



MERCER COUNTY PROSECUTOR'S OFFICE
U-VISA CERTIFICATIONS & T-VISA DECLARATIONS –
STANDARDIZED WEB-BASED NOTICE CONCERNING
AGENCY PROCEDURES FOR PROCESSING REQUESTS

Individuals seeking information related to obtaining a U-Visa (witness to or victim of a qualifying crime) or a T-Visa (human trafficking) are encouraged to review the “**U and T Visa Law Enforcement Resource Guide**” issued by the Federal Office of Homeland Security. The guide is available at: <https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide%201.4.16.pdf>. The following are the law enforcement procedures for processing requests for certifications in support of U-Visa applicants or declarations in support of T-Visa applicants.

U-VISAs

What are the criteria for eligibility for a U-Visa?

United States Citizenship and Immigration Services (USCIS) may find an individual eligible for a U-Visa if the victim:

- Is the direct or indirect victim of qualifying criminal activity;
- Has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity;
- Has information about criminal activity;
- Was helpful, is being helpful, or is likely to be helpful to law enforcement, prosecutors, judges, or other officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity.
- Additionally, the victim must be admissible to the United States based on a review of his/her criminal history, immigration violations, and other factors. If found inadmissible, an individual may apply for a waiver of inadmissibility for which he/she may be eligible.

The following table of criminal activities qualify a victim for the U-Visa. It is taken from the Victims of Trafficking and Violence Protection Act (VTVPA) of 2000 and applies to all 50 states and U.S. territories. Some qualifying crimes are not defined in New Jersey statutes but, the closest equivalent crime in New Jersey shall apply. Qualifying crimes also include attempt, conspiracy, or solicitation to commit any of the below, and other related, crimes.

Abduction	False imprisonment	Perjury
Aggravated assault	Female genital mutilation	Prostitution
Aggravated sexual assault	Human trafficking	Sexual assault
Criminal sexual contact	Kidnapping	Sexual exploitation
Criminal coercion (blackmail)	Incest	Torture
Criminal restraint	Manslaughter	Witness tampering
Domestic violence related crimes	Murder	
Extortion	Obstruction of justice	

For further information, please refer to the “**U Visa Law Enforcement Certification Resource Guide,**” which can be accessed via the following link: https://www.dhs.gov/xlibrary/assets/dhs_u_vis_a_certification_guide.pdf.

What are the criteria for law enforcement to utilize when considering completion of a certification on behalf of a U-Visa applicant?

To qualify for a U-Visa, the individual seeking such status must prove to USCIS that they meet the criteria for a U-Visa, as specified above.

One of the primary ways that a victim may demonstrate cooperation with law enforcement (as delineated in the fourth bullet above) is to obtain a signed statement known as a “*certification*” from the law enforcement entity conducting the investigation or prosecuting the case. This certification, which is titled “*Supplement B, U Nonimmigrant Status Certification*” (USCIS Form I-918), is required for an application for a U-Visa to be considered by USCIS.

How does an applicant for a U-Visa obtain a certification from a law enforcement agency?

Qualifying victims who are seeking a U-Visa may contact the primary officer or detective employed by the law enforcement agency with primary jurisdiction over the investigation into the criminal matter and request that they complete a *certification*. It should be noted that a law enforcement officer has no legal obligation to complete the certification. The law enforcement agency may have a central point of contact for this purpose. In this instance, the primary officer or detective will refer the qualifying victim to the appropriate individual or department. Requests for *certification* from the Mercer County Prosecutor’s Office should be made to the Office of Victim Witness Advocacy.

What is the process that law enforcement utilizes for determining whether or not to complete the certification in support of the U-Visa applicant?

Prior to completing a *certification*, the request shall be vetted by the municipal prosecutor, the law enforcement agency with primary jurisdiction over the investigation, or the Mercer County Prosecutor's Office.

Non-Indictable Offenses:

If the matter involves a non-indictable offense, the process shall be conducted by the municipal prosecutor in consultation with the chief of police, or if the agency does not employ a chief of police, the highest-ranking law enforcement officer of the agency, hereinafter referred to as "highest-ranking law enforcement officer." If the matter involves an unsolved crime, the process shall be conducted by the highest-ranking law enforcement officer of the agency with primary jurisdiction over the investigation. The municipal prosecutor or highest-ranking law enforcement officer of the agency will have the matter investigated. This will include discussing the request with agency personnel who have intimate knowledge of the case and taking their recommendations into consideration. The municipal prosecutor or highest-ranking law enforcement officer of the agency has the authority to authorize the issuance of a *certification*. They will issue and sign a *certification* for the applicant if the *certification* is going to be authorized. The Mercer County Prosecutor's Office may supersede the municipal prosecutor or the highest-ranking law enforcement officer of the agency with primary jurisdiction over the investigation at any time. The signed and executed *certification* will then be forwarded to the applicant, or the applicant's legal counsel, as appropriate.

