citizenship and Immigration Services (USCIS).

The Victims of Trafficking and Violence Protection Act requires that the immigrant victim has suffered substantial physical or mental abuse for *U-visa consideration*; however, the USCIS will make the determination as to whether the victim has met the “substantial physical or mental” standard on a case-by-case basis during its adjudication of the U-visa petition.

California Penal Code Section 679.10 mandates certification requests be completed within 30 *calendar* days of receiving the request, or 7 *calendar* days if the victim is in immigration removal proceedings. The law also assumes that the victim was helpful, is being helpful, or is likely to be helpful. *If* the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement, *the victim will qualify for a U-visa.*

Qualifications that the victim must meet are as follows:

- Must be a victim of qualifying criminal activity (refer to list of crimes on Department of Homeland Security, USCIS, Form I-918 Supplement B, U Nonimmigrant Status Certification, Part 3. Criminal Acts);
- Must possess information relevant to the crime;
- The victim was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the crime; and,
- The crime(s) must have violated United States law, have occurred within the City of Los Angeles, and have been investigated by the Department.

Indirect victims. Certain immediate family members can qualify to request a U-visa certification as an indirect victim of crime if all of the following conditions are met:

- The individual must have a qualifying family relationship to the direct victim:

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- If the direct victim is age 21 or older at the time of the crime, their spouse, and unmarried children under age 21 may qualify; or,
- If the direct victim is under age 21 at the time of the crime, their spouse, unmarried children under age 21, parents, and unmarried siblings under age 18 may qualify.
- The direct victim is unable to assist law enforcement because they are:
 - Deceased due to murder or manslaughter; or,
 - Incompetent or incapacitated, including due to injury, trauma, or age.
- The indirect victim must meet all other eligibility requirements for U-visa certification.

Note: A certification may be signed for an indirect victim regardless of whether the direct victim is a United States citizen or non-citizen.

Derivative family members. Certain immediate family members of U-visa recipients may also be eligible to live and work in the United States as a derivative U-visa recipient based on their relationship with the principal recipient. These derivative applications do not require law enforcement certification.

These family members include:

- Unmarried children under the age of 21 of U-visa recipients;
- Spouses of U-visa recipients;
- Parents of U-visa recipients under age 21; and,
- Unmarried siblings (under the age of 18) of U-visa recipients under age 21.

Note: Step-parent, stepchildren, adoptive parent, and adoptive children may also qualify as derivative family members.

Area/Specialized Division U-Visa Coordinator's Responsibilities. The Area Detective/Specialized Division CO shall designate a primary and secondary U-Visa Coordinator. The U-Visa Coordinator can be sworn or civilian. Their responsibilities include:

- Coordinating the processing of the certification requests, which can be submitted by United States Postal Service (USPS), private courier, in person delivery, or email;
- Upon receipt of a certification request, verifying the Department conducted the investigation.

Note: The assigned investigating Area/Division is responsible for completing the certification. The 30 *calendar* days or 7 *calendar* days time limit does not start until the investigating Area/division receives the certification request.

- Attempting to verify the victim's identity, either by government-issued identification (e.g., state-issued identification, foreign passport or identification, consulate

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identification) or by personal knowledge of the victim (e.g., prior in-person interview, courtroom testimony, photographic evidence);

- Entering the certification request into the U/T-visa database;
- Obtaining a copy of the crime or arrest report;

Note: The victim does not need to provide a copy of the crime or arrest report. The report can be obtained through Department resources. The victim is not entitled to a copy of the report unless they qualify for a copy of the report without cost due to the crime (domestic violence, sexual assault, stalking, human trafficking, and elder abuse per California Family Code Section 6228).

- Reviewing the crime or arrest report, investigative notes, and, if applicable, the court minutes (to ensure the victim was cooperative throughout the court process) to determine if the victim meets the qualification criteria;
- If the victim qualifies for a certification, completing the Form I-918, Supplement B, U Nonimmigrant Status Certification;
- If the victim does not qualify for a certification, adhering to LEA Certification Denial Procedures as delineated in this policy;
- Ensuring the certification is signed in a color of ink other than black for verification purposes by a designated certifying official;

Note: A certifying official is a sworn officer of supervisory rank whose signature is on the Certifying Official Information Form authorized by the Chief of Police and on file with USCIS. All original Certifying Official Information Forms shall be completed and returned to Detective Bureau for processing. Areas or specialized divisions that experience a change in certifying officials due to retirement, permanent deployment changes, etc., *shall* notify the Department U-Visa Coordinator, Detective Bureau, of such changes and provide a replacement. A new Certifying Official Information Form shall be completed when there is a personnel change.

- Scanning a copy of the certification to upload into the U/T-visa database;
- Providing the original certification to the victim or their legal representative by USPS or in person pick up within 30 *calendar* days;
- Ensuring all information related to the certification is updated in the Detective Case Tracking System (DCTS); and,
- Updating the U/T-visa database with the dates the certification was signed and mailed/picked up and include in the notes who the certification was mailed to or picked up by.

Exceptional Handling:

- Cases where there is no investigative follow up by Area/Specialized Division Detectives (i.e., direct file cases), the victim's level of cooperation should be assessed based on their cooperation during the preliminary investigation;

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- U-visa certification requests can be prioritized based on time sensitive issues, needing to meet a deadline for USCIS; and,
- A witness to a crime can obtain a certification if all the qualification factors are met.

Law Enforcement Agency Certification Denial Procedures. If the victim does not qualify for a certification, the U-Visa Coordinator shall:

- Document the finding and reason for denial in the U/T-visa database;
- Complete a denial letter on Department letterhead signed by the Area Detective/Division CO or the Specialized Division CO;
- Provide the denial letter to the victim or their legal representative; and,
- Update DCTS with the denial information.

Law Enforcement Agency Certification Appeal Procedure. In the event the certification is denied and the victim or their legal representative would like to appeal the denial, the case shall be reviewed by the Department U-Visa Coordinator. The Department U-Visa Coordinator will be the final level of appeal and shall make the final decision regarding the issuance or denial of the U-visa certification.

Disavowing/Withdrawing of LEA Certification. A certifying agency may disavow or withdraw their certification if the victim stops being helpful. To do so, the U-Visa Coordinator shall notify the USCIS in writing on a Department letterhead, which should include:

- The name and date of birth of the individual;
- The name of the individual who originally signed the certification and date it was signed;
- The reason why the certification is being disavowed/withdrawn describing how the victim had refused to cooperate with reasonable requests made by the Department;
- The reason why the victim stopped being helpful *if known*;
- The signature and title of the individual who is disavowing/withdrawing the certification; and,
- A copy of the previously signed certification, if there is one on file.

Area Detective/Specialized Division Commanding Officer's Responsibilities. The Area Detective/Specialized Division CO shall designate a primary and secondary U-Visa Coordinator and ensure compliance with this section.

Detective Bureau Commanding Officer's Responsibilities. The Detective Bureau Commanding Officer *shall* designate a Department U-Visa Coordinator to track the number and outcome of all U-visa requests Department-wide, review all appeal requests, and coordinate meetings for Area/Specialized Division U-Visa Coordinators, as needed.