



ELGIN POLICE DEPARTMENT

151 Douglas Avenue Elgin, Illinois 60120



Effective Date:
07/07/14

STANDARD OPERATING PROCEDURE

Revised Date:
02/06/26

Chief of Police:

Immigrant Crime Victim Certifications
& Department of Homeland Security Requests, 41.8

Cross Reference:

- [5 ILCS 805/15](#)
- [5 ILCS 805/10](#)
- [5 ILCS 825/1](#)
- [5 ILCS 825/11](#)
- [5 ILCS 825/20](#)
- [Illinois Attorney General's Office Website](#)

Policy Sections:

- 41.8.1 Voices of Immigrant Communities Empowering Survivors Act
- 41.8.2 The Illinois Trust Act
- 41.8.3 Annual Report to the Attorney General
- 41.8.4 Training

PURPOSE

The purpose of this policy is to establish the responsibilities associated with the Immigrant Crime Victim Certification Forms and requests from the Department of Homeland Security.

POLICY STATEMENT

It is the policy of the department to comply with the Voices of Immigrant Communities Empowering Survivors Act (5 ILCS 825/1) when receiving requests pertaining to Immigrant Crime Victim Certification Request Forms. The department's decision to provide certification is entirely discretionary and recognizes that eligible parties, hereinafter referred to as crime victims or witnesses, may be reluctant to assist the department. To encourage cooperation, the department will voluntarily review and certify a petitioner's request for a U-Visa or T-Visa certification in compliance with the procedures established in Illinois statute 5 ILCS 825/1.

The department also adheres to the provisions established in the Illinois Trust Act (5 ILCS 805/15), which prohibits state and local law enforcement agencies from enforcing federal civil immigration laws.

DEFINITIONS

Certifying Agency: A federal, state, or local law enforcement agency, prosecutor, or authority, federal or state judge that has responsibility for the investigation or prosecution, conviction or sentencing of the qualified criminal activity of which the petitioner was a crime victim or witness.

Certifying Official: The head of the certifying agency or any person in a supervisory role, who has been specifically designated by the head of the certifying agency or a federal, state, or local judge. The Community Engagement Lieutenant has been designated to serve in this capacity.

Civil Immigration Warrant: Pursuant to Illinois statute 5 ILCS 805/10, means any document that is not approved or ordered by a judge that can form the basis for an individual's arrest or detention for a civil immigration enforcement purpose. This includes Form I-200 "Warrant for the Arrest of Alien," Form I-203 "Order to Detain or Release Alien," Form I-205 "Warrant of Removal/Deportation," Form I-286 "Notice of Custody Determination," any predecessor successor form, and all warrants, hits, or requests contained in the "Immigration Violator File" of the FBI's National Crime Information Center (NCIC) database. Civil Immigration Warrant does not include any criminal warrant.

Department of Homeland Security: Federal agency responsible for counterterrorism, border security, immigration, cyber security and disaster management.

Helpful: The U.S. Citizenship and Immigration Services (USCIS) defines "helpful" as describing one who assists law enforcement authorities in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim/witness.

Victims/witnesses who, after initiating cooperation, refuse to provide continuing assistance when needed will not meet the helpfulness requirement. The certifying official will make the determination as to the helpfulness of the petitioner regardless of the court outcome.

Immigration Agent: Pursuant to Illinois statute 5 ILCS 805/10, means an agent of federal Immigration and Customs Enforcement, Federal Customs and Border Protection, or any similar or successor agency.

Immigration Detainer: Pursuant to Illinois statute 5 ILCS 805/10, means a request to a state or local law enforcement agency to provide notice of release or maintain custody of an individual based on alleged violation of civil immigration law, including detainers issued under Sections 1226 or 1357 of Title 8 of the United States Code or 287.7 or 236.1 of Title 8 of the Code of Federal Regulations.

Law Enforcement Agencies Data System (LEADS): A statewide, computerized telecommunications system designed to provide services, information and capabilities to the law enforcement and criminal justice community in the State of Illinois.

Petitioner: An individual that has requested the department's assistance in certifying a U-Visa or T-Visa certification on their behalf. The individual asserts that they are a crime victim or witness of qualifying criminal activity and that they are, have been or are likely to be helpful in the investigation or prosecution of the offender.

Qualifying Criminal Activity: Pursuant to 5 ILCS 825/1 crimes identified by the U.S. Citizenship and Immigration Services that were inflicted upon the crime victim. [View the list of qualifying criminal activity that pertain to certifications](#)

Severe Form of Trafficking in Persons: As defined in 8 C.F.R. § 214.11(a), means 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 is under the age of 18 years; or 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.