Indictable Offenses:

If the matter involves an indictable offense, the Mercer County Prosecutor's Office, in consultation with the highest-ranking law enforcement officer of the agency with primary jurisdiction over the investigation, will make the final determination as to whether the execution of the *certification* is justified.

The Prosecutor, in addition to considering the investigation and input from the law enforcement agency with primary jurisdiction over the investigation, will investigate the matter using MCPO investigators, the assistant prosecutor handling the prosecution, or both. If the *certification* is justified, the Prosecutor will have the form completed. The Prosecutor, or his/her designee, is the sole authority to issue and sign a *certification* for the applicant.

How much time does law enforcement have to make a decision regarding the request?

Law enforcement has 120 days from the date the request was submitted to evaluate the request and decide if the *certification* will be authorized.

How is the applicant notified of the decision?

Once a decision has been made by the municipal prosecutor, the highest-ranking law enforcement officer of the agency with primary jurisdiction over the investigation or the Mercer County Prosecutor (as appropriate) as to whether to issue and sign a *certification*, the applicant will be notified of that decision. If the applicant has employed legal counsel, said legal counsel will be notified of the decision as well. If the *certification* was approved, a copy of said *certification* will be forwarded to the applicant or, if he/she has legal counsel, the legal counsel.

Who has the final authority to issue a U-Visa?

Only USCIS has the authority to grant or deny a person's U-Visa application.

T-VISAs

What are the criteria for eligibility for a T-Visa?

Individuals seeking a T-Visa must meet the following criteria:

- The victim is or has been a victim of a severe form of trafficking in persons; and
- The victim is in the United States due to trafficking; and
- The victim has complied with requests for assistance in an investigation or prosecution of the crime of trafficking; and
- Would suffer extreme hardship involving unusual and severe harm if removed from the United States.

What are the criteria for law enforcement to utilize when considering completion of a declaration on behalf of a T-Visa applicant?

To qualify for a T-Visa, the individual seeking such status must prove to the USCIS that they meet the criteria for a T-Visa, as specified above.

One of the primary ways that a victim may demonstrate cooperation with law enforcement is to obtain a signed statement known as a "*declaration*" from the law enforcement entity conducting the investigation or prosecuting the case. This *declaration*, which is titled "*Declaration of Law*

Enforcement Officer for Victim in Trafficking of Persons” (Form I-914B or declaration), is not required. However, the signed *declaration* provides valuable evidence of a victim’s cooperation.

How does an applicant for a T-Visa obtain a declaration from a law enforcement entity?

Qualifying victims who are seeking a T-Visa may contact the primary officer or detective employed by the law enforcement agency with primary jurisdiction over the investigation into the criminal matter and request that they complete a *declaration*. It should be noted that a law enforcement officer has no legal obligation to complete the *declaration*. The law enforcement agency may have a central point of contact for this purpose. In this instance, the primary officer or detective will refer the qualifying victim to the appropriate individual or department. Requests for a *declaration* from the Mercer County Prosecutor’s Office should be made to the Office of Victim Witness Advocacy.

What is the process that law enforcement utilizes for determining whether or not to complete the declaration in support of the T-Visa applicant?

Prior to completing a *declaration*, the request shall be vetted by the municipal prosecutor, the law enforcement agency with primary jurisdiction over the investigation, or the Mercer County Prosecutor’s Office.

Non-Indictable Offenses:

If the matter involves a non-indictable offense, the process shall be conducted by the municipal prosecutor in consultation with the chief of police, or if the agency does not employ a chief of police, the highest-ranking law enforcement officer of the agency, hereinafter referred to as “highest-ranking law enforcement officer.” If the matter involves an unsolved crime, the process shall be conducted by the highest-ranking law enforcement officer of the agency with primary jurisdiction over the investigation. The municipal prosecutor or highest-ranking law enforcement officer of the agency will have the matter investigated. This will include discussing the request with agency personnel who have intimate knowledge of the case and taking their recommendations into consideration. The municipal prosecutor or highest-ranking law enforcement officer of the agency has the authority to authorize the issuance of a *declaration*. They will issue and sign a *declaration* for the applicant if the *declaration* is going to be authorized. The Mercer County Prosecutor’s Office may supersede the municipal prosecutor or the highest-ranking law enforcement officer of the agency with primary jurisdiction over the investigation at any time. The signed and executed *declaration* will then be forwarded to the applicant, or the applicant’s legal counsel, as appropriate.

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Once a decision has been made by the municipal prosecutor, the highest-ranking law enforcement officer of the agency with primary jurisdiction over the investigation or the Mercer County Prosecutor (as appropriate) as to whether to issue and sign a *declaration*, the applicant will be notified of that decision. If the applicant has employed legal counsel, said legal counsel will be notified of the decision as well. If the *declaration* was approved, a copy of said *declaration* will be forwarded to the applicant or, if he/she has legal counsel, the legal counsel.

Who has the final authority to issue a T-Visa?

Only USCIS has the authority to grant or deny a person's T-Visa application.