SUBJECT: RULE 336 -- U AND T VISA CERTIFICATION PROCEDURES

In July 2021, the Massachusetts legislature passed new legislation, M.G.L. c. 258F (Section 65 of the General Appropriations Bill for FY22), titled Certification for Victims of Violent Crime and Human Trafficking, which requires local and state certifying agencies (e.g., Police Departments, DA's Offices) to issue a policy about U and T visa certifications and respond to requests for certification within ninety (90) days, absent extenuating circumstances beyond the control of the agency. This legislation also requires annual reporting by state certifying agencies of U and T visa statistical information to the Executive Office of Public Safety and Security.

This rule codifies the policies and practices that were already in place, whereby the Bureau of Investigative Services tracks, reviews and responds to requests for U and T visa certifications.

Rule 336 U and T Visa Certification Procedures, is hereby issued superseding all previous rules, special orders, memos and directives on this subject and is effective immediately.

Forms referenced in this rule can be found in these links:
Supplement B, U Nonimmigrant Status Certification, Form I-918.
Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons Form I-914B.

Commanding Officers shall ensure that this order and the attached Rule are posted on Department bulletin boards.

Gregory P. Long
Superintendent In Chief
U and T Visa Certification Procedures

General Considerations:

The Boston Police Department recognizes that a crime victim’s cooperation, assistance, and safety are essential to the effective detection, investigation, and prosecution of all criminal offenses. However, certain crime victims who are deemed to be without lawful immigration status and are present in this country without proper inspection by federal authorities may be hesitant or reluctant to come forward to report their victimization and fail to cooperate and assist in the legal process against their perpetrator for fear of detention.

U and T Visas allow the victims of serious crimes who cooperate and assist the police, to temporarily stay in the United States for up to four (4) years. U and T Visas are approved and granted by U.S. Citizenship and Immigration Services (USCIS), which is a division of the Department of Homeland Security (DHS). U and T Visas provide recipients with nonimmigrant status benefits that may include receiving authorization to work in the United States.

The Boston Police Department’s Bureau of Investigative Services (BIS) currently tracks, reviews and responds to requests for U and T visa certifications. This process is to be carried out in compliance with M.G.L. c. 258F and federal guidelines.

The Office of the Police Commissioner (OPC) will ensure that the required information is reported to Massachusetts Executive Office of Public Safety and Security (EOPSS) in a timely manner, ensuring the privacy of the visa applicants.

Section 1. Purpose

The purpose of this rule is to establish the Boston Police Department’s written policy for U and T visas as required by Massachusetts General Laws Chapter 258F.

It shall be the policy of the Boston Police Department to assist immigrant victims of crime with their U or T Visa applications when requested and when they are found to be cooperating with the detection, investigation, or prosecution of criminal activity. Response to such requests for nonimmigrant status certification shall be made within ninety (90) days.

Section 2. U Visa

The U visa is an immigration benefit for victims of certain violent crimes who meet eligibility requirements under federal law.

1) The U.S. Citizenship and Immigration Services (USCIS) may find an individual eligible for a U visa if the victim:
   i. is the direct or indirect victim of qualifying criminal activity;
ii. has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity;
iii. has information about the criminal activity; and
iv. 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. INA § 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U).

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

3) While in U visa 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.

4) 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.

5) 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. These include:
   i. Unmarried children under the age of 21;
   ii. Spouse;
   iii. Parents of U visa petitioners under age 21; and
   iv. Unmarried siblings under 18 years old of U visa petitioners under age 21.

Section 3. Certifying U Visas

1) In order to be eligible for a U visa, the victim must submit a U visa certification completed by the Boston Police Department on Form I-918, Supplement B, U Nonimmigrant Status Certification (Form I-918B) to USCIS.
   • The certification explains the role the victim had, has, or will have in being helpful to the investigation or prosecution of the case.

2) The Boston Police Department has the authority to sign certifications or to delegate authority to other agency officials in a supervisory role to sign certifications.

3) All U visa certification requests received by the Boston Police Department shall be forwarded to BIS for processing.

4) BIS will record receipt of the request and forward the request to the appropriate district or unit for review.

5) A district or unit supervisor shall review the request to determine whether, pursuant to the standards set forth in federal law, the applicant:
i. is a victim of a qualifying criminal activity; and
ii. was, is, or is likely to be, helpful in the investigation or prosecution of that activity.

6) The following are criminal activities that qualify a victim for the U visa. These are not specific crimes or citations to Massachusetts General Laws; however, are offenses that could fall into these general categories:

- Abduction
- Abusive Sexual Contact
- Blackmail
- Domestic Violence
- Extortion
- False Imprisonment
- Felonious Assault
- Female Genital Mutilation
- Fraud in Foreign Labor Contracting
- Hostage
- Incest
- Involuntary Servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of Justice
- Peonage
- Perjury
- Prostitution
- Rape
- Sexual Assault
- Sexual Exploitation
- Slave Trade
- Stalking
- Torture
- Trafficking
- Witness Tampering
- Unlawful Criminal Restraint
- Other Related Crimes

7) The supervisor shall complete all sections of the Supplement B, U Nonimmigrant Status Certification, Form I-918. The supervisor shall ensure that all fields are completed as applications with a single blank field will be rejected.