1. Sex Trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.
2. Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

T-Visa Certification: A federal immigration benefit for victims of a severe form of human trafficking in persons who meet certain eligibility requirements. It allows eligible victims to legally remain and work in the United States for four years if they have complied with any reasonable request from law enforcement. [View the list of T-Visa eligibility requirements](#)

U-Visa Certification: A federal immigration benefit for victims of certain crimes who meet eligibility requirements. It allows eligible victims to legally remain and work in the United States for four years if they have complied with any reasonable request from law enforcement [View the list of U-Visa eligibility requirements](#)

PROCEDURES

41.8.1 VOICES OF IMMIGRANT COMMUNITIES EMPOWERING SURVIVORS ACT (5 ILCS 825/1)

- A. The Voices of Immigrant Communities Empowering Survivors Act aims to build trust between immigrant communities and law enforcement by empowering immigrant survivors of violent crime and human trafficking, reducing fears of deportation that deter crime reporting. To facilitate this goal, the Act establishes procedures for U-Visa and T-Visa certifications, outlined below.

B. U-Visa and T-Visa Certifications

1. These certifications may be initiated by victims of qualifying criminal activity, attorneys representing them, or accredited representative or reputable domestic violence or sexual assault service provider.
 - a. U-Visa Certifications are used by petitioners seeking to demonstrate they are victims of a qualifying criminal activity. Their requests shall be submitted to the department through use of the USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification. [View Form I-918, Supplement B, U-Visa Nonimmigrant Status Certification](#)
 - b. T-Visa Certifications are used by petitioners seeking to demonstrate they are victims of a severe form of trafficking in persons. Petitioners may request the department to complete the USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons on their behalf. Upon receipt of these requests, the certifying official shall complete this form with the assistance of the Major Investigations Division. [View Form I914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons](#)
2. To apply for U-Visa or T-Visa certification with the department, the petitioner must be an eligible party, a crime victim or witness of a qualifying criminal activity that occurred in the City of Elgin or is under the jurisdiction of the Kane County Child Advocacy Center. The petitioner must have information concerning the criminal activity and must have been helpful, is being helpful or is likely to be helpful to authorities. Refer to the definitions section for a complete description of “helpful.”

C. Review Process

1. Requests for certifications shall be forwarded to the Community Engagement lieutenant, who is the department’s designated certifying official. The Community Engagement lieutenant shall take the necessary steps to verify the following:
 - a. **Identity of the Victim:** Determine whether the victim named in the certification request is the victim of a crime being investigated by the department.
 - b. **Qualifying Crime:** Determine whether the petitioner was a victim of a severe form of trafficking in persons under federal law, if applicable, or whether the reported crime is a qualifying criminal activity as required under 5 ILCS 825-1.
 - c. **Cooperation of the Victim:** Determine whether the victim has complied with reasonable requests for assistance in the investigation or prosecution of a crime or crimes that are a severe form of human trafficking or was, is or is likely to be helpful to the department’s investigation of the qualifying criminal activity.
2. There is no statute of limitations for U-Visa and T-Visa certifications.
3. A petitioner’s request for certification will be reviewed using the department’s records management system and LEADS to determine prior contacts, possible criminal activity and for verification that they are a crime victim or witness (eligible party).

D. Documentation Process

1. A new police report pertaining to the certification request shall be completed for each request submitted to the department, and a supplemental report shall be prepared under the original report number for the initial incident involving the petitioner. All police reports shall document whether the petitioner’s request was approved or denied, to include the

reasons for the denial. A copy of the petitioner's request shall be forwarded to the Records Division for inclusion in the police report.

2. When a request is denied or when the Community Engagement lieutenant cannot determine that the petitioner is a victim of a qualifying criminal activity, the Community Engagement lieutenant shall contact the petitioner, attorney or agency representing the petitioner to notify them of the reason(s) for the denial or why the available evidence does not support a finding that the person is a victim of a qualifying criminal activity.
 - a. The Community Engagement lieutenant shall also provide contact information should the petitioner desire to appeal the decision. The department shall accept all appeals and must respond to the appeals within 30 business days.
3. In addition to the police report, the Community Engagement lieutenant shall document all certificate approvals and denials using the template provided by the Attorney General's Office. To access a copy of the template refer to the following website <https://www.illinoisattorneygeneral.gov/rights/ILAG-LEA-Reports.xlsx> and the completed information shall be maintained in the Box file-sharing system which is accessible to authorized personnel. Note that this template is also utilized for the documentation of requests submitted by the Department of Homeland Security; refer to Section 41.8.2 for more information.

