

	<b>ELGIN POLICE DEPARTMENT</b> 151 Douglas Avenue Elgin, Illinois 60120	
<b>Effective Date:</b> 07/07/14	<b>STANDARD OPERATING PROCEDURE</b>	<b>Revised Date:</b> 05/31/24
<b>Chief of Police:</b> 	Immigrant Crime Victim Certifications, 41.8	
<b>Cross Reference:</b> 5 ILCS 825/1 <a href="#">5 ILCS 825/11</a> <a href="#">5 ILCS 825/20</a> <a href="#">Illinois Attorney General's Office Website/Way Forward Act Information</a>	<b>Policy Sections:</b> 41.8.1 U-Visa and T-Visa Certifications 41.8.2 Review Process 41.8.3 Documentation Process 41.8.4 Timely Response to Certification Requests 41.8.5 Annual Report to the Attorney General 41.8.6 Training	

## PURPOSE

The purpose of this policy is to outline the responsibilities, duties and job tasks related to the department's management of Immigrant Crime Victim Certification forms.

## POLICY

The department's decision to provide certification is entirely discretionary. The department 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 5 ILCS 825/1.

## 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.

**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.

**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 U-VISA AND T-VISA CERTIFICATIONS**

- A. U Visa and T Visa 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.
  1. 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](#)
  2. 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](#)

- B. 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."

### **41.8.2 REVIEW PROCESS**

- A. 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:
  1. Identity of the Victim: Determine whether the victim named in the certification request is the victim of a crime being investigated by the department.

2. 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.
  3. 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.
- B. There is no statute of limitations for U-Visa and T-Visa certifications.
- C. 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).

#### **41.8.3 DOCUMENTATION PROCESS**

- A. For those requests that are approved, the Community Engagement Lieutenant will generate a new police report detailing the certification; the report should contain all applicable documentation.
- B. 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.
1. 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.
  2. A police report is also required to document the denial and the reasons why the request was denied.
- C. An electronic log of all certificate approvals and denials will be maintained in a secured folder on the police department's shared drive. The folder is maintained by the Community Engagement Lieutenant who grants access rights to employees whose job functions require access to the information.

#### **41.8.4 TIMELY RESPONSE TO CERTIFICATION REQUESTS**

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:

1. 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;
2. 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;

3. 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
4. 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.

#### **41.8.5 ANNUAL REPORT TO THE ATTORNEY GENERAL**

- A. Pursuant to 5 ILCS 825/20, the Community Engagement Lieutenant shall submit an annual report by March 1 to the Attorney General. Said report shall contain:
  1. The date of receipt of such request.
  2. The date on which the law enforcement agency provided the completed certification form to the requestor or provided written notice explaining why the available evidence does not support a finding that the requestor is a victim of qualifying criminal activity.
- B. If the department did not receive requests for completion of a certification form during the reporting period, the department shall certify and report that it received no such requests.
- C. The report shall not include names or other personally identifying information in any reports required under this section.
- D. To ensure compliance with the above protocol, the Community Engagement Lieutenant shall electronically submit the annual report to the Attorney General using the provided template which is located at the Attorney General's Office website. To access a copy of the template and the email address to which the annual report is sent, refer to the following website <https://www.illinoisattorneygeneral.gov/rights/ILAG-LEA-Reports.xlsx>. A copy of the completed report shall be provided to the Strategic Initiatives Commander.

#### **41.8.6 TRAINING**

The Attorney General's Office provides periodic training to ensure agencies understand the annual reporting deadlines and guidance on completing and submitting the reports. The Strategic Initiatives Commander shall ensure this training is completed.