



**GENERAL ORDER
EAST ORANGE POLICE DEPARTMENT**

U AND T IMMIGRATION VISA APPLICATIONS

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I. PURPOSE:

It is the purpose of this policy to provide standardized procedures for processing U and T visa applications and certifications by the East Orange Police Department.

II. POLICY:

It is the policy of this department that all applications and requests for U and T visas shall be processed in accordance with federal law (8 U.S.C. 1101(a)(15)(T) and 1101(a)(15)(U)) and New Jersey Attorney General Directive 2018-6.

It is also the policy of The East Orange Police Department to deal with the immigrant community in compliance with *New Jersey Attorney General Directive 2018-6*. The East Orange Police Department's responsibilities **are limited** **to** certifying that an alien, who is or was the victim of a qualifying crime in the City of East Orange, is, or has, or will cooperate with the investigation and/or prosecution of such crime. The following delineates the policy of the East Orange Police Department with respect to U & T Visa Applications:

III. DEFINITIONS:

1. U nonimmigrant status (U visa): is set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity.

2. T nonimmigrant status (T visa): a temporary immigration benefit that enables certain victims of a severe form of human trafficking to remain in the United States for up to 4 years if they have assisted law enforcement in an investigation or prosecution of human trafficking. T nonimmigrant status is also available for certain qualifying family members of trafficking victims.

3. USCIS: U.S. Citizenship and Immigration Services

4. VTPA: The Victims of Trafficking and Violence Prevention Act of 2000

VI. U and T VISAS

Congress created both "U" and "T" visas within the Victims of Trafficking and Violence Prevention Act (VTPA) of 2000 to encourage victims (without legal status) of certain serious crimes who may otherwise be reluctant to help in the

investigation or prosecution of criminal activity, to cooperate with law enforcement officials who are prosecuting criminal offenders. It was also created to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and trafficking in persons, while offering protections to victims (without legal status) of such crimes without the immediate risk of being removed from the country. Only certain types of crimes will qualify the victim for a U or T visa; **but both U and T visas include the qualifying crime of human trafficking (see below).**

The U and T visa can be a key tool to support a criminal case, can help certain crime victims feel safer reporting crimes, and make them willing to work with police even if they do not have lawful immigration status.

V. ELIGIBILITY

A. U Visa

The U visa is an immigration benefit for victims of certain crimes (and their immediate family members) who have suffered mental or physical abuse and meet certain eligibility requirements.

Congress created the U nonimmigrant status program out of recognition that victims without legal status may otherwise be reluctant to help in the investigation or prosecution of criminal activity. 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. Accordingly, under this law, Congress sought not only to prosecute perpetrators of crimes committed against immigrants, but to also strengthen relations between law enforcement and immigrant communities.

In order to be eligible for a U visa, the victim must submit a U visa certification completed by a certifying agency or official to USCIS. The law enforcement certification explains the role the victim had, has, or will have in being helpful to the investigation or prosecution of the case.

USCIS Form I-918, Supplement B (Form I-918B or certification (<https://www.uscis.gov>) is the U visa certification that a federal, state, local, tribal, and territorial law enforcement agency, prosecutor, judge, or other government official can complete for a victim who is petitioning USCIS (U.S. Citizenship and Immigration Services) for a U visa.

Non-citizens may be eligible for a U Visa if:

1. They are the victims of qualifying criminal activity;
2. They have suffered substantial physical or mental abuse as a result of having been a victim of criminal activity;
3. They have information about the criminal activity;
4. They were helpful, are helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the crime;
5. The crime occurred in the United States or violated U.S. Laws.

6. They are admissible to the United States based on a review of his/her criminal history, immigration violations, and other factors.
7. If not admissible, an individual may apply for a waiver on a *Form I-192, Application for Advance Permission to Enter as a Non-Immigrant*.

Qualifying crimes for U Visa:

1. Abduction
2. Abusive Sexual Contact
3. Blackmail
4. Domestic Violence
5. Extortion
6. False Imprisonment
7. Felonious Assault
8. Female Genital Mutilation
9. Fraud in Foreign Labor Contracting
10. Hostage
11. Incest
12. Involuntary Servitude
13. Kidnapping
14. Manslaughter
15. Murder
16. Obstruction of Justice
17. Peonage
18. Perjury
19. Prostitution
20. Rape
21. Sexual Assault
22. Sexual Exploitation
23. Slave Trade
24. Stalking
25. Torture
26. Trafficking
27. Witness Tampering
28. Unlawful Criminal Restraint
29. Related Criminal Activities

The U-visa allows eligible victims to temporarily remain and work in the United States, generally for four years.

While in U nonimmigrant status, the victim has an ongoing duty to cooperate with law enforcement and cannot unreasonably refuse to assist with the investigation or prosecution of the criminal activity.

If certain conditions are met, an individual with a U-visa may apply for adjustment to lawful permanent resident status (i.e., seek a green card in the United States) after three years.