E. Timely Response to Certification Requests

1. Requests for certification forms shall be completed by the Community Engagement lieutenant and returned to the petitioner, attorney or representing agency within 90 business days of receiving the request, except when:
 - a. The petitioner seeking completion of the certification form is in federal immigration removal proceedings or detained, the Community Engagement lieutenant will complete and provide the certification form to the petitioner no later than 21 business days after the request is received by the department;
 - b. The children, parents, or siblings of the petitioner making the request for completion of the certification form would become ineligible for benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code by virtue of the person's children having reached the age of 21 years, the person having reached the age of 21 years, or the person's sibling having reached the age of 18 years within 90 business days from the date that the Community Engagement Lieutenant receives the certification request, the Community Engagement Lieutenant will complete and provide the certification form to the petitioner no later than 21 business days after the request is received by the department;
 - c. If the petitioner's children, parents, or siblings would become ineligible for benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code in less than 21 business days of receipt of the certification request, the Community Engagement lieutenant will complete and provide the certification form to the petitioner within 5 business days; or
 - d. The Community Engagement Lieutenant may extend the time period by which he/she must complete the certification form to the person only upon written agreement with the petitioner, attorney or agency representing the petitioner.

41.8.2 THE ILLINOIS TRUST ACT (5 ILCS 805/1)

- A. The purpose of the Illinois Trust Act is to acknowledge that state law does not grant state or local law enforcement the authority to enforce federal civil immigration laws. It is the intent of the Illinois

General Assembly that nothing in the Act be construed as permitting any law enforcement agency or official to enforce federal civil immigration law. For more information on the Illinois Trust Act, refer to the Illinois Attorney General's Office Guidance Summary: *Key Provisions of the Illinois Trust Act*. [Illinois Attorney General's Office Website: *GuidanceTrustAct.pdf*](#)

- B. Illinois statute 5 ILCS 805/15 prohibits law enforcement agencies and officials from detaining or continuing to detain any individual solely on the basis of any immigration detainer or civil immigration warrant or otherwise comply with an immigration detainer or civil immigration warrant. Additionally, police officers shall not stop, arrest, search detain or continue to detain a person solely based on an individual's citizenship or immigration status.
- C. Additional components of the Illinois Trust Act are as follows:
1. Police officers acting in good faith in compliance to the act, who release a person subject to an immigration detainer or civil immigration warrant, shall have immunity from any civil or criminal liability that might otherwise occur as result of making the release, with the exception of willful or wanton misconduct.
 2. The department may not inquire about or investigate the citizenship or immigration status or place of birth of any individual in the department's custody or who has otherwise been stopped or detained by the department.
 3. Nothing in this section shall be construed to limit the ability of a police officer, pursuant to state or federal law, to notify a person in the department's custody about their right to communicate with consular officers from their country of nationality or facilitate such communication. Cross reference with Standard Operating Procedure 72.5 Holding Facility: Detainee Rights and Supervision.
 4. Nothing in this section shall be construed to limit the ability of a police officer to request evidence of citizenship or immigration status pursuant to the Firearm Owners Identification Card Act, the Firearm Concealed Carry Act, Article 24 of the Criminal Code of 2012, or 18 United States Code Sections 921 through 931.
 5. Unless otherwise limited by federal law, the department may not deny services, benefits, privileges, or opportunities to an individual in custody or under probation status, including, but not limited to, eligibility for or placement in a lower custody classification, educational, rehabilitative, or diversionary programs, on the basis of the individual's citizenship or immigration status, the issuance of an immigration detainer or civil immigration warrant against the individual, or the individual being in immigration removal proceedings.
 6. The department is prohibited from entering into any contract, intergovernmental service agreement, or any other agreement to house or detain individuals for federal civil immigration violations.
 7. Unless presented with a federal criminal warrant, or otherwise required by federal law, the department may not carry out any of the activities below. However, nothing in this section shall preclude police officers from otherwise executing their official duties in investigating violations of criminal law and cooperating in such investigations with federal and other law enforcement agencies, including criminal investigations conducted by federal Homeland Security Investigations in order to ensure public safety.
 - a. Participate, support, or assist in any capacity with an immigration agent's enforcement operations, including any collateral assistance such as coordinating an arrest in a courthouse or other public facility, providing use of any equipment, transporting any individuals, or establishing a security or traffic perimeter surrounding such operations, or any other on-site support.