8) The supervisor shall specify how the applicant was, is, or is likely to be helpful in the investigation of the activity in Questions 1-3 of Part 4: Helpfulness of the Victim, Form I-918.

9) Conversely, the supervisor shall specify if the applicant was, is, or has indicated he/she will not assist in the investigation of the activity. The supervisor shall sign and date in the
• The Boston Police Department is not required to assess whether the victim suffered substantial physical or mental abuse as a result of the criminal activity.

10) The completed application shall be forwarded to BIS.

11) The Superintendent, Chief of BIS or other designated BPD certifying official shall review the completed application and issue one of three responses to the applicant.

12) A decision on the request for Form I-918B must be made within 90 days, absent extenuating circumstances beyond the control of the agency.
   i. If the request is approved, the Boston Police Department will issue Form I-918B to the applicant or counsel for the applicant within 90 days of receipt of the request.
   ii. If the request is denied, the Boston Police Department will issue a written decision that indicates the reason for the denial within 90 days of receipt of the request.
   iii. If extenuating circumstances are present, the Boston Police Department will issue a written notice to the applicant within 90 days of receipt of the request, including the reason for the delay, the process the office will take to respond to the request, and the expected timeframe for the decision.

13) 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.

14) The Boston Police Department will make every effort to expedite a certification request if the applicant shows there are compelling circumstances to support expeditious processing.

15) BIS will maintain a record of all applications for compliance with reporting requirements.

16) USCIS has the sole authority to grant or deny a U visa. The certification does not guarantee that the U visa petition will be approved by USCIS.

17) No federal agency has the authority to require or demand that the Boston Police Department sign the certification.

Section 4. T Visa

The T visa is an immigration benefit for victims of severe forms of trafficking in persons who meet certain eligibility requirements.

1) USCIS may find an individual eligible for a T visa if the victim:

   i. is or was the victim of a severe form of trafficking in persons (which may include sex or labor trafficking), as defined by federal law;
ii. is in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands or at a U.S. port of entry due to trafficking;
iii. has complied with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking; and

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

3) While in T visa 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.

4) If certain conditions are met, an individual with a T visa 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.

5) 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. These are:

   i. Unmarried children under the age of 21;
   ii. Spouse;
   iii. Parents of principal T visa recipients under age 21 at the time of application;
   iv. Unmarried siblings under 18 years old of principal T visa applicants under age 21; and
   v. Adult or minor children of certain immediate family members of the T visa recipient

6) The T visa certification (Form I-914, Supplement B) 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.

Section 5. Certifying T visas

1) In order to be eligible for a T visa, the victim must submit a T visa certification completed by the Boston Police Department on Form I-914, Supplement B (Form I-914B).

2) All T visa certification requests received by the Boston Police Department shall be forwarded to BIS for processing.

3) BIS will record receipt of the request and forward the request to the Human Trafficking Unit for review.

4) A Human Trafficking Unit supervisor shall review the request to determine whether, pursuant to the standards set forth in federal law, the applicant:
i. is or has been a victim of a severe form of trafficking in persons; and
ii. has complied with requests for assistance in an investigation or prosecution of the crime of trafficking.

5) The Human Trafficking Unit supervisor shall complete all sections of the Supplement B Declaration of Law Enforcement Officer for Victim of Trafficking in Persons Form I-914B. The supervisor shall insure that all fields are completed as applications with a single blank field will be rejected.

6) The Human Trafficking Unit supervisor shall document the cooperation or lack of cooperation of the victim in Part D. Cooperation of the Victim in Form I-914B.

7) The completed application shall be forwarded to BIS.

8) The Superintendent, Chief of BIS or other designated BPD certifying official shall review the completed application and issue one of three responses to the applicant.
   i. A decision on the request for Form I-914B must be made within 90 days, absent extenuating circumstances beyond the control of the agency.
   ii. If the request is approved, this agency will issue Form I-914B to the applicant or counsel for the applicant within 90 days of receipt of the request.
   iii. If the request is denied, this agency will issue a written decision that indicates the reason for the denial within 90 days of receipt of the request.
   iv. If extenuating circumstances are present, this agency will issue a written notice to the applicant within 90 days of receipt of the request, including the reason for the delay, the process the office will take to respond to the request, and the expected timeframe for the decision.

9) The Boston Police Department will make every effort to expedite a certification request if the applicant shows there are compelling circumstances to support expeditious processing.

10) BIS will maintain a record of all applications for compliance with reporting requirements.

11) The T visa certification is not conclusive evidence that the applicant meets these eligibility requirements, as only USCIS can make this determination.

12) By signing a T visa certification, the Boston Police Department, official or judge is not sponsoring or endorsing the victim for a T visa.

Section 6. Discovery

The Bureau of Investigative Services will provide U and T visa information to the prosecuting authority as part of the discovery process in criminal cases as required by law.

Section 7. Reporting

Annually, not later than February 1, the Boston Police Department shall report to the Executive Office of Public Safety and Security:
i. the number of individuals that requested nonimmigrant status certification;
ii. the number of certification forms that were completed and signed; and
iii. the number of such requests that were denied.

The information reported under this subsection shall not include any personal identifying information of an individual requesting nonimmigrant status certification.

Gregory P. Long
Superintendent In Chief