Additionally, certain family members of a U-visa recipient may also be eligible to live and work in the United States as “derivative” U-visa recipients based on their

relationship with the principal recipient (Form I-918 Supplement A Petition for Qualifying Family Member of U-I Recipient). These include:

- a. Unmarried children under the age of 21;
- b. Spouse;
- c. Parents of U-visa petitioners under age 21; and
- d. Unmarried siblings under 18 years old of U-visa petitioners under age 21.

NOTE: By law, there is a 10,000 annual cap on U visas for principal applicants. However, USCIS continues to adjudicate applications even after the annual cap has been reached. Cases that qualify for approval after the cap has been reached receive "conditional approval" and work authorization based on "deferred action" until U visas become available.

B. T VISA

The T visa is an immigration benefit for victims of human trafficking who meet certain eligibility.

Human trafficking, also known as trafficking in persons, is a form of modern-day slavery; in which traffickers lure individuals with false promises of employment and a better life. Immigrants can be particularly vulnerable to human trafficking 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.

In order to be eligible for a T-visa, the victim must submit a T-visa certification completed by a certifying agency or official on Form I-914 and I-914 Supplement B (<https://www.uscis.gov>).

Non-citizens may be eligible for a T Visa if the petitioner:

1. Is or has been a victim of a severe form of trafficking in persons (which may include sex or labor trafficking); and
2. Is in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or at a port of entry due to trafficking;
3. Has complied with requests for assistance in an investigation or prosecution of the crime of trafficking; (unless under the age of 18 or are unable to cooperate due to physical or psychological trauma. In either case one may not need to show that one complied with reasonable request from law enforcement) and
4. Would suffer extreme hardship involving unusual and severe harm if removed from the United States.

In addition, the victim must be admissible (based on a review of criminal history, immigration violations, and other factors) to the United States. If inadmissible, the individual may apply for a waiver of inadmissibility for which he or she may be eligible (Form I-192, Application for Advance Permission to Enter as a Nonimmigrant).

The T visa allows eligible victims to temporarily remain and work in the U.S., generally for four years.

While in T nonimmigrant 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 T nonimmigrant status may apply for adjustment to lawful permanent resident status (i.e., apply for a green card in the United States) after three years in the United States 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 United States as "derivative" T visa holders (Form I-914, supplement A, Application for Immediate Family Member of T-1 Recipient). These are:

- a. Unmarried children under the age of 21;
- b. Spouse;
- c. Parents of principal T visa recipients under age 21 at the time of application;
- d. Unmarried siblings under 18 years old of principal T visa applicants under age 21; and
- e. Adult or minor children of certain immediate family members of the T visa recipient

Under federal law, a "severe form of trafficking" is:

- **Sex trafficking:** When someone recruits, harbors, transports, provides, solicits, patronizes, or obtains a person for the purpose of a commercial sex act, where the commercial sex act is induced by force, fraud, or coercion, or the person being induced to perform such act is under 18 years of age; or
- **Labor trafficking:** When someone recruits, harbors, transports, provides, or obtains a person for labor or services through the use of force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery.

NOTE: Congress capped the number of available T visas for principal applicants at 5,000 per fiscal year. However, to date, the annual cap has never been reached and visas remain available to applicants who qualify.

VI PROCEDURES:

All applications or requests for U and T visas shall be immediately forwarded directly to the Chief of Police. Only the Chief of Police, or designee in a supervisory role, may complete U and T visa applications for the East Orange Police Department.

Aliens or their representatives seeking certification for crimes occurring outside the jurisdiction of the East Orange Police Department shall be referred to the local jurisdiction or the county prosecutor's office in which the crime occurred.

Requests for U and T visa certifications from victims of crime or human trafficking, or their families, shall be processed within 120 days of the request being made.

Subject to New Jersey Attorney General Directive 2018-6, employees may ask any questions necessary to complete a U or T visa certifications. They may generally not disclose the immigration status of a person requesting U or T visa certifications except to comply with state or federal law or legal process, or if authorized by the visa applicant. However, nothing in this order shall be construed to restrict, prohibit, or in any way prevent a state, county, or local law enforcement agency or official from sending to, maintaining, or receiving from federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of any individual. See 8 U.S.C. 1373, 1644

The Chief of Police or his/her designee may withdraw or disavow a Form I-918B or Form I-914B at any time if a victim stops cooperating. If this occurs the victim's petition will be denied, and all derivative family member applications with the original application or petition will also be denied.

The Chief of Police or designee shall review each request for a U or T visa consistent with federal law and the Department of Homeland Security U and T Visa Law Enforcement Resource Guide. Review shall include a determination of the following:

A. Certifying U Visas

1. For U-visa certification requests, this agency shall determine whether, pursuant to the standards set forth in federal law, the applicant:

- a. Is a victim of a qualifying criminal activity
- b. The victim has information about the criminal activity, and
- c. The victim was, is, or is likely to be, helpful in the investigation or prosecution of that activity

2. In order to be eligible for a U-visa, the victim must submit a U-visa certification completed by a certifying agency or official on Form I-918B. (<https://www.uscis.gov>), including a personal statement describing the criminal activity of which they were a victim of, and that he/she has information about said crime. The crime must have occurred in the United States or violated U.S. law. If the victim is 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 their behalf. Form I-918B and its instructions are available on the USCIS website at www.uscis.gov with Form I-198 for the U visa.