- b. Give any immigration agent access, including by telephone, to any individual who is in custody.
- c. Transfer any person into an immigration agent's custody.
- d. Permit immigration agents use of agency facilities or equipment, including any agency electronic databases not available to the public, for investigative interviews or other investigative or immigration enforcement purpose.
- e. Enter into or maintain any agreement regarding direct access to any electronic database or other data-sharing platform maintained by any law enforcement agency or otherwise provide such direct access to the U.S. Immigration and Customs Enforcement, United States Customs and Border Protection or any other federal entity enforcing civil immigration violations.
- f. Provide information in response to any immigration agent's inquiry or request for information regarding any individual in the department's custody.
- g. Provide to any immigration agent information not otherwise available to the public relating to an individual's release or contact information or otherwise facilitate for an immigration agent to apprehend or question an individual for immigration enforcement.

D. Documentation Process

- 1. Requests from the Department of Homeland Security are typically submitted to the Holding Facility; however, they may be submitted to the department in other ways. All requests shall be processed by the lieutenant assigned to Community Engagement for entry into a template provided by the Illinois Attorney General's Office. The template may be accessed at <https://www.illinoisattorneygeneral.gov/rights/ILAG-LEA-Reports.xlsx> and saved to the Box file sharing system which is accessible to authorized personnel.
- 2. Within the Box file sharing system, the lieutenant assigned to Community Engagement maintains a folder designated for the maintenance of requests submitted by the Department of Homeland Security. Requests generally consists of the following:
 - a. Immigration Detainer – Notice of Action: which requests notification to the Department of Homeland Security prior to the release of an individual from the department's custody, maintain the individual for a period of time as specified on the Immigration Detainer to allow the Department of Homeland Security to obtain custody, or to relay the information to a law enforcement agency taking custody of the individual.
 - b. Request for Advance Notification of Release: which requests notification to the Department of Homeland Security prior to the release of an individual.
- 3. Department of Homeland Security requests are categorized on the template into two different categories which are described below:
 - a. DHS Requests: These are civil in nature and not criminal. This section requires the following information:
 - 1. Request date.
 - 2. Requesting agency.
 - 3. Description of information.

4. Department's response.
 5. Response date.
 6. Whether the department accepted the request, in whole or in part.
- b. Detainer Warrants: These are criminal in nature as charges were sought. This section requires the following information:
1. Date the immigration detainer or civil immigration warrant was received.
 2. Date the individual subject to the immigration detainer or civil immigration warrant posted criminal bail, if applicable.
 3. Time the individual subject to the immigration detainer or civil immigration warrant posted criminal bail, if applicable.
 4. Whether the individual was released or transferred.
 5. Date the individual was released or transferred.
 6. Time the individual was released or transferred.
 7. If the individual was transferred, to which governmental agency's custody were they transferred.
 8. If the individual was released, which governmental agency (if any) was notified of their release.

41.8.3 ANNUAL REPORT TO THE ATTORNEY GENERAL

- A. Both the Voices of Immigrant Communities Empowering Survivors Act (5 ILCS 825/1) and the Illinois Trust Act (5 ILCS 805/1) require the department to submit an annual report to the Illinois Attorney General's Office. This report documents the department's compliance with these statutes, and completion of the template referenced in Sections 41.8.1 and 41.8.2 fulfills the annual reporting requirement which shall be electronically submitted to Illinois Attorney General's Office by March 1 of each year.
- B. If the department did not receive requests pertaining to the Voices of Immigrant Communities Empowering Survivors Act (U-Visa and T-Visa certifications) or the Illinois Trust Act (Department of Homeland Security requests), the department shall indicate no such requests were received.
- C. The annual report shall not include names or other personally identifying information in any reports required under this section.
- D. As mentioned in Section 41.8.1 and 41.8.2, the completed template, which is considered to be the department's annual report, is maintained within the Box file sharing system with access granted to authorized personnel.

41.8.4 TRAINING

- A. The Attorney General's Office provides periodic training to ensure agencies understand the annual reporting deadlines pertaining to U-Visa and T-Visa certifications and guidance on completing and submitting the reports. The Strategic Initiatives Commander shall ensure this training is completed.
- B. The department provides periodic training on the Illinois Trust Act which may consist of policy updates, Training Bulletins and information shared at departmental meetings.