3. The law enforcement certification must explain the role the victim had, has, or will have in being helpful to the investigation or prosecution of the case.
4. The certification must be signed by the certifying official with an original signature within the six months (6 months minus one day) immediately preceding the U-visa petitioner's submission.
5. USCIS must receive the U-visa petition, which includes the Form I-918B, within six (6) months (6 months minus 1 day) of the date the Form I-918B was signed.
6. Law enforcement may also report information about any known or observed harm sustained by the victim. While Form I-918B asks the law enforcement official to provide information about the injury to the victim, the certifying official is not required to assess whether the victim suffered substantial physical or mental abuse as a result of the criminal activity. This is a requirement that the U visa petitioner must establish to the satisfaction of USCIS.
7. USCIS has the sole authority to grant or deny a U-visa.
8. No federal agency has the authority to require or demand that the East Orange Police sign the certification. The decision whether to sign a certification is at this agency's discretion. The East Orange Police Department will exercise its discretion on a case-by-case basis consistent with applicable U.S. laws and regulations, as well as any internal policies of this agency.
9. As requested on the Form I-918B, the certifying official should document the helpfulness of the victim and whether that victim refused to be helpful at any time throughout the investigation or prosecution.
10. The certification form must contain an original signature and should be signed in a color of ink other than black for verification purposes. Photocopies, faxes, or scans of the certification form cannot be accepted by USCIS as an official certification.
11. The victim must be admissible to the United States. However, if any inadmissibility issues are present, the victim must file a Form I-192, Application for advanced permission to enter as nonimmigrant.
12. Without a completed and signed U visa certification, the victim will not qualify for a U visa, as it is a required part of the application, and there is no exception to this requirement. However, by signing a U visa certification, the certifying agency, official, or judge is not sponsoring or endorsing the victim for a U visa, and the completed certification does not guarantee that USCIS will approve the U visa petition. USCIS considers the U visa certification as only one part of the evidence in support of the U visa petition. USCIS determines the victim's credibility and whether to approve the petition based on the totality of the evidence and circumstances of each case.

B. Certifying T Visas

1. For T-visa certification requests, this agency shall determine whether, pursuant to the standards set forth in federal law, the applicant:
 - a. Is or has been a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), as defined by federal law;
 - b. Is in the United States due to human trafficking
 - c. Has complied with requests for assistance in an investigation or prosecution of the crime of trafficking.
 - d. Would suffer extreme hardship involving unusual and severe harm if removed from the United States.
2. In order to be eligible for a T-visa, the victim must submit a T-visa certification completed by a certifying agency or official on Form I-914B (<https://www.uscis.gov>), including a personal statement explaining in their own words how they were a victim of trafficking. However, as stated above, if the victim is under the age of 18 or is unable to cooperate due to physical or psychological trauma, he/she may not have to show that they complied with reasonable request from law enforcement.
3. The declaration/certification must include information detailing that the applicant is a victim of human trafficking, and how the individual has been, is being, or is likely to be helpful in a criminal investigation or prosecution (complied with all reasonable request to assist law enforcement).
4. Requests for T visa certifications from victims of crime or human trafficking, or their families, shall be processed within 120 days of the request being made.

T Visa Declaration:

1. The T visa declaration is supplementary evidence of a victim's assistance to law enforcement that a federal, state, local, tribal, and territorial law enforcement agency, prosecutor, judge, or other government official can complete for a T visa applicant. The declaration must be provided on Form I-914, Supplement B, and instructions are available on the USCIS website at www.uscis.gov. The T visa declaration is not a required document for a T visa application, but USCIS gives significant weight to the deceleration when reviewing the victim's application.

2. Form I-914B is not a required piece of evidence, but when provided, it is helpful evidence to demonstrate that:

- The victim is or was a victim of a severe form of trafficking in persons; and
- The victim has complied with any reasonable requests from law enforcement in an investigation or prosecution of human trafficking.¹³

3. The T visa declaration is not conclusive evidence that the applicant meets these eligibility requirements, as only USCIS can make this determination. In addition, **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 one part of the evidence in the T visa application.

4. Signing a declaration is at the certifying agency's discretion which should be exercised on a case-by-case basis consistent with U.S. laws and regulations, as well as internal policies..

5. The victim may also choose to submit other evidence instead of or in addition to Form I-914, Supplement B, such as trial transcripts, court documents, police reports, news articles, affidavits, or other relevant credible evidence. The victim must also produce evidence that he/she has met all other eligibility requirements..

NOTE: all aforementioned applications/declarations must be submitted on the proper form (U Visa-- I-918 U Visa Supplements A and B; T Visa--I-914, T Visa-I-914 Supplements A and B), signed by the certifying agency (East Orange Police Department) and given to the applicant and or representative to be mailed to USCIS (United States Citizenship and Immigration Services) at the address shown below:

Send your completed Form I-918 and or form I-914 to:

**Vermont Service Center
75 Lower Welden Street
St. Albans, VT 05479**

Dominick Saldida

**Dominick Saldida
Public Safety Director
East Orange, N.J